

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4781

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## AN ACT

To facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “International Antitrust  
5        Enforcement Assistance Act of 1994”.

1 **SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHOR-**  
2 **ITY OF ANTITRUST EVIDENCE.**

3 In accordance with an antitrust mutual assistance  
4 agreement in effect under this Act, subject to section 8,  
5 and except as provided in section 5, the Attorney General  
6 of the United States and the Federal Trade Commission  
7 may provide to a foreign antitrust authority with respect  
8 to which such agreement is in effect under this Act, anti-  
9 trust evidence to assist the foreign antitrust authority—

10 (1) in determining whether a person has vio-  
11 lated or is about to violate any of the foreign anti-  
12 trust laws administered or enforced by the foreign  
13 antitrust authority, or

14 (2) in enforcing any of such foreign antitrust  
15 laws.

16 **SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST**  
17 **AUTHORITY IN OBTAINING ANTITRUST EVI-**  
18 **DENCE.**

19 (a) REQUEST FOR INVESTIGATIVE ASSISTANCE.—A  
20 request by a foreign antitrust authority for investigative  
21 assistance under this section shall be made to the Attorney  
22 General, who may deny the request in whole or in part.  
23 No further action shall be taken under this section with  
24 respect to any part of a request that has been denied by  
25 the Attorney General.

1 (b) AUTHORITY TO INVESTIGATE.—In accordance  
2 with an antitrust mutual assistance agreement in effect  
3 under this Act, subject to section 8, and except as provided  
4 in section 5, the Attorney General and the Commission  
5 may, using their respective authority to investigate pos-  
6 sible violations of the Federal antitrust laws, conduct in-  
7 vestigations to obtain antitrust evidence relating to a pos-  
8 sible violation of the foreign antitrust laws administered  
9 or enforced by the foreign antitrust authority with respect  
10 to which such agreement is in effect under this Act, and  
11 may provide such antitrust evidence to the foreign anti-  
12 trust authority, to assist the foreign antitrust authority—

13 (1) in determining whether a person has vio-  
14 lated or is about to violate any of such foreign anti-  
15 trust laws, or

16 (2) in enforcing any of such foreign antitrust  
17 laws.

18 (c) SPECIAL SCOPE OF AUTHORITY.—An investiga-  
19 tion may be conducted under subsection (b), and antitrust  
20 evidence obtained through such investigation may be pro-  
21 vided, without regard to whether the conduct investigated  
22 violates any of the Federal antitrust laws.

23 (d) RIGHTS AND PRIVILEGES PRESERVED.—A per-  
24 son may not be compelled in connection with an investiga-  
25 tion under this section to give testimony or a statement,

1 or to produce a document or other thing, in violation of  
2 any legally applicable right or privilege.

3 (e) CONFORMING AMENDMENTS.—

4 (1) ANTITRUST CIVIL PROCESS ACT.—The Anti-  
5 trust Civil Process Act (15 U.S.C. 1311 et seq.) is  
6 amended—

7 (A) in section 2—

8 (i) in subsection (d)—

9 (I) by striking “or any” and in-  
10 sserting “, any”, and

11 (II) by inserting before the semi-  
12 colon “or, with respect to the Inter-  
13 national Antitrust Enforcement As-  
14 sistance Act of 1994, any of the for-  
15 eign antitrust laws”, and

16 (ii) by adding at the end the follow-  
17 ing:

18 “(k) The term ‘foreign antitrust laws’ has the  
19 meaning given such term in section 12 of the Inter-  
20 national Antitrust Enforcement Assistance Act of  
21 1994.”, and

22 (B) in the first sentence of section 3(a)—

23 (i) by inserting “or, with respect to  
24 the International Antitrust Enforcement  
25 Assistance Act of 1994, an investigation

1 authorized by section 3 of such Act” after  
2 “investigation”, and

3 (ii) by inserting “by the United  
4 States” after “proceeding”.

5 (2) FEDERAL TRADE COMMISSION ACT.—The  
6 Federal Trade Commission Act (15 U.S.C. 41 et  
7 seq.) is amended—

8 (A) in section 6 by inserting after sub-  
9 section (h) the following:

10 “(i) With respect to the International Antitrust En-  
11 forcement Assistance Act of 1994, to conduct investiga-  
12 tions of possible violations of foreign antitrust laws (as  
13 defined in section 12 of such Act).”;

14 (B) in section 20(a) by amending para-  
15 graph (8) to read as follows:

16 “(8) The term ‘antitrust violation’ means—

17 “(A) any unfair method of competition  
18 (within the meaning of section 5(a)(1));

19 “(B) any violation of the Clayton Act or of  
20 any other Federal statute that prohibits, or  
21 makes available to the Commission a civil rem-  
22 edy with respect to, any restraint upon or mo-  
23 nopolization of interstate or foreign trade or  
24 commerce;

1           “(C) with respect to the International  
2           Antitrust Enforcement Assistance Act of 1994,  
3           any violation of any of the foreign antitrust  
4           laws (as defined in section 12 of such Act) with  
5           respect to which a request is made under sec-  
6           tion 3 of such Act; or

7           “(D) any activity in preparation for a  
8           merger, acquisition, joint venture, or similar  
9           transaction, which if consummated, may result  
10          in any such unfair method of competition or in  
11          any such violation.”.

12 **SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE**  
13 **UNITED STATES.**

14          (a) **AUTHORITY OF THE DISTRICT COURTS.**—On the  
15 application of the Attorney General made in accordance  
16 with an antitrust mutual assistance agreement in effect  
17 under this Act, the United States district court for the  
18 district in which a person resides, is found, or transacts  
19 business may order such person to give testimony or a  
20 statement, or to produce a document or other thing, to  
21 the Attorney General to assist a foreign antitrust author-  
22 ity with respect to which such agreement is in effect under  
23 this Act—

24           (1) in determining whether a person has vio-  
25          lated or is about to violate any of the foreign anti-

1 trust laws administered or enforced by the foreign  
2 antitrust authority, or

3 (2) in enforcing any of such foreign antitrust  
4 laws.

5 (b) CONTENTS OF ORDER.—

6 (1) USE OF APPOINTEE TO RECEIVE EVI-  
7 DENCE.—(A) An order issued under subsection (a)  
8 may direct that testimony or a statement be given,  
9 or a document or other thing be produced, to a per-  
10 son who shall be recommended by the Attorney Gen-  
11 eral and appointed by the court.

12 (B) A person appointed under subparagraph  
13 (A) shall have power to administer any necessary  
14 oath and to take such testimony or such statement.

15 (2) PRACTICE AND PROCEDURE.—(A) An order  
16 issued under subsection (a) may prescribe the prac-  
17 tice and procedure for taking testimony and state-  
18 ments and for producing documents and other  
19 things.

20 (B) Such practice and procedure may be in  
21 whole or in part the practice and procedure of the  
22 foreign state, or the regional economic integration  
23 organization, represented by the foreign antitrust  
24 authority with respect to which the Attorney General  
25 requests such order.

1           (C) To the extent such order does not prescribe  
2 otherwise, any testimony and statements required to  
3 be taken shall be taken, and any documents and  
4 other things required to be produced shall be pro-  
5 duced, in accordance with the Federal Rules of Civil  
6 Procedure.

7           (c) RIGHTS AND PRIVILEGES PRESERVED.—A person  
8 may not be compelled under an order issued under sub-  
9 section (a) to give testimony or a statement, or to produce  
10 a document or other thing, in violation of any legally appli-  
11 cable right or privilege.

12           (d) VOLUNTARY CONDUCT.—This section does not  
13 preclude a person in the United States from voluntarily  
14 giving testimony or a statement, or producing a document  
15 or other thing, in any manner acceptable to such person  
16 for use in an investigation by a foreign antitrust authority.

17 **SEC. 5. LIMITATIONS ON AUTHORITY.**

18           Sections 2, 3, and 4 shall not apply with respect to  
19 the following antitrust evidence:

20           (1) Antitrust evidence that is received by the  
21 Attorney General or the Commission under section  
22 7A of the Clayton Act (15 U.S.C. 18a), as added by  
23 title II of the Hart-Scott-Rodino Antitrust Improve-  
24 ments Act of 1976. Nothing in this paragraph shall  
25 affect the ability of the Attorney General or the

1 Commission to disclose to a foreign antitrust author-  
2 ity antitrust evidence that is obtained otherwise than  
3 under such section 7A.

4 (2) Antitrust evidence that is matter occurring  
5 before a grand jury and with respect to which disclo-  
6 sure is prevented by Federal law, except that for the  
7 purpose of applying Rule 6(e)(3)(C)(iv) of the Fed-  
8 eral Rules of Criminal Procedure with respect to this  
9 section—

10 (A) a foreign antitrust authority with re-  
11 spect to which a particularized need for such  
12 antitrust evidence is shown shall be considered  
13 to be an appropriate official of any of the sev-  
14 eral States, and

15 (B) a foreign antitrust law administered or  
16 enforced by the foreign antitrust authority shall  
17 be considered to be a State criminal law.

18 (3) Antitrust evidence that is specifically au-  
19 thorized under criteria established by Executive  
20 Order 12356, or any successor to such order, to be  
21 kept secret in the interest of national defense or for-  
22 eign policy, and—

23 (A) that is classified pursuant to such  
24 order or such successor, or

1 (B) with respect to which a determination  
2 of classification is pending under such order or  
3 such successor.

4 (4) Antitrust evidence that is classified under  
5 section 142 of the Atomic Energy Act of 1954 (42  
6 U.S.C. 2162).

7 **SEC. 6. EXCEPTION TO CERTAIN DISCLOSURE RESTRIC-**  
8 **TIONS.**

9 Section 4 of the Antitrust Civil Process Act (15  
10 U.S.C. 1313), and sections 6(f) and 21 of the Federal  
11 Trade Commission Act (15 U.S.C. 46, 57b-2), shall not  
12 apply to prevent the Attorney General or the Commission  
13 from providing to a foreign antitrust authority antitrust  
14 evidence in accordance with an antitrust mutual assistance  
15 agreement in effect under this Act and in accordance with  
16 the other requirements of this Act.

17 **SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO**  
18 **ANTITRUST MUTUAL ASSISTANCE AGREE-**  
19 **MENTS.**

20 (a) PUBLICATION OF PROPOSED ANTITRUST MU-  
21 TUAL ASSISTANCE AGREEMENTS.—Not less than 45 days  
22 before an antitrust mutual assistance agreement is en-  
23 tered into, the Attorney General, with the concurrence of  
24 the Commission, shall publish in the Federal Register—

1 (1) the proposed text of such agreement and  
2 any modification to such proposed text, and

3 (2) a request for public comment with respect  
4 to such text or such modification, as the case may  
5 be.

6 (b) PUBLICATION OF PROPOSED AMENDMENTS TO  
7 ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EF-  
8 FECT.—Not less than 45 days before an agreement is en-  
9 tered into that makes an amendment to an antitrust mu-  
10 tual assistance agreement, the Attorney General, with the  
11 concurrence of the Commission, shall publish in the Fed-  
12 eral Register—

13 (1) the proposed text of such amendment, and

14 (2) a request for public comment with respect  
15 to such amendment.

16 (c) PUBLICATION OF ANTITRUST MUTUAL ASSIST-  
17 ANCE AGREEMENTS, AMENDMENTS, AND TERMI-  
18 NATIONS.—Not later than 45 days after an antitrust mu-  
19 tual assistance agreement is entered into or terminated,  
20 or an agreement that makes an amendment to an anti-  
21 trust mutual assistance agreement is entered into, the At-  
22 torney General, with the concurrence of the Commission,  
23 shall publish in the Federal Register—

1 (1) the text of the antitrust mutual assistance  
2 agreement or amendment, or the terms of the termi-  
3 nation, as the case may be, and

4 (2) in the case of an agreement that makes an  
5 amendment to an antitrust mutual assistance agree-  
6 ment, a notice containing—

7 (A) citations to the locations in the Fed-  
8 eral Register at which the text of the antitrust  
9 mutual assistance agreement that is so amend-  
10 ed, and of any previous amendments to such  
11 agreement, are published, and

12 (B) a description of the manner in which  
13 a copy of the antitrust mutual assistance agree-  
14 ment, as so amended, may be obtained from the  
15 Attorney General and the Commission.

16 (d) **CONDITION FOR VALIDITY.**—An antitrust mutual  
17 assistance agreement, or an agreement that makes an  
18 amendment to an antitrust mutual assistance agreement,  
19 with respect to which publication does not occur in accord-  
20 ance with subsections (a), (b), and (c) shall not be consid-  
21 ered to be in effect under this Act.

22 **SEC. 8. CONDITIONS ON USE OF ANTITRUST MUTUAL AS-**  
23 **SISTANCE AGREEMENTS.**

24 (a) **DETERMINATIONS.**—Neither the Attorney Gen-  
25 eral nor the Commission may conduct an investigation

1 under section 3, apply for an order under section 4, or  
2 provide antitrust evidence to a foreign antitrust authority  
3 under an antitrust mutual assistance agreement, unless  
4 the Attorney General or the Commission, as the case may  
5 be, determines in the particular instance in which the in-  
6 vestigation, application, or antitrust evidence is requested  
7 that—

8 (1) the foreign antitrust authority—

9 (A) will satisfy the assurances, terms, and  
10 conditions described in subparagraphs (A), (B),  
11 and (E) of section 12(2), and

12 (B) is capable of complying with and will  
13 comply with the confidentiality requirements  
14 applicable under such agreement to the re-  
15 quested antitrust evidence,

16 (2) providing the requested antitrust evidence  
17 will not violate section 5, and

18 (3) conducting such investigation, applying for  
19 such order, or providing the requested antitrust evi-  
20 dence, as the case may be, is consistent with the  
21 public interest of the United States, taking into con-  
22 sideration, among other factors, whether the foreign  
23 state or regional economic integration organization  
24 represented by the foreign antitrust authority holds  
25 any proprietary interest that could benefit or other-

1 wise be affected by such investigation, by the grant-  
2 ing of such order, or by the provision of such anti-  
3 trust evidence.

4 (b) LIMITATION ON DISCLOSURE OF CERTAIN ANTI-  
5 TRUST EVIDENCE.—Neither the Attorney General nor the  
6 Commission may disclose in violation of an antitrust mu-  
7 tual assistance agreement any antitrust evidence received  
8 under such agreement, except that such agreement may  
9 not prevent the disclosure of such antitrust evidence to  
10 a defendant in an action or proceeding brought by the At-  
11 torney General or the Commission for a violation of any  
12 of the Federal laws if such disclosure would otherwise be  
13 required by Federal law.

14 (c) REQUIRED DISCLOSURE OF NOTICE RE-  
15 CEIVED.—If the Attorney General or the Commission re-  
16 ceives a notice described in section 12(2)(H), the Attorney  
17 General or the Commission, as the case may be, shall  
18 transmit such notice to the person that provided the evi-  
19 dence with respect to which such notice is received.

20 **SEC. 9. LIMITATIONS ON JUDICIAL REVIEW.**

21 (a) DETERMINATIONS.—Determinations made under  
22 paragraphs (1) and (3) of section 8(a) shall not be subject  
23 to judicial review.

24 (b) CITATIONS TO AND DESCRIPTIONS OF CON-  
25 FIDENTIALITY LAWS.—Whether an antitrust mutual as-

1 sistance agreement satisfies section 12(2)(C) shall not be  
2 subject to judicial review.

3 (c) RULES OF CONSTRUCTION.—

4 (1) ADMINISTRATIVE PROCEDURE ACT.—The  
5 requirements in section 7 with respect to publication  
6 and request for public comment shall not be con-  
7 strued to create any availability of judicial review  
8 under chapter 7 of title 5 of the United States Code.

9 (2) LAWS REFERENCED IN SECTION 5.—Noth-  
10 ing in this section shall be construed to affect the  
11 availability of judicial review under laws referred to  
12 in section 5.

13 **SEC. 10. PRESERVATION OF EXISTING AUTHORITY.**

14 (a) IN GENERAL.—The authority provided by this  
15 Act is in addition to, and not in lieu of, any other author-  
16 ity vested in the Attorney General, the Commission, or any  
17 other officer of the United States.

18 (b) ATTORNEY GENERAL AND COMMISSION.—This  
19 Act shall not be construed to modify or affect the alloca-  
20 tion of responsibility between the Attorney General and  
21 the Commission for the enforcement of the Federal anti-  
22 trust laws.

23 **SEC. 11. REPORT TO THE CONGRESS.**

24 In the 30-day period beginning 3 years after the date  
25 of the enactment of this Act and with the concurrence of

1 the Commission, the Attorney General shall submit, to the  
2 Speaker of the House of Representatives and the Presi-  
3 dent pro tempore of the Senate, a report—

4 (1) describing how the operation of this Act has  
5 affected the enforcement of the Federal antitrust  
6 laws,

7 (2) describing the extent to which foreign anti-  
8 trust authorities have complied with the confidential-  
9 ity requirements applicable under antitrust mutual  
10 assistance agreements in effect under this Act,

11 (3) specifying separately the identities of the  
12 foreign states, regional economic integration organi-  
13 zations, and foreign antitrust authorities that have  
14 entered into such agreements and the identities of  
15 the foreign antitrust authorities with respect to  
16 which such foreign states and such organizations  
17 have entered into such agreements,

18 (4) specifying the identity of each foreign state,  
19 and each regional economic integration organization,  
20 that has in effect a law similar to this Act,

21 (5) giving the approximate number of requests  
22 made by the Attorney General and the Commission  
23 under such agreements to foreign antitrust authori-  
24 ties for antitrust investigations and for antitrust evi-  
25 dence,

1           (6) giving the approximate number of requests  
2           made by foreign antitrust authorities under such  
3           agreements to the Attorney General and the Com-  
4           mission for investigations under section 3, for orders  
5           under section 4, and for antitrust evidence, and

6           (7) describing any significant problems or con-  
7           cerns of which the Attorney General is aware with  
8           respect to the operation of this Act.

9 **SEC. 12. DEFINITIONS.**

10         For purposes of this Act:

11           (1) The term “antitrust evidence” means infor-  
12           mation, testimony, statements, documents, or other  
13           things that are obtained in anticipation of, or during  
14           the course of, an investigation or proceeding under  
15           any of the Federal antitrust laws or any of the for-  
16           eign antitrust laws.

17           (2) The term “antitrust mutual assistance  
18           agreement” means a written agreement, or written  
19           memorandum of understanding, that is entered into  
20           by the United States and a foreign state or regional  
21           economic integration organization (with respect to  
22           the foreign antitrust authorities of such foreign state  
23           or such organization, and such other governmental  
24           entities of such foreign state or such organization as  
25           the Attorney General and the Commission jointly de-

1        termine may be necessary in order to provide the as-  
2        sistance described in subparagraph (A)), or jointly  
3        by the Attorney General and the Commission and a  
4        foreign antitrust authority, for the purpose of con-  
5        ducting investigations under section 3, applying for  
6        orders under section 4, or providing antitrust evi-  
7        dence, on a reciprocal basis and that includes the  
8        following:

9            (A) An assurance that the foreign anti-  
10           trust authority will provide to the Attorney  
11           General and the Commission assistance that is  
12           comparable in scope to the assistance the Attor-  
13           ney General and the Commission provide under  
14           such agreement or such memorandum.

15           (B) An assurance that the foreign anti-  
16           trust authority is subject to laws and proce-  
17           dures that are adequate to maintain securely  
18           the confidentiality of antitrust evidence that  
19           may be received under section 2, 3, or 4 and  
20           will give protection to antitrust evidence re-  
21           ceived under such section that is not less than  
22           the protection provided under the laws of the  
23           United States to such antitrust evidence.

24           (C) Citations to and brief descriptions of  
25           the laws of the United States, and the laws of

1 the foreign state or regional economic integra-  
2 tion organization represented by the foreign  
3 antitrust authority, that protect the confiden-  
4 tiality of antitrust evidence that may be pro-  
5 vided under such agreement or such memoran-  
6 dum. Such citations and such descriptions shall  
7 include the enforcement mechanisms and pen-  
8 alties applicable under such laws and, with re-  
9 spect to a regional economic integration organi-  
10 zation, the applicability of such laws, enforce-  
11 ment mechanisms, and penalties to the foreign  
12 states composing such organization.

13 (D) Citations to the Federal antitrust  
14 laws, and the foreign antitrust laws, with re-  
15 spect to which such agreement or such memo-  
16 randum applies.

17 (E) Terms and conditions that specifically  
18 require using, disclosing, or permitting the use  
19 or disclosure of, antitrust evidence received  
20 under such agreement or such memorandum  
21 only—

22 (i) for the purpose of administering or  
23 enforcing the foreign antitrust laws in-  
24 volved, or

1 (ii) with respect to a specified disclo-  
2 sure or use requested by a foreign anti-  
3 trust authority and essential to a signifi-  
4 cant law enforcement objective, in accord-  
5 ance with the prior written consent that  
6 the Attorney General or the Commission,  
7 as the case may be, gives after—

8 (I) determining that such anti-  
9 trust evidence is not otherwise readily  
10 available with respect to such objec-  
11 tive,

12 (II) making the determinations  
13 described in paragraphs (2) and (3) of  
14 section 8(a), with respect to such dis-  
15 closure or use, and

16 (III) making the determinations  
17 applicable to a foreign antitrust au-  
18 thority under section 8(a)(1) (other  
19 than the determination regarding the  
20 assurance described in subparagraph  
21 (A) of this paragraph), with respect to  
22 each additional governmental entity, if  
23 any, to be provided such antitrust evi-  
24 dence in the course of such disclosure  
25 or use, after having received adequate

1 written assurances applicable to each  
2 such governmental entity.

3 (F) An assurance that antitrust evidence  
4 received under section 2, 3, or 4 from the At-  
5 torney General or the Commission, and all cop-  
6 ies of such evidence, in the possession or control  
7 of the foreign antitrust authority will be re-  
8 turned to the Attorney General or the Commis-  
9 sion, respectively, at the conclusion of the for-  
10 eign investigation or proceeding with respect to  
11 which such evidence was so received.

12 (G) Terms and conditions that specifically  
13 provide that such agreement or such memoran-  
14 dum will be terminated if—

15 (i) the confidentiality required under  
16 such agreement or such memorandum is  
17 violated with respect to antitrust evidence,  
18 and

19 (ii) adequate action is not taken both  
20 to minimize any harm resulting from the  
21 violation and to ensure that the confiden-  
22 tiality required under such agreement or  
23 such memorandum is not violated again.

24 (H) Terms and conditions that specifically  
25 provide that if the confidentiality required

1 under such agreement or such memorandum is  
2 violated with respect to antitrust evidence, no-  
3 tice of the violation will be given—

4 (i) by the foreign antitrust authority  
5 promptly to the Attorney General or the  
6 Commission with respect to antitrust evi-  
7 dence provided by the Attorney General or  
8 the Commission, respectively, and

9 (ii) by the Attorney General or the  
10 Commission to the person (if any) that  
11 provided such evidence to the Attorney  
12 General or the Commission.

13 (3) The term “Attorney General” means the  
14 Attorney General of the United States.

15 (4) The term “Commission” means the Federal  
16 Trade Commission.

17 (5) The term “Federal antitrust laws” has the  
18 meaning given the term “antitrust laws” in sub-  
19 section (a) of the first section of the Clayton Act (15  
20 U.S.C. 12(a)) but also includes section 5 of the Fed-  
21 eral Trade Commission Act (15 U.S.C. 45) to the  
22 extent that such section 5 applies to unfair methods  
23 of competition.

24 (6) The term “foreign antitrust authority”  
25 means a governmental entity of a foreign state or of

1 a regional economic integration organization that is  
2 vested by such state or such organization with au-  
3 thority to enforce the foreign antitrust laws of such  
4 state or such organization.

5 (7) The term “foreign antitrust laws” means  
6 the laws of a foreign state, or of a regional economic  
7 integration organization, that are substantially simi-  
8 lar to any of the Federal antitrust laws and that  
9 prohibit conduct similar to conduct prohibited under  
10 the Federal antitrust laws.

11 (8) The term “person” has the meaning given  
12 such term in subsection (a) of the first section of the  
13 Clayton Act (15 U.S.C. 12(a)).

14 (9) The term “regional economic integration or-  
15 ganization” means an organization that is con-  
16 stituted by, and composed of, foreign states, and on  
17 which such foreign states have conferred sovereign  
18 authority to make decisions that are binding on such  
19 foreign states, and that are directly applicable to  
20 and binding on persons within such foreign states,  
21 including the decisions with respect to—

22 (A) administering or enforcing the foreign  
23 antitrust laws of such organization, and

24 (B) prohibiting and regulating disclosure  
25 of information that is obtained by such organi-

1           zation in the course of administering or enforc-  
2           ing such laws.

3 **SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENT.**

4       The Attorney General and the Commission are au-  
5 thORIZED to receive from a foreign antitrust authority, or  
6 from the foreign state or regional economic integration or-  
7 ganization represented by such foreign antitrust authority,  
8 reimbursement for the costs incurred by the Attorney Gen-  
9 eral or the Commission, respectively, in conducting an in-  
10 vestigation under section 3 requested by such foreign anti-  
11 trust authority, applying for an order under section 4 to  
12 assist such foreign antitrust authority, or providing anti-  
13 trust evidence to such foreign antitrust authority under  
14 an antitrust mutual assistance agreement in effect under  
15 this Act with respect to such foreign antitrust authority.

      Passed the House of Representatives October 3,  
1994.

Attest:

*Clerk.*



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