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DISAPPROVAL OF NORMAL TRADE RELATIONS TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

JULY 18, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

ADVERSE REPORT

[To accompany H.J. Res. 50]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 50) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People's Republic of China, having considered the same, report unfavorably thereon without amendment and recommend that the joint resolution do not pass.

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I. INTRODUCTION

A. Purpose and Summary

H.J. Res. 50 would disapprove the extension of normal trade relations (NTR status) to the products of the People's Republic of China.

B. Background

Prior to 1951, the United States extended nondiscriminatory, or unconditional most-favored-nation (MFN) treatment, now referred to as normal trade relations (NTR),[1] to all of its trading partners in accordance with obligations undertaken when the United States joined the General Agreement on Tariffs and Trade (GATT) in 1948. However, the Trade Agreements Extension Act of 1951 directed the President to withdraw or suspend the MFN status of the Soviet Union and all countries under the domination of Communism. As implemented, this directive was applied to all then-existing communist countries except Yugoslavia. Poland's MFN status was restored by Presidential directive in 1960.

Title IV of the Trade Act of 1974, which includes the so-called "Jackson-Vanik amendment," represented a liberalization of the 1951 law. Title IV authorizes the extension of normal trade relations treatment to nonmarket economies which both meet freedom-of-emigration requirements and conclude a commercial agreement with the United States. Title IV also authorizes the President to waive the freedom-of-emigration requirements of that title and to extend NTR status to a nonmarket economy country if he determines that doing so will substantially promote the freedom-of-emigration objectives. The President's waiver authority under Title IV expires at midnight on July 2 of each year. It may be extended on an annual basis upon a Presidential determination and report to Congress that such extension will substantially promote the freedom-of-emigration objectives of the 1974 Trade Act.

In the case of the People's Republic of China, a bilateral commercial agreement, as required by the Jackson-Vanik amendment, was concluded on July 7, 1979, and has remained in force since that time. NTR was first granted to China on February 1, 1980, and has been renewed annually since then on the basis of Presidential waivers. On June 1, 2001, the President formally transmitted to the Congress his recommendation to waive the 1974 Trade Act's freedom-of-emigration requirements and to thereby extend China's NTR status for an additional year, during the period of July 3, 2001, through July 2, 2002.

The President's waiver authority continues in effect unless disapproved by the Congress—either generally or with respect to a specific country—within 60 calendar days of the expiration of the existing authority. Under Title IV amendments adopted as part of the Customs and Trade Act of 1990, disapproval takes the form of a joint resolution disapproving the extension of Presidential authority to waive the 1974 Trade Act's freedom-of-emigration requirements. Under the 1990 amendments, Congress may consider

[1] Legislation to replace the term "most-favored-nation" (MFN) in United States statutes with the term "normal trade relations" (NTR) was enacted into law as part of the Internal Revenue Service Restructuring and Reform Act of 1998, P.L. 105–206.

any veto message before the later of the end of the 60-day period or within 15 legislative days. The disapproval resolution is highly privileged, thus generally guaranteeing a vote in the House if it is introduced.

If both chambers of Congress do not pass a resolution of disapproval within 60 calendar days following the July 3, 2001 expiration of the existing waiver authority, China's NTR status will be renewed automatically through July 2, 2002. H.J. Res. 50 was introduced by Representative Rohrabacher (R–CA) on June 5, 2001. H.J. Res. 50 provides for disapproval of extension of the waiver authority recommended by the President on June 1, 2001, with respect to China for the period beginning July 3, 2001.

P.L. 106–286

In 2000, in response to significant progress in China's negotiations to accede to the World Trade Organization (WTO), the Congress passed and the President signed P.L. 106–286, which authorized the extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China when China becomes a member of the WTO. P.L. 106–286 also established a framework for relations between the United States and the People's Republic of China.

Specifically, P.L. 106–286 amends Title IV of the Trade Act of 1974 to remove the People's Republic of China (China) from the list of countries subject to this provision upon the accession of China to the WTO, and upon certification by the President that the final terms of the accession are at least equivalent to the terms of the November 15, 1999 bilateral agreement between the United States and China.

In addition to granting the President the authority to remove China from the application of Jackson-Vanik, P.L. 106–286 also: (1) established a Congressional-Executive Commission to monitor China's progress on human rights, worker rights, and enforcement of its WTO agreements; (2) contained trade enhancement provisions, including a safeguard mechanism to protect U.S. industries and workers from unexpected import surges from China; (3) authorized additional funds for U.S. agencies to monitor China's adherence to its WTO commitments; (4) provided technical assistance in developing the rule of law in commercial and labor markets, as well as democracy-building in China; (5) established a task force on prison labor imports; and (6) expressed a sense of the Congress that Taiwan should enter the WTO at the same WTO General Council session as China.

China's negotiations to join the World Trade Organization

In July 1986, China applied for accession to the General Agreements on Tariffs and Trade (GATT), the predecessor organization to the WTO. Work has proceeded in the China Working Party since that time to negotiate the conditions upon which China will enter the WTO.

Article XII of the Agreement establishing the WTO states that any State or separate customs territory may accede to the WTO "on terms to be agreed between it and the WTO." In practice, any WTO applicant must negotiate terms for WTO membership in the form of a Protocol of Accession. Through the operation of a Working

Party, the United States and other WTO members may review the trade regimes of applicants to ensure that they are capable of implementing their WTO obligations. In parallel with the Working Party's efforts, the United States and other interested member governments conduct separate negotiations with the applicant. These bilateral negotiations are aimed at achieving specific concessions and commitments on tariff levels, agricultural market access and subsidies, and trade in services.

Although P.L. 106–286 was enacted on October 10, 2000, work remains to be done concerning the U.S.-China negotiations on the protocol of China's accession. During the June 4–8, 2001 bilateral talks in Shanghai, the United States and China reached agreement on some of the major outstanding issues.

Several important steps remain ahead in China's WTO accession process. The bilateral agreement between the United States and China will be considered at the next China Working Party meeting in Geneva, beginning June 28, 2001. The WTO's General Council must then adopt China's accession package, after which China will have to complete its domestic ratification procedures. China will become a WTO member 30 days after filing its notice of acceptance with the WTO.

C. Legislative History

COMMITTEE ACTION

H.J. Res. 50 was introduced on June 5, 2001, by Representative Rohrabacher and was referred to the Committee on Ways and Means.

LEGISLATIVE HEARING

In a hearing held on July 10, the Committee considered the issue of whether or not to normalize trade relations with China in the context of China's imminent membership in the World Trade Organization. The hearing considered the implications of failing to permanently remove China from Title IV of the Trade Act of 1974. At the hearing, the Office of the U.S. Trade Representative and the State Department expressed support, and American Farm Bureau President Robert Stallman and other witnesses expressed their views regarding U.S.-China trade relations.

II. EXPLANATION OF THE RESOLUTION

PRESENT LAW

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 (Public Law 101–382), sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for a nonmarket economy country to be granted NTR. Title IV also requires that a bilateral commercial agreement that provides for nondiscriminatory, NTR status remain in force between the United States and the nonmarket economy country receiving NTR status. Title IV as well sets forth minimum provisions that must be included in such an agreement.

An annual Presidential recommendation under section 402(d) for a 12-month extension of authority to waive the Jackson-Vanik free-

dom-of-emigration requirements—either generally or for specific countries—may be disapproved through passage by Congress of a joint resolution of disapproval within 60 calendar days after the expiration of the previous waiver authority. Congress may override a Presidential veto within the later of the end of the 60 calendar day period for initial passage or 15 legislative days.

EXPLANATION OF THE RESOLUTION

House Joint Resolution 50 states that the Congress does not approve the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974, recommended by the President to the Congress on June 1, 2001, with respect to the People's Republic of China.

REASONS FOR COMMITTEE ACTION

The Committee has long supported a policy of engagement with China and has consistently rejected annual legislation to revoke normal trade relations (or nondiscriminatory treatment), which it sees as the cornerstone of that policy. As demonstrated by the House's passage of P.L. 106–286 (H.R. 4444) last year, Members believe that normalizing trade relations with China by graduating it from the annual review process established under the Jackson-Vanik amendment, a Cold War statute, is appropriate. Specifically, the Committee believes that increased trade, together with other tools of active engagement, enables the United States to influence the growth of democratic and market-oriented policies in China in a manner which will improve respect for fundamental human rights and encourage political reform.

The Committee continues to view with deep concern widespread human rights abuses carried out by the Chinese government against Catholic priests and bishops, Protestant pastors, Tibetan Buddhist clergy, Falun Gong members and pro-democracy activists and scholars. The Committee is also concerned about China's continued suppression of labor rights. Nevertheless, the Committee is concerned that rejecting the President's waiver of the Jackson-Vanik amendment for the 2001–2002 period will send a very mixed and unproductive signal to China regarding the U.S. commitment to free trade, in light of last year's passage of the permanent normal trade relations (PNTR) legislation (P.L. 106–286).

The passage of P.L. 106–286 by a 237–197 vote demonstrated the House's commitment to the policy of engagement with China. P.L. 106–286 will remove China from Title IV of the Trade Act of 1974 when China becomes a member of the WTO. Once China becomes a WTO member, the annual review of China's NTR status will no longer be necessary. However, until that time, it remains necessary for the Committee to consider the annual disapproval resolution (if such a resolution is introduced) according to the privileged procedures set out in Title IV of the Trade Act of 1974.

Failing to grant NTR treatment at this time would forfeit the market access concessions made by the Chinese in the Bilateral Trade Agreement of 1999 and those that will be included in China's protocol of accession to the WTO. If fully implemented, these commitments would represent substantial new opportunities for U.S. exports to and investment in China. Terminating NTR would jeopardize these efforts to bring China into the WTO.

Withdrawing NTR for China would also have a serious adverse effect on Hong Kong and Taiwan due to the high levels of trade and investment between Hong Kong and China and between Taiwan and China. By severely disrupting trade in the region, terminating NTR for the 2001–2002 period would harm U.S. efforts to address economic instability in Asia and risk prompting currency devaluations.

Finally, the Committee believes that revoking China's NTR status for the 2001–2002 period would constitute too blunt a sanction and would work against U.S. Government efforts to bring China into the global community of civilized nations. Rejecting annual NTR in light of last year's passage of P.L. 106–286 (which would remove China from Title IV and grant permanent NTR when China becomes a WTO member) would send conflicting signals as to U.S. policy regarding China. While the United States has many serious problems with China, the Committee believes that areas of U.S.-Sino disagreement are best addressed through expanding U.S. contacts with China and maintaining strong and effective mechanisms to press China to continue to reform.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the joint resolution, H.J. Res. 50.

MOTION TO REPORT THE BILL

The joint resolution, H.J. Res. 50, was ordered adversely reported, by voice vote, with a quorum being present.

VOTES ON AMENDMENTS

A rollcall vote was conducted on an amendment by Mr. Rangel to add Cuba to the resolution disapproving the extension of nondiscriminatory treatment to China. The amendment was defeated by a rollcall vote of 16 yeas to 22 nays, The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel	X		
Mr. Crane		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Matsui	X		
Mrs. Johnson	X			Mr. Coyne	X		
Mr. Houghton		X		Mr. Levin	X		
Mr. Herger		X		Mr. Cardin	X		
Mr. McCrery		X		Mr. McDermott	X		
Mr. Camp		X		Mr. Kleczka	X		
Mr. Ramstad		X		Mr. Lewis (GA)			
Mr. Nussle		X		Mr. Neal	X		
Mr. Johnson		X		Mr. McNulty	X		
Ms. Dunn		X		Mr. Jefferson			
Mr. Collins				Mr. Tanner	X		
Mr. Portman		X		Mr. Becerra	X		
Mr. English		X		Mrs. Thurman	X		
Mr. Watkins		X		Mr. Doggett	X		
Mr. Hayworth		X		Mr. Pomeroy	X		
Mr. Weller		X					
Mr. Hulshof		X					
Mr. McInnis		X					
Mr. Lewis (KY)		X					
Mr. Foley		X					

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Brady		X					
Mr. Ryan		X					

IV. BUDGET EFFECTS

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this resolution, House Joint Resolution 50 as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. Statement Regarding New Budget Authority and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.J. Res. 50 would increase customs duty receipts due to higher tariffs imposed on goods from China.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 16, 2001.

Hon. William "Bill" M. Thomas,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.J. Res. 50, disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People's Republic of China.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker (for revenues), and Lauren Marks (for private-sector mandates).

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.J. Res. 50—Disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People's Republic of China

Summary: Under the Trade Act of 1974, nondiscriminatory trade relations may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. However, the President may waive this prohibition on an annual basis if he certifies that doing so would promote freedom of emigra-

tion in that country. On June 1, 2001, President Bush transmitted to the Congress his intention to waive the prohibition with respect to the People's Republic of China for a year, beginning July 3, 2001. H.J. Res. 50 would disapprove the President's extension of this waiver. CBO estimates that denying nondiscriminatory tariff treatment to the People's Republic of China would increase revenues by $610 million over the fiscal year 2001–2002 period. Since adopting this resolution would affect receipts, pay-as-you-go procedures would apply.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. H.J. Res. 50 would impose a private-sector mandate on importers of Chinese goods that would be subject to higher tariffs. CBO estimates that the increased costs in tariffs to importers would total $610 million in fiscal years 2001 and 2002. Approximately $500 million of this cost increase would occur in fiscal year 2002, which would exceed the threshold for private-sector mandates established in UMRA ($113 million in 2001, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.J. Res. 50 is shown in the following table.

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
CHANGES IN REVENUES						
Estimated Revenues	111	499	0	0	0	0

Basis of estimate: Denial of nondiscriminatory trade relations to the People's Republic of China would substantially increase the tariff rates imposed on its exports to the United States. CBO assumes that these higher tariff rates would increase U.S. prices and would decrease U.S. demand for goods imported from the People's Republic of China. CBO estimates that imports from China would decline by more than enough to offset the higher rates, so that the U.S. customs duties collections on Chinese imports would fall. However, CBO estimates that some of that drop in trade with China would be offset by an increase in imports from other countries with normal trade relations status. The increase in revenues from this effect would outweigh the reduction in revenues from China. Assuming an effective date of August 1, 2001, CBO estimates that revenues would increase by $610 million over the fiscal year 2001–2002 period. The People's Republic of China has received normal trade relations status through Presidential proclamation on an annual basis beginning in 1980, and CBO assumes there would be a resumption of normal trade relations with the People's Republic of China after July 3, 2002.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table.

	By fiscal year, in millions of dollars—										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	Not applicable										
Changes in receipts	111	499	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: H.J. Res. 50 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.J. Res. 50 would impose a private-sector mandate on importers of Chinese goods that would be subject to higher tariffs. CBO estimates that the increased costs in tariffs to importers would total $610 million in fiscal years 2001 and 2002. Approximately $500 million of this cost increase would occur in fiscal year 2002, which would exceed the threshold for private-sector mandates established in UMRA ($113 million in 2001, adjusted annually for inflation). U.S. consumers of Chinese goods would also bear indirect costs if they chose to substitute other foreign goods or domestically produced goods for Chinese products.

Previous estimate: On July 18, 2000, CBO transmitted an estimate for H.J. Res. 103, disapproving the extension of the waiver authority contained in section 402(c) with respect to the People's Republic of China, as ordered reported adversely by the House Committee on Ways and Means. CBO estimated that last year's resolution would increase revenues by $520 million over the 2000–2001 period.

Estimate prepared by: Federal Costs: Erin Whitaker; Impact on the Private Sector: Lauren Marks; and Impact on State, Local, and Tribal Governments: Elyse Goldman.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, believes that revoking China's NTR status as of July 3, 2001, would be unwise and counterproductive.

B. Summary of Findings and Recommendations of the Committee on Government Reform and Oversight

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Reform and Oversight with respect to the subject matter contained in the resolution.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

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