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Background Materials Relating to United States-Romanian Trade and the Extension of the President's Authority To Waive Section 402 of the Trade Act of 1974

COMMITTEE ON FINANCE
UNITED STATES SENATE

RUSSELL B. LONG, *Chairman*

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Committee on Finance

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Preface

On July 28, 1975, Congress approved a bilateral commercial agreement with the Socialist Republic of Romania. The agreement, which granted Romania most favored nation tariff treatment, had been negotiated by the President under the authority of Title IV of the Trade Act of 1974 (Public Law 93–618). The question whether Congress should extend for 12 months the President's authority to waive the freedom of emigration provisions of the Trade Act has come up for review under the procedures contained in Section 402 of that law. This pamphlet has been prepared by the staff of the Committee on Finance to assist the committee and the Senate in that review.

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Summary

On June 2, 1977, the President asked Congress to renew for twelve months his authority to waive the freedom of emigration requirements of the Trade Act of 1974. Section 402 of the Trade Act of 1974 prohibits the granting of most favored nation (MFN) treatment, government credits or investment guarantees, or the negotiation of a commercial agreement with any communist country if that country does not allow its citizens the freedom to emigrate. Section 402 also permits the President to waive this prohibition for limited periods of time if he determines that doing so will promote freedom of emigration. Specifically at issue is whether MFN treatment should be continued in the case of the Socialist Republic of Romania, the only Communist country to have been designated for such treatment under the Trade Act.

The President's request set in motion a timetable of procedures by which Congress may terminate or permit by inaction the extension of the authority under which the President may waive the requirement of freedom of emigration. The deadline for congressional action is August 31, 1977. After that date, if Congress takes no action, the waiver authority is automatically extended until July 3, 1978. Tables presenting available information on Romanian emigration appear on pages 3, 4, and 5 of this pamphlet.

U.S. trade with Romania has grown markedly in recent years. (See table, page 6.) The U.S. has traditionally enjoyed a substantial trade surplus with Romania, though there are signs the U.S. advantage may be narrowing. Romania has been designated a beneficiary developing country under the Generalized System of Preferences, entitling certain of its exports to the United States to duty free treatment.

Freedom of Emigration and the Trade Act

Subsections 402 (a) and (b) of the Trade Act of 1974 prohibit the granting of MFN treatment, the extension of government credits, or the negotiation of a commercial agreement with any nonmarket economy country not now receiving MFN, if such country:

(1) denies its citizens the right or opportunity to emigrate;
(2) imposes more than a nominal tax on emigration; or
(3) imposes more than a nominal charge on any citizen who wants to emigrate to the country of his choice.

Section 402(c) permits the President to waive the prohibitions in subsection (a) and (b) under certain conditions. The President exercised this waiver authority with respect to Romania in 1975. The waiver was extended under section 402(d)(4) by congressional inaction for the 12-month period beginning July 3, 1976. The President's June 2, 1977, message recommended another 12-month extension of the waiver under the procedures in section 402(d)(5).

Section 402(d)(5) authorizes the President to extend an existing waiver of section 402 (a) and (b) for an additional 12 months, until July 3, 1978, in the case of Romania, if—

(1) he determines that further extension will "substantially promote" the objective of freedom of emigration; and
(2) he recommends the 12-month extension to the Congress.

Congress may disapprove extension of the waiver authority generally, or with respect to Romania only, during the period from July 3, 1977, to September 1, 1977, by adopting a simple resolution of disapproval in either the Senate or House under the procedures of section 153 of the Trade Act of 1974 (19 U.S.C. 2193). If neither House acts before September 1, 1977, the waiver authority under section 402(c) is automatically extended to July 2, 1978.

Procedures for Review of the Waiver Provisions of Section 402 of the Trade Act

Beginning with the date of enactment of the Trade Act, January 3, 1975, the President was given authority to waive the requirements of section 402 for 18 months. In 1975, the President negotiated an agreement granting imports from Romania most-favored-nation tariff treatment. He submitted to Congress the trade agreement, an implementing proclamation, and a recommendation that the requirements of section 402 be waived. On July 28, 1975, Congress approved the bilateral commercial agreement with Romania.

The Trade Act provides for the extension of the waiver authority beyond the initial 18 months from the date of enactment of the act. The President requested such an extension of his waiver authority both in general and specifically with respect to Romania for 12 months on June 2, 1976. During the 1976 statutory review period, the Congress did not adopt a concurrent resolution of approval nor a simple resolution of disapproval of the continuation of the waiver authority, and the authority was automatically extended until July 3, 1977.

The Trade Act provides that the waiver authority may be further extended by Executive order at 1-year intervals upon a Presidential determination and recommendation to Congress that such an extension will substantially promote the objectives of section 402. The President must request extension of the waiver authority at least 30 days before its expiration. He did so on June 2, 1977. After the recommendation, the waiver authority continues for 1 year unless either House of Congress, within 60 days after the end of the previous extension, July 3, 1977, adopts a simple resolution of disapproval.

Key Dates Under the Waiver Provisions of Title IV

(Enactment of Trade Act on January 3, 1975)

July 28, 1975—Congress approved bilateral commercial agreement with Socialist Republic of Romania.

August 3, 1975—President proclaimed most-favored-nation (MFN) tariff treatment for Romania.

June 2, 1976—President requested one-year extension of waiver authority.

July 3–October 15, 1976—Period of first congressional review. Congress neither approved nor disapproved continuation of waiver authority; authority extended to July 3, 1977.

June 2, 1977—President requested one-year extension of waiver authority.

July 3–September 1, 1977—Period for second annual congressional review. Congress may disapprove of extension of MFN and waiver authority by one-House veto.

Thereafter, by June 3 of each year—President may request 1-year extension of waiver authority.

July 3–September 1 of each year—President may extend waiver for 1 year by Executive order, provided he submits a report on the progress of free emigration. Congress may rescind waiver by majority vote of either House (resolution of disapproval). If Congress does not vote resolution of disapproval in July or August, waiver extends through the following June.

Emigration from Romania

The tables below present available information on emigration from Romania:

TABLE I.—*Romanian immigration to the United States—Monthly totals*

	Immigrant visas issued by Embassy Bucharest
1975:	
January	27
February	13
March	14
April	24
May	20
June	29
July*	110
August	182
September	181
October	131
November	62
December	97
Total 1975	890
1976:	
January	74
February	87
March	130
April	97
May	77
June	111
July	96
August	104
September	74
October	40
November	66
December	65
Total 1976	1, 021
1977:	
January	69
February	59
March	139
April	101
May	129
Total for first 5 months	497

*The Congress approved most-favored-nation treatment for Romania on July 28, 1975.

NOTE.—Starting with December 1975, figures include immigrants handled under "Third Country Processing" arrangements, which were initiated during that month. These are persons not eligible to receive U.S. immigration visas from Embassy Bucharest (due to lack of immediate relatives in the United States) who travel to Rome for processing of their applications for admission to the United States as conditional entrants. For this reason monthly statistics in this table do not correspond exactly with those in table II. The figures exclude dual nationals.

Source: Department of State.

TABLE II.—*Statistics on Romanian emigration to the United States since 1965—Immigration visas issued by Embassy Bucharest by fiscal year*

IV's issued fiscal year 1965	274
IV's issued fiscal year 1966	104
IV's issued fiscal year 1967	19
IV's issued fiscal year 1968	23
IV's issued fiscal year 1969	154
IV's issued fiscal year 1970	372
IV's issued fiscal year 1971	629
IV's issued fiscal year 1972	269
IV's issued fiscal year 1973	357
IV's issued fiscal year 1974	511
IV's issued fiscal year 1975	328
IV's issued fiscal year 1976 [1]	1, 339
IV's issued calendar year 1976	1, 021

[1] July 1, 1975–June 30, 1976.

Source: Department of State.

TABLE III.—*Romanian Jewish immigration to Israel—Monthly totals*

	Number of immigrants
1975:	
January	62
February	41
March	102
April	60
May	46
June	199
July*	403
August	238
September	262
October	350
November	130
December	115
Total	2, 008
1976:	
January	328
February	232
March	99
April	51
May	143
June	211
July	237
August	238
September	117
October	118
November	79
December	136
Total	1, 989
1977:	
January	46
February	62
March	113
April	132
May	105
Total first 5 months of 1977	458

Annual totals for Romanian Jewish immigration to Israel

	Number of immigrants
1971	1,900
1972	3,000
1973	4,000
1974	3,700
1975*	2,008
1976	1,989
1977 (first 5 months)	458

*The Congress approved most-favored-nation treatment for Romania on July 28, 1975.

NOTE.—Total first 5 months of 1976 equals 853.

Source: Department of State.

United States Trade With Romania

Trade between the United States and Romania has increased substantially during the past decade. Total trade between the countries was valued at $8 million in 1965. Trade between the United States and Romania reached $449 million in 1976. The United States has had a surplus in its trade with Romania for the last 10 years. Romania has been eligible for most-favored-nation (MFN) tariff treatment since August 3, 1975. Between 1975 and 1976, imports from Romania increased 48.2 percent, $135 million to $200 million, while exports increased 31.6 percent, $180 million to $249 million. Total trade in 1977 is expected to exceed $500 million and may be as high as $550 million. Total trade may reach $1 billion by 1980. On January 1, 1976, the President designated Romania as a country whose exports to the United States are eligible for duty free treatment under the Generalized System of Preferences (GSP).

1976 was the first full year of operation of GSP for Romania. The value of GSP eligible imports from Romania increased 133 percent between 1975 and 1976. The relative importance of GSP imports is minor, however, $9 million in 1975 and $20 million in 1976. GSP items constituted 10 percent of total 1976 U.S. imports from Romania, the largest among them being PVC resins, wooden furniture, and machine tools.

There was rapid growth in 1976 of Romanian exports to the United States of men's and boys' suits, making Romania the largest supplier of low-cost men's and boys' suits not subject to quantitative import restraints. Under the Multifiber Arrangement (MFA) the United States is permitted to limit unilaterally imports from Romania to maintain the market shares of other suppliers who have negotiated quantitative restraint agreements with the United States and to prevent disruption of the U.S. market. The United States and Romania have recently concluded negotiation of a 3-year bilateral agreement under the MFA governing trade in textiles, including suits.

A Long-Term Agreement on Economic, Industrial, and Technical Cooperation was signed at the third session of the Joint American-Romanian Economic Commission, which took place on November 22–23, 1976. This 10-year agreement provides a framework for cooperation through contractual arrangements between firms, companies, and economic organizations in the two countries. The Romanians are interested in expanding cooperation in various industrial fields, such as

electronics, aviation, calculators and computers, compressors, rolling mills, foundry equipment, equipment for the chemical and petrochemical industry, and mining and geological exploration equipment, and in agriculture and banking. For Romania, the objective of the agreement appears to be to gain access to American technology in order to export more finished industrial products.

In March 1977, Romania suffered a severe earthquake which did significant damage to certain industrial facilities. Damaged facilities included oil refineries, sheet glass works, chemical and petrochemical works, heavy machinery and machine tool works, an automobile factory, and ball bearing works. Most of the damage has been repaired.

The following tables illustrate the level and content of United States-Romanian trade in recent years.

TABLE IV.—*United States-Romanian trade, 1970–76*

[In millions of dollars]

	1970	1971	1972	1973	1974	1975	1976
U.S. imports for consumption	13. 2	13. 0	29. 2	55. 7	125. 8	135. 1	200. 1
U.S. exports	66. 3	52. 4	69. 1	116. 5	[1] 277. 1	189. 3	249. 0
2-way trade	79. 5	65. 4	98. 3	172. 2	[1] 402. 9	324. 4	449. 1
U.S. surplus	53. 1	39. 4	39. 9	60. 8	[1] 151. 3	54. 2	48. 9

[1] The unusual rise in U.S. exports in 1974 is attributable to grain and one-time-only aircraft sales.

TABLE V.—*U.S. trade with Romania in 1968, 1974–76*

[In millions of U.S. dollars]

U.S. EXPORTS

Commodity	1968	1974	1975	1976
Food and live animals	. 48	93. 35	75. 60	91. 99
Beverages and tobacco	. 01	. 13	0	0
Crude materials—inedible, except fuel	2. 58	69. 16	38. 59	96. 83
Mineral fuels, lubricants, etc	. 97	5. 54	17. 56	10. 79
Oil and fats—animal and vegetable	0	0	0	0
Chemicals	1. 20	7. 94	4. 90	2. 76
Manufactured goods classified by chief material	2. 61	10. 72	5. 90	16. 85
Machinery and transport equipment	7. 83	83. 24	42. 37	25. 96
Miscellaneous manufactured articles	2. 48	1. 65	3. 76	3. 72
Commodities and transactions not elsewhere classified	. 02	. 38	. 60	. 14
Total [1]	18. 19	277. 12	189. 28	249. 03

TABLE V.—*U.S. trade with Romania in 1968, 1974–76*—Continued

U.S. IMPORTS

Commodity	1968[2]	1974[3]	1975[3]	1976[3]
Food and live animals	.88	11.15	9.64	15.70
Beverages and tobacco	.01	.20	.02	.18
Crude materials—inedible, except fuel	.58	1.02	3.58	5.44
Mineral fuels, lubricants, etc	.85	76.41	85.65	81.87
Oil and fats—animal and vegetable	0	0	0	0
Chemicals	.03	3.64	2.00	8.42
Manufactured goods classified by chief material	.68	5.82	7.65	21.20
Machinery and transport equipment	.09	8.55	9.62	15.92
Miscellaneous manufactured articles	2.63	18.69	15.34	51.06
Commodities and transactions not elsewhere classified	.07	.35	1.55	.33
Total[1]	5.52	125.82	135.06	200.12

[1] Because of rounding the sum of the column may not equal the total.
[2] U.S. general imports.
[3] U.S. imports for consumption.

Source: U.S. Department of Commerce publications and U.S. Department of Commerce, Bureau of East-West Trade.

APPENDIX

To the Congress of the United States:

In accordance with section 402(d)(5) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a further period of 12 months.

This recommendation sets forth the reasons for extending waiver authority and for my determination relating to continuation of the waiver applicable to the Socialist Republic of Romania, as called for by subsections (d)(5)(b) and (d)(5)(c) of section 402.

I include, as part of this recommendation, my determinations that further extension of the waiver authority, and continuation of the waiver applicable to the Socialist Republic of Romania, will substantially promote the objectives of this section.

JIMMY CARTER.

THE WHITE HOUSE, *June 2, 1977.*

RECOMMENDATION FOR EXTENSION OF WAIVER AUTHORITY

Pursuant to section 402(d)(5) of the Trade Act of 1974 (hereinafter referred to as "the act"), I have today determined that further extension of the waiver authority granted by section 402(c) of the act, and continuation of the waiver extended by Executive Order 11854 of April 24, 1975, currently applicable to the Socialist Republic of Romania pursuant to section 402(c)(1) of the act, will substantially promote the objectives of section 402 of the act.

Further extension of the waiver authority conferred by section 402(c) of the act will enable us to continue to expand and improve bilateral relations with countries subject to subsection 402(b) of the act, which I believe to be in the national interest. In the case of Romania, the extension would permit continuation of the United States-Romanian Trade Agreement of 1975.

I am convinced that continuation of the United States-Romanian Trade Agreement will serve to further promote mutually beneficial growth in two-way trade between the United States and Romania and will buttress the favorable political relations between our countries.

The reasons for retaining good commercial and political relations with Romania remain as valid as in the past. Such relations have contributed to a continuation and strengthening of Romania's independent policies, many of which have proven beneficial to U.S. foreign policy interests. Romania has continued to pursue friendly relations with countries of differing political and economic systems—with the United States, the People's Republic of China, the developing world, and with Israel as well as Arab countries. Romania's participation in international organizations, including the IMF and World Bank, shows a high degree of independence in economic matters that parallels its relative political independence. More than half

of Romania's trade is with noncommunist countries, and it is taking part in the multilateral trade negotiations as a GATT Contracting Party.

I believe that a further expansion of United States-Romanian economic relations can help to promote a continuation of such independent policies and that the Trade Agreement, nondiscriminatory tariff treatment, and authority to extend Commodity Credit Corporation and Export-Import Bank credits are essential to maintain and expand our present overall bilateral relationship with Romania.

Such an expanded bilateral relationship will also improve the prospects for continued American access to Romanian leaders and will enhance our ability to discuss frankly and, judging from past contacts, fruitfully, such important and sensitive subjects as emigration, divided families, and marriage cases.

Emigration from Romania to the United States has kept up this past year at about the same pace as during the preceding year on which the previous favorable Presidential recommendation was based. Romanian performance with regard to emigration to Israel has been somewhat inconsistent and uneven, but overall emigration has risen markedly since implementation of the United States-Romanian trade agreement. Extending the waiver authority for Romania should provide an incentive to bring about a more consistent and forthcoming performance on emigration by Romania. For my administration's part, we intend to monitor closely compliance with the objectives of section 402, and should performance not accord with the intent of this provision, I would want to reconsider my recommendation; moreover, we will bring to the attention of the Romanian Government any actions or emigration trends which do not seem to conform to the assurances which they have provided in the past to treat emigration matters in a humanitarian manner.

Taking account of all factors, however, I recommend to the Congress, pursuant to subsection 402(d)(5) of the act, that the waiver authority granted by subsection (c) of section 402 of the act be further extended for a period of 12 months.

THE WHITE HOUSE,
Washington, June 2, 1977.

[Presidential Determination No. 77–14]

Memorandum for the Secretary of State.

Subject: Determination under section 402(d)(1) of the Trade Act of 1974.

Pursuant to the authority vested in me by the Trade Act of 1974 (Public Law 93–618, January 3, 1975; 88 Stat. 1978; hereinafter called the act), I hereby determine, pursuant to section 402(d)(5) of the act, that the further extension of the waiver authority granted by subsection (c) will substantially promote the objectives of section 402 of the act. I further determine, pursuant to subsection (d)(5)(c) of section 402 of the act, that continuation of the waiver applicable to the Socialist Republic of Romania will substantially promote the objectives of section 402.

This determination shall be published in the Federal Register.

JIMMY CARTER.

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