

PERMANENT NORMAL TRADE RELATIONS WITH THE
 PEOPLE'S REPUBLIC OF CHINA

MAY 22, 2000.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4444]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4444) to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TERMINATION OF APPLICATION OF CHAPTER 1 OF TITLE IV OF THE TRADE ACT OF 1974 TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) **PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.**—Notwithstanding any provision of chapter 1 of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), as designated by section 3(a)(2) of this Act, the President may—

(1) determine that such chapter should no longer apply to the People's Republic of China; and

(2) after making a determination under paragraph (1) with respect to the People's Republic of China, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) **ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION.**—Prior to making the determination provided for in subsection (a)(1) and pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the President shall transmit a report to Congress certifying that the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999.

SEC. 2. EFFECTIVE DATE.

(a) **EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.**—The extension of nondiscriminatory treatment pursuant to section 1(a)(1) shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

(b) **TERMINATION OF APPLICABILITY OF TITLE IV.**—On and after the effective date under subsection (a) of the extension of nondiscriminatory treatment to the products of the People's Republic of China, chapter 1 of title IV of the Trade Act of 1974 (as designated by section 3(a)(2) of this Act) shall cease to apply to that country.

SEC. 3. RELIEF FROM MARKET DISRUPTION.

(a) **IN GENERAL.**—Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) is amended—

(1) in the title heading, by striking “CURRENTLY”;

(2) by inserting before section 401 the following:

“CHAPTER 1—TRADE RELATIONS WITH CERTAIN COUNTRIES”; and

(3) by adding at the end the following new chapter:

“CHAPTER 2—RELIEF FROM MARKET DISRUPTION TO INDUSTRIES AND DIVERSION OF TRADE TO THE UNITED STATES MARKET

“SEC. 421. ACTION TO ADDRESS MARKET DISRUPTION.

“(a) **PRESIDENTIAL ACTION.**—If a product of the People's Republic of China is being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of a like or directly competitive product, the President shall, in accordance with the provisions of this section, proclaim increased duties or other import restrictions with respect to such product, to the extent and for such period as the President considers necessary to prevent or remedy the market disruption.

“(b) **INITIATION OF AN INVESTIGATION.**—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)), upon the request of the President or the United States Trade Representative (in this subtitle referred to as the ‘Trade Representative’), upon resolution of either the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate (in this subtitle referred to as the ‘Committees’) or on its own motion, the United States International Trade Commission (in this subtitle referred to as

the ‘Commission’) shall promptly make an investigation to determine whether products of the People’s Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

“(2) The limitations on investigations set forth in section 202(h)(1) of the Trade Act of 1974 (19 U.S.C. 2252(h)(1)) shall apply to investigations conducted under this section.

“(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

“(4) Whenever a petition is filed, or a request or resolution is received, under this subsection, the Commission shall transmit a copy thereof to the President, the Trade Representative, the Committee on Ways and Means of the House of Representatives, and the Committee of Finance of the Senate, except that in the case of confidential business information, the copy may include only nonconfidential summaries of such information.

“(5) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

“(c) MARKET DISRUPTION.—(1) For purposes of this section, market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.

“(2) For purposes of paragraph (1), the term ‘significant cause’ refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

“(d) FACTORS IN DETERMINATION.—In determining whether market disruption exists, the Commission shall consider objective factors, including—

“(1) the volume of imports of the product which is the subject of the investigation;

“(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and

“(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.

The presence or absence of any factor under paragraph (1), (2), or (3) is not necessarily dispositive of whether market disruption exists.

“(e) TIME FOR COMMISSION DETERMINATIONS.—The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b)(1) at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting relief under subsection (i)) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

“(f) RECOMMENDATIONS OF COMMISSION ON PROPOSED REMEDIES.—If the Commission makes an affirmative determination under subsection (b), or a determination which the President or the Trade Representative may consider as affirmative under subsection (e), the Commission shall propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (g), separate views regarding what action, if any, should be taken to prevent or remedy market disruption.

“(g) REPORT BY COMMISSION.—(1) Not later than 20 days after a determination under subsection (b) is made, the Commission shall submit a report to the President and the Trade Representative.

“(2) The Commission shall include in the report required under paragraph (1) the following:

“(A) The determination made under subsection (b) and an explanation of the basis for the determination.

“(B) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under sub-

section (e), the recommendations of the Commission on proposed remedies under subsection (f) and an explanation of the basis for each recommendation.

“(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

“(D) A description of—

“(i) the short- and long-term effects that implementation of the action recommended under subsection (f) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

“(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

“(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (but shall not include confidential business information) and cause a summary thereof to be published in the Federal Register.

“(h) OPPORTUNITY TO PRESENT VIEWS AND EVIDENCE ON PROPOSED MEASURE AND RECOMMENDATION TO THE PRESIDENT.—(1) Within 20 days after receipt of the Commission’s report under subsection (g) (or 15 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative shall publish in the Federal Register notice of any measure proposed by the Trade Representative to be taken pursuant to subsection (a) and of the opportunity, including a public hearing, if requested, for importers, exporters, and other interested parties to submit their views and evidence on the appropriateness of the proposed measure and whether it would be in the public interest.

“(2) Within 55 days after receipt of the report under subsection (g) (or 35 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative, taking into account the views and evidence received under paragraph (1) on the measure proposed by the Trade Representative, shall make a recommendation to the President concerning what action, if any, to take to prevent or remedy the market disruption.

“(i) CRITICAL CIRCUMSTANCES.—(1) When a petition filed under subsection (b) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to the product identified in the petition, the Commission shall, not later than 45 days after the petition containing the request is filed—

“(A) determine whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair; and

“(B) if the determination under subparagraph (A) is affirmative, make a preliminary determination of whether imports of the product which is the subject of the investigation have caused or threatened to cause market disruption.

If the Commissioners voting are equally divided with respect to either of its determinations, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

“(2) On the date on which the Commission completes its determinations under paragraph (1), the Commission shall transmit a report on the determinations to the President and the Trade Representative, including the reasons for its determinations. If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Commission shall include in its report its recommendations on proposed provisional measures to be taken to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determinations under paragraph (1) are eligible to vote on the proposed provisional measures to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determinations may submit, in the report, dissenting or separate views regarding the determination and any recommendation of provisional measures referred to in this paragraph.

“(3) If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Trade Representative shall, within 10 days after receipt of the Commission’s report, determine the amount or extent of provisional relief that is necessary to prevent or remedy the market disruption and shall provide a recommendation to the President on what provisional measures, if any, to take.

“(4)(A) The President shall determine whether to provide provisional relief and proclaim such relief, if any, within 10 days after receipt of the recommendation from the Trade Representative.

“(B) Such relief may take the form of—

“(i) the imposition of or increase in any duty;

“(ii) any modification, or imposition of any quantitative restriction on the importation of an article into the United States; or

“(iii) any combination of actions under clauses (i) and (ii).

“(C) Any provisional action proclaimed by the President pursuant to a determination of critical circumstances shall remain in effect not more than 200 days.

“(D) Provisional relief shall cease to apply upon the effective date of relief proclaimed under subsection (a), upon a decision by the President not to provide such relief, or upon a negative determination by the Commission under subsection (b).

“(j) AGREEMENTS WITH THE PEOPLE’S REPUBLIC OF CHINA.—(1) The Trade Representative is authorized to enter into agreements for the People’s Republic of China to take such action as necessary to prevent or remedy market disruption, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People’s Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in subsection (e) or a determination which the Trade Representative considers to be an affirmative determination pursuant to subsection (e).

“(2) If no agreement is reached with the People’s Republic of China pursuant to consultations under paragraph (1), or if the President determines that an agreement reached pursuant to such consultations is not preventing or remedying the market disruption at issue, the President shall provide import relief in accordance with subsection (a).

“(k) STANDARD FOR PRESIDENTIAL ACTION.—(1) Within 15 days after receipt of a recommendation from the Trade Representative under subsection (h) on the appropriate action, if any, to take to prevent or remedy the market disruption, the President shall provide import relief for such industry pursuant to subsection (a), unless the President determines that provision of such relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action pursuant to subsection (a) would cause serious harm to the national security of the United States.

“(2) The President may determine under paragraph (1) that providing import relief is not in the national economic interest of the United States only if the President finds that the taking of such action would have an adverse impact on the United States economy clearly greater than the benefits of such action.

“(l) PUBLICATION OF DECISION AND REPORTS.—(1) The President’s decision, including the reasons therefor and the scope and duration of any action taken, shall be published in the Federal Register.

“(2) The Commission shall promptly make public any report transmitted under this section, but shall not make public any information which the Commission determines to be confidential, and shall publish notice of such report in the Federal Register.

“(m) EFFECTIVE DATE OF RELIEF.—Import relief under this section shall take effect not later than 15 days after the President’s determination to provide such relief.

“(n) MODIFICATIONS OF RELIEF.—(1) At any time after the end of the 6-month period beginning on the date on which relief under subsection (m) first takes effect, the President may request that the Commission provide a report on the probable effect of the modification, reduction, or termination of the relief provided on the relevant industry. The Commission shall transmit such report to the President within 60 days of the request.

“(2) The President may, after receiving a report from the Commission under paragraph (1), take such action to modify, reduce, or terminate relief that the President determines is necessary to continue to prevent or remedy the market disruption at issue.

“(3) Upon the granting of relief under subsection (k), the Commission shall collect such data as is necessary to allow it to respond rapidly to a request by the President under paragraph (1).

“(o) EXTENSION OF ACTION.—(1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any relief provided under subsection (k) is to terminate, the Commission shall investigate to determine whether action under this section continues to be necessary to prevent or remedy market disruption.

“(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

“(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under subsection (m) is to terminate.

“(4) The President, after receiving an affirmative determination from the Commission under paragraph (3), may extend the effective period of any action under this section if the President determines that the action continues to be necessary to prevent or remedy the market disruption.

“SEC. 422. ACTION IN RESPONSE TO TRADE DIVERSION.

“(a) **MONITORING BY CUSTOMS SERVICE.**—In any case in which a WTO member other than the United States requests consultations with the People’s Republic of China under the product-specific safeguard provision of the Protocol of Accession of the People’s Republic of China to the World Trade Organization, the Trade Representative shall inform the United States Customs Service, which shall monitor imports into the United States of those products of Chinese origin that are the subject of the consultation request. Data from such monitoring shall promptly be made available to the Commission upon request by the Commission.

“(b) **INITIATION OF INVESTIGATION.**—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974, upon the request of the President or the Trade Representative, upon resolution of either of the Committees, or on its own motion, the Commission shall promptly make an investigation to determine whether an action described in subsection (c) has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States.

“(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

“(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

“(c) **ACTIONS DESCRIBED.**—An action is described in this subsection if it is an action—

“(1) by the People’s Republic of China to prevent or remedy market disruption in a WTO member other than the United States;

“(2) by a WTO member other than the United States to withdraw concessions under the WTO Agreement or otherwise to limit imports to prevent or remedy market disruption;

“(3) by a WTO member other than the United States to apply a provisional safeguard within the meaning of the product-specific safeguard provision of the Protocol of Accession of the People’s Republic of China to the WTO; or

“(4) any combination of actions described in paragraphs (1) through (3).

“(d) **BASIS FOR DETERMINATION OF SIGNIFICANT DIVERSION.**—(1) In determining whether significant diversion or the threat thereof exists for purposes of this section, the Commission shall take into account, to the extent such evidence is reasonably available—

“(A) the monitoring conducted under subsection (a);

“(B) the actual or imminent increase in United States market share held by such imports from the People’s Republic of China;

“(C) the actual or imminent increase in volume of such imports into the United States;

“(D) the nature and extent of the action taken or proposed by the WTO member concerned;

“(E) the extent of exports from the People’s Republic of China to that WTO member and to the United States;

“(F) the actual or imminent changes in exports to that WTO member due to the action taken or proposed;

“(G) the actual or imminent diversion of exports from the People’s Republic of China to countries other than the United States;

“(H) cyclical or seasonal trends in import volumes into the United States of the products at issue; and

“(I) conditions of demand and supply in the United States market for the products at issue.

The presence or absence of any factor under any of subparagraphs (A) through (I) is not necessarily dispositive of whether a significant diversion of trade or the threat thereof exists.

“(2) For purposes of making its determination, the Commission shall examine changes in imports into the United States from the People’s Republic of China since the time that the WTO member commenced the investigation that led to a request for consultations described in subsection (a).

“(3) If more than 1 action by a WTO member or WTO members against a particular product is identified in the petition, request, or resolution under subsection (b) or during the investigation, the Commission may cumulatively assess the actual or likely effects of such actions jointly in determining whether a significant diversion of trade or threat thereof exists.

“(e) COMMISSION DETERMINATION; AGREEMENT AUTHORITY.—(1) The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b) at the earliest practicable time, but in no case later than 45 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

“(2) The Trade Representative is authorized to enter into agreements with the People’s Republic of China or the other WTO members concerned to take such action as necessary to prevent or remedy significant trade diversion or threat thereof into the domestic market of the United States, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People’s Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in paragraph (1) or a determination which the Trade Representative considers to be an affirmative determination pursuant to paragraph (1).

“(3) REPORT BY COMMISSION.—

“(A) Not later than 10 days after a determination under subsection (b), is made, the Commission shall transmit a report to the President and the Trade Representative.

“(B) The Commission shall include in the report required under subparagraph (A) the following:

“(i) The determination made under subsection (b) and an explanation of the basis for the determination.

“(ii) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e)(1), the recommendations of the Commission on increased tariffs or other import restrictions to be imposed to prevent or remedy the trade diversion or threat thereof, and explanations of the bases for such recommendations. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy the trade diversion or threat thereof.

“(iii) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in clauses (i) and (ii).

“(iv) A description of—

“(I) the short- and long-term effects that implementation of the action recommended under clause (ii) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

“(II) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry are located, and on other domestic industries.

“(C) The Commission, after submitting a report to the President under subparagraph (A), shall promptly make it available to the public (with the exception of confidential business information) and cause a summary thereof to be published in the Federal Register.

“(f) PUBLIC COMMENT.—If consultations fail to lead to an agreement with the People’s Republic of China or the WTO member concerned within 60 days, the Trade Representative shall promptly publish notice in the Federal Register of any proposed action to prevent or remedy the trade diversion, and provide an opportunity

for interested persons to present views and evidence on whether the proposed action is in the public interest.

“(g) RECOMMENDATION TO THE PRESIDENT.—Within 20 days after the end of consultations pursuant to subsection (e), the Trade Representative shall make a recommendation to the President on what action, if any, should be taken to prevent or remedy the trade diversion or threat thereof.

“(h) PRESIDENTIAL ACTION.—Within 20 days after receipt of the recommendation from the Trade Representative, the President shall determine what action to take to prevent or remedy the trade diversion or threat thereof.

“(i) DURATION OF ACTION.—Action taken under subsection (h) shall be terminated not later than 30 days after expiration of the action taken by the WTO member or members involved against imports from the People’s Republic of China.

“(j) REVIEW OF CIRCUMSTANCES.—(1) The Commission shall review the continued need for action taken under subsection (h) if the WTO member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the People’s Republic of China pursuant to consultation referred to in subsection (a). The Commission shall, not later than 60 days after such notification, determine whether a significant diversion of trade continues to exist and report its determination to the President. The President shall determine, within 15 days after receiving the Commission’s report, whether to modify, withdraw, or keep in place the action taken under subsection (h).

“SEC. 423. REGULATIONS; TERMINATION OF PROVISION.

“(a) TO CARRY OUT RESTRICTIONS AND MONITORING.—The President shall by regulation provide for the efficient and fair administration of any restriction proclaimed pursuant to the subtitle and to provide for effective monitoring of imports under section 422(a).

“(b) TO CARRY OUT AGREEMENTS.—To carry out an agreement concluded pursuant to consultations under section 421(j) or 422(e)(2), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement.

“(c) TERMINATION DATE.—This subtitle and any regulations issued under this subtitle shall cease to be effective 12 years after the date of entry into force of the Protocol of Accession of the People’s Republic of China to the WTO.”.

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended—

- (1) in the item relating to title IV, by striking “CURRENTLY”;
- (2) by inserting before the item relating to section 401 the following:

“CHAPTER 1—TRADE RELATIONS WITH CERTAIN COUNTRIES”; and

- (3) by adding after the item relating to section 409 the following:

“CHAPTER 2—RELIEF FROM MARKET DISRUPTION TO INDUSTRIES AND DIVERSION OF TRADE TO THE UNITED STATES MARKET

“Sec. 421. Action to address market disruption.

“Sec. 422. Action in response to trade diversion.

“Sec. 423. Regulations; termination of provision.”.

SEC. 4. AMENDMENT TO SECTION 123 OF THE TRADE ACT OF 1974—COMPENSATION AUTHORITY.

Section 123(a)(1) of the Trade Act of 1974 (19 U.S.C. 2133(a)(1)) is amended by inserting after “title III” the following: “, or under chapter 2 of title IV of the Trade Act of 1974”.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 4444 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 World Trade Organization and upon certification by the President that the final terms of accession are at least equivalent to the terms of the November 15, 1999 bilateral agreement between the United States and the People’s Republic of China.

B. BACKGROUND

The Jackson-Vanik amendment

At present, China's trade status is subject to the Jackson-Vanik amendment to Title IV of the Trade Act of 1974, the provisions of law governing the most-favored-nation (MFN) trade status, now referred to as normal trade relations (NTR),¹ of nonmarket economy countries ineligible for MFN treatment as of the enactment of the Trade Act.

Prior to 1951, the United States extended nondiscriminatory, or unconditional NTR treatment 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 NTR 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 NTR 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 for China 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 China, a bilateral commercial agreement, as required by the Jackson-Vanik amendment, was concluded on July 7, 1979, entered into force February 1, 1980, and has remained in force since that time. The President first proclaimed NTR treatment for Chinese products in 1980, and that treatment has been renewed annually since then on the basis of Presidential waivers. Most recently, on June 3, 1999, 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, 1999, through July 2, 2000.

Under the Jackson-Vanik amendment, 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. (Absent a change in law, the President's waiver for the period July 3, 2000, through July 2, 2001, is due on June 3, 2000.) Under Title IV amendments adopted as part of the Customs and Trade Act of

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.

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 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 expiration of the existing waiver authority, China's NTR status is automatically renewed.

In the years since 1980, when China conditionally regained its NTR status, all legislative attempts at revoking it or subjecting it to additional conditions have been unsuccessful. For example, in 1995, during the first session of the 104th Congress, H.J. Res. 96, a joint resolution to disapprove renewal of China's waiver, was tabled in the House, thereby precluding any further disapproval action. During the next four years resolutions of disapproval failed in the House. In 1996, H.J. Res. 182 was defeated by a vote of (141–286). In 1997, H.J. Res. 79 was defeated by a vote of (173–259). In 1998, H.J. Res. 121 was defeated by a vote of (166–264). In 1999, H.J. Res. 57 was defeated by a vote of (170–260).

China's negotiations to join the World Trade Organization

China applied for accession to the General Agreement on Tariffs and Trade (GATT) in July 1986, and work has proceeded in the China Working Party since that time to negotiate the conditions upon which China will enter the GATT, and since January 1, 1995, the World Trade Organization (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 membership in the WTO in the form of a Protocol of Accession. Through the operation of a Working Party, the United States and other WTO members have an opportunity to review the trade regimes of applicants to ensure that they are capable of implementing 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 trade in services.

On April 8, 1999, following the summit meeting between Chinese Premier Zhu Rongji and President Clinton, Ambassador Barshefsky announced that U.S. and Chinese negotiators secured "broad progress toward an expansive bilateral market access agreement," which would provide extensive market openings for U.S. agriculture, manufactured products, and services along with Chinese commitments to adopt WTO rules relating to such issues as technology transfer and offsets, subsidies, product safeguards, and State enterprises. The Administration, however, declined to sign the agreement at that time.

The U.S.-China WTO Agreement

The United States-China Bilateral Trade Agreement was eventually finalized on November 15, 1999, in Beijing. In this historic agreement China committed upon accession to:

- Phase-in of full trading and distribution rights (including the ability to provide services auxiliary to distribution) for almost all products for U.S. firms throughout China.

- Cut average tariffs for U.S. priority agricultural products (e.g., beef, grapes, wine, cheese, poultry, and pork) from 31.5% to 14.5% by 2004. Overall industrial tariffs would fall from an average of 24.6% to 9.4% by 2005 (tariffs on U.S. “priority products,” such as wood, paper, chemicals, and capital and medical equipment would fall even further). Tariffs on information technology products, such as computers, semiconductors, and telecommunications equipment, would be cut from an average level of 13.3% to zero by 2005.

- Establish a tariff-rate quota system for imports of agricultural bulk commodities (such as wheat, corn, cotton, barley, and rice), i.e., imports up to a specified quota level would be assessed a much higher tariff rate. Private trade in agricultural products will be permitted for the first time.

- Phase out quotas and other quantitative restrictions (some upon accession, many within two years, and most within five years). Quota levels for many products would expand by 15% each year until the elimination of the quota.

- Eliminate export subsidies on agricultural products and SPS restrictions that are not scientifically-based.

- Provide access to service sectors (many of which are currently closed to foreign firms), including distribution, telecommunications, insurance, banking, securities, and professional services (including legal, accountancy, taxation, management consultancy, architecture, engineering, urban planning, medical and dental, and computer-related services). China would expand (over various transitional periods) the scope of allowed services and gradually remove geographical restrictions on foreign service providers. The amount of permitted foreign ownership in service industries would vary (and in some cases expand over time) from sector to sector.

- Reduce restrictions on auto trade. Tariffs on autos would fall from 80–100% to 25% (tariffs on auto parts reduced to an average rate of 10%) by 2006. Auto quotas would be eliminated by 2005. U.S. financial firms would be allowed to provide financing for the purchase of cars in China.

- Provide fair treatment for foreign firms operating in China by removing government rules requiring technology transfer, local content, and export performance conditions.

- Provide that Chinese state-owned and state-invested firms make purchases and sales based on commercial considerations and give U.S. firms the opportunity to compete for sales on a non-discriminatory basis.

- Accept the use by the United States of certain antidumping provisions (over a transitory period) and to permit the use of certain safeguard measures to respond to possible surges in imports from China that might cause or threaten to cause market disruption to a U.S. industry (over transitory periods).

U.S. firms would also benefit from China's trade agreements with the other WTO countries that have concluded bilateral agreements with China and those six WTO members that are still negotiating with China if they have obtained or are able to obtain benefits beyond what the United States was able to achieve. In addition, the WTO working party is expected to set additional requirements on China's WTO accession (such as rules on subsidies) that would also benefit U.S. firms.²

In response to progress achieved in China's WTO commitments represented by the bilateral agreement with the United States, President Clinton announced that he would work with other WTO member countries to gain China's entry in the WTO as soon as possible, and on March 8, 2000, he transmitted to Congress a request for legislation to terminate the application of Title IV of the Trade Act of 1974 to China and to extend Normal Trade Relations (NTR) treatment to products from China.

The Agreement represents a crucial step in China's WTO accession process. Another significant step occurred on May 19, 2000, when the European Union also completed an agreement with China on terms of accession. Other steps that remain ahead include the conclusion of bilateral negotiations with a handful of other WTO members, such as Mexico, as well as the multilateral negotiations on China's accession protocol. China then must complete its domestic process for implementing the country's WTO commitments. Accession takes effect thirty days after China deposits its instruments of ratification.

C. LEGISLATIVE HISTORY

Committee action

H.R. 4444 was introduced on May 15, 2000, by request, by Representatives Archer, Crane, Matsui and Tanner and was referred to the Committee on Ways and Means. On May 17, 2000, the Committee ordered favorably reported H.R. 4444 to the House of Representatives, with an amendment in the nature of a substitute, by a recorded vote of 34-4. The substitute contained the provision granting the President the authority to proclaim permanent Normal Trade Relations to China at the time of its accession to the WTO, as noted above, and codifying the special import surge mechanism.

Legislative hearing

On February 16, 2000, the Committee on Ways and Means held a hearing on the bilateral trade agreement between the United States and China and on the pending accessions of China and Taiwan to the World Trade Organization (WTO). The Committee held a hearing devoted in part to China's WTO accession on April 12, 2000. On May 3, 2000, the Ways and Means Committee held a hearing on China's accession to the WTO. At these hearings, Members of Congress, a governor, and representatives from business, labor, human rights and religious groups expressed their views regarding U.S.-China trade relations. At the May 3 hearing, four cab-

² CRS memo, U.S. Interests in China's Accession to the World Trade Organization: Arguments in Favor of Accession, May 2, 2000.

inet members appeared in favor of legislation to normalize trade relations with China.

II. EXPLANATION OF THE BILL

SECTIONS 1 AND 2

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 non-market economy country receiving NTR status. Finally, Title IV sets forth minimum provisions that must be included in such an agreement.

As described above, an annual Presidential recommendation under section 402(d) for a 12-month extension of authority to waive the Jackson-Vanik freedom-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 after the veto.

Before China joins the WTO, section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (P.L. 103–465) requires the President to make certain determinations about China’s state trading enterprises. Specifically, the President must decide: (1) whether China’s state trading enterprises account for a significant share of either China’s exports or China’s goods that are subject to competition from goods imported into China; and (2) whether these enterprises adversely affect U.S. foreign trade or the U.S. economy. If both determinations are affirmative, the WTO agreement cannot apply between the United States and China until either China enters into an agreement that addresses the operations of state trading enterprises, or legislation is enacted approving application of the WTO agreement to China.

Explanation of the provision

The provision grants the President the authority to determine that newly designated Chapter I of Title IV of the Trade Act of 1974 no longer applies to China after he makes a determination and transmits a report to Congress certifying that the terms and conditions for accession of China to the WTO are at least equivalent to those agreed to between the United States and China on November 15, 1999, in the bilateral market access agreement.

The Administration has stated that it believes that the terms of China’s accession to the WTO, and in particular the November 1999 bilateral trade agreement, will adequately address China’s state trading enterprises, and the Committee expects the President to certify this as part of the report required under section (1)(b).

Reasons for change

The Committee has long supported a policy of engagement with China and has consistently rejected annual legislation to revoke normal trade relations, or nondiscriminatory trade treatment, which it sees as the cornerstone of that policy. 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 trade 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 Government of China against Catholic priests and bishops, Protestant pastors, Tibetan Buddhist clergy, and pro-democracy activists. Nevertheless, the Committee is concerned that rejecting the President's recommendation to graduate China from the Jackson-Vanik amendment may be interpreted by the Chinese as an antagonistic act that would undermine U.S. leverage to bring about change in China, while at the same time sacrificing the interests of U.S. exporters, workers, and consumers.

Rejecting the President's proposal 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 would harm U.S. efforts to address economic instability in Asia and risk prompting currency devaluations, similar to those that occurred in 1997 and 1998. Failing to grant NTR treatment at this time would forfeit the market access concessions made by the Chinese in the Bilateral Trade Agreement and those that will be included in China's pending accession to the World Trade Organization. If fully implemented, these commitments would represent substantial new opportunities for United States exports to, and investment in China. Finally, the Committee believes that revoking China's NTR, or failing to renew China's annual NTR status as of July 3 of this year, would constitute a dangerously blunt sanction that would work against U.S. Government efforts to bring China into the global community of civilized nations. While the United States has many serious problems with China, the Committee believes areas of U.S.-Sino disagreement are best addressed through expanding U.S. contact with China and maintaining strong and effective mechanisms to press China to continue to reform.

The Committee recognizes that Congressional approval of permanent normal trade relations (NTR) pursuant to H.R. 4444 is not necessary for China to accede to the WTO. However, in order for American businesses, farmers, and workers to be guaranteed an opportunity to benefit from the trade concessions and better compete in China's markets, China's name must be removed from Title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment, which provides for an annual review of China's trade status based on freedom of emigration.

Otherwise, the United States would be in violation of Article I of the GATT, which requires the extension of “unconditional” most favored nation (or NTR) status, and subject to trade sanctions. If the United States does not remove the conditions imposed by Jackson-Vanik, the United States would have to invoke the non-application clause of the GATT, meaning that China would be able to withhold benefits of the 1999 bilateral agreement from the United States. At the same time the Committee recognizes that the Bilateral Trade Agreement involves one-way trade concessions on the part of China and requires no reductions in U.S. tariffs on U.S. imports of Chinese products.

The Committee agrees with Ambassador Barshefsky that the argument, put forward by some opponents of H.R. 4444, that the 1979 U.S.-China Trade Agreement, combined with commitments to other WTO Members, would provide the United States with benefits similar to what will be available to the United States under the 1999 Bilateral Trade Agreement is “legally unsustainable.” In a letter to Ranking Member Rangel dated March 8, 2000, she wrote, “While the 1979 Agreement may provide the basis for the United States to claim certain limited benefits, relying on the 1979 Agreement would deprive the United States of virtually all market access negotiated for services, critical elements necessary for meaningful market access for goods, key provisions negotiated to safeguard against injurious imports, as well as other special rules, commitments and vital enforcement rights. The rights conferred by the 1979 Agreement would leave U.S. interests across all sectors at a substantial competitive disadvantage with foreign interests that would enjoy the full benefits of China’s WTO membership.” Concurring with this analysis, the Committee strongly believes that if the United States was forced to invoke the WTO’s non-application clause (in the event Congress fails to pass H.R. 4444) China would have no obligation to grant the United States all the same trade benefits it will grant to other WTO members. Finally, the Committee also notes that absent passage of H.R. 4444, the United States would be forced to address Chinese trade barriers without recourse to the WTO’s binding dispute settlement mechanism.

In evaluating whether the substantial market access concessions represented by the bilateral trade agreement met U.S. trade negotiating objectives, the Committee relied on a comprehensive hearing record, extensive consultations with the Administration, as well as the results of a classified report by the General Accounting Office (GAO) that was requested by Trade Subcommittee Chairman Crane on May 5, 1997.

In a derestricted report released in May 2000, the GAO determined that China has agreed to “take most of the specific actions originally considered necessary to achieve United States objectives.” The GAO report supports the Committee’s conclusion that the bilateral trade agreement, combined with substantial progress in the multilateral negotiations, will greatly benefit the commercial interests of United States firms, workers, and farmers in the new century.

SECTION 3

Present law

Section 406 of the Trade Act of 1974 authorizes the President to provide temporary import relief in the form of increased tariffs or quotas if imports from Communist countries are causing market disruption. Market disruption exists when imports of an article, like or directly competitive with an article produced by a domestic industry, are increasing, either relatively or absolutely, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

A petition for relief may be filed with the ITC by workers or firms in the domestic industry. The ITC must determine, within three months, whether imports of an article produced in a Communist country are causing market disruption. If the ITC finds that market disruption exists, it must also recommend to the President relief in the form of tariffs or quantitative restrictions to prevent or remedy such market disruption.

Upon receiving the ITC report containing its findings and recommendations, the President has 60 days to take action. The President must provide import relief unless he determines that such relief is not in the national economic interest of the United States.

Section 406(c) authorizes the President, prior to an ITC determination, to take temporary emergency action with respect to imports from a Communist country whenever he finds that there are reasonable grounds to believe there is market disruption. When taking such action, the President must also request the Commission to conduct an investigation under section 406(a). Any emergency relief ceases to apply on the day the Commission makes a negative finding or on the effective date of action by the President following an affirmative ITC finding.

On November 15, 1999, Ambassador Barshefsky announced the successful completion of bilateral talks on China's accession to the World Trade Organization (WTO). Along with market access commitments that will provide market openings for U.S. exports to China, the Chinese government agreed to WTO Protocol language outlining a product-specific safeguard that is available to WTO members.

Explanation of the provision

Section 3 created a new chapter of Title IV which implements the anti-surge mechanism established under the U.S.-China Bilateral Trade Agreement. This is intended to replace section 406 of the Trade Act of 1974, which would no longer apply to China as the result of section 1 of this Act.

The safeguard would permit the United States to provide relief to domestic industries and workers where products of Chinese origin are being imported in such increased quantities and under such conditions as to cause or threaten to cause market disruption to the domestic producers as a whole of like or directly competitive products. The relief is to be imposed only to the extent and for such period as the President considers necessary to prevent or remedy the market disruption. Procedures are modeled after Section 406, with certain modifications to conform to language of the bilateral trade

agreement. U.S. industries or workers claiming injury due to import surges from China would file a petition with the U.S. International Trade Commission (ITC) or the ITC would initiate an investigation at the request of the President or on motion of the House Ways and Means Committee or the Senate Finance Committee. According to the U.S.-China Agreement and under the bill, market disruption occurs when subject imports “are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury or threat of material injury to the domestic industry.”

In determining whether market disruption exists the Commission shall consider objective factors, including: (1) the volume of imports of the product which is subject to the investigation; (2) the effect of imports of such product on prices in the United States of like or directly competitive article, and (3) the effect of imports of such product on the domestic industry producing like or directly competitive articles. The presence or absence of any factor listed in paragraph (1), (2), and (3) is not necessarily dispositive of whether market disruption exists. In addition, the Committee intends that the Commission, in determining whether imports from China contribute significantly to the material injury to the domestic industry, shall examine factors other than such imports which may be a cause of the material injury.

Within 60 days after receipt of the petition, request or motion (90 days, where the petitioner alleges critical circumstances), the ITC would make a determination as to whether the subject imports are causing or threatening market disruption.

Twenty days after the ITC makes an affirmative determination with respect to market disruption, the ITC would issue a report to the President and to the United States Trade Representative (USTR) setting forth the reasons for its determination and recommendation(s) of actions necessary to prevent or remedy market disruption. Twenty days later the USTR would publish a notice of proposed action, seeking views and evidence on the appropriateness of the proposed action and whether it would be in the public interest. The bill also requires that the USTR hold a hearing on the proposed action.

If the ITC determination is affirmative with respect to market disruption, the President would be required to request consultations with the People’s Republic of China to remedy the market disruption. If the United States and China are unable to reach agreement within the sixty day consultation period established in the bilateral agreement and the bill, then the President would be required to decide what action, if any, to take within 25 days after the end of consultations. Any relief proclaimed would become effective in 15 days. If the President determines that an agreement with China concluded under this section is not preventing or remedying the market disruption at issue, then the President is to initiate new consultations and proceedings under this section. However, if China is not complying with the terms of the agreement entered into under the November 15 Bilateral Agreement, then the President shall promptly provide relief consistent with the terms of that Bilateral Agreement.

The entire period from petition to proclamation of relief would be 150 days, which is identical to the duration under section 406 of the Trade Act.

The bill establishes clear standards for the application of Presidential discretion in providing relief to injured industries and workers. If the ITC makes an affirmative determination on market disruption, there would be a presumption in favor of providing relief. That presumption can be overcome only if the President finds that providing relief would have an adverse impact on the United States economy clearly greater than the benefits of such action, or, in extraordinary cases, that such action would cause serious harm to the national security of the United States.

The provision also sets forth authority to the President to modify, reduce or terminate relief, as well as monitoring of relief by the Commission and an opportunity for the President to request a report from the Commission on the probable effects of such modification, termination, or reduction. Finally, the provision allows for extension of relief under certain circumstances.

The bill would also authorize the President to provide a provisional safeguard in cases where “delay would cause damage which it would be difficult to repair,” as permitted under the U.S.-China Agreement. If such circumstances are alleged, the ITC would be required to make a determination on critical circumstances and a preliminary determination on market disruption within 45 days of receipt of the petition, request, or motion. If those determinations are affirmative, President would be required to determine whether to provide such provisional relief within 20 days.

Finally, the bill would implement a provision in the U.S.-China Agreement concerning trade diversion. That provision addresses circumstances in which a safeguard applied by a third country with respect to Chinese goods “causes or threatens to cause significant diversions of trade” into the United States. If, on the basis of the monitoring results provided by the Customs Service and other reasonably available relevant evidence, the ITC determines that an action by another WTO Member threatens or causes significant trade diversion, the USTR would request consultations with China and/or the Member imposing the safeguard. If, as provided in the Agreement, consultations fail to lead to an agreement to address the trade diversion within 60 days, the President shall determine, within 40 days after consultations end, what action, if any, to take to prevent or remedy the trade diversion. The total time from petition to relief under the trade diversion provision would be 150 days.

Section 442(d)(2) as added by this Act would require the Commission to examine changes in imports into the United States from the People’s Republic of China since the time that the WTO Member commenced the investigation that led to a request for consultations. The Committee recognizes that there may be instances in which a WTO Member may not announce an investigation prior to requesting consultations with China. In such instances, the Commission should examine data from the time of the WTO Member’s notification to the WTO of a request for consultations with China.

The product-specific safeguard is available for 12 years after China’s accession to the WTO.

Reasons for change

The Committee intends administration of the product specific safeguard to be consistent with the U.S.-China Bilateral Trade Agreement and with U.S. obligations under the WTO. This is a temporary, extraordinary trade remedy specifically designed to address concerns about potential increased import competition from China in the future.

Effective date

The extension of non-discriminatory treatment to the products of China shall be effective no earlier than the effective date of the accession of this country to the World Trade Organization.

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 bill, H.R. 4444.

MOTION TO REPORT THE BILL

The bill, H.R. 4444, as amended, was ordered favorably reported by a rollcall vote of 34 yeas to 4 nays (with a quorum being present). The vote was as follows:

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

VOTES ON AMENDMENTS

Rollcall votes were conducted on the following amendments to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Stark, providing that the extension of nondiscriminatory treatment pursuant to section 1(a)(1) would not become effective unless Taiwan accedes to the World Trade Organization on the same day as, or before, the effective date of the accession of the People's Republic of China to the World Trade Organi-

zation, was defeated by a rollcall vote of 10 yeas to 28 nays. The vote was as follows:

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

An amendment by Mr. Stark, providing that the extension of nondiscriminatory treatment would not become effective until the United States and the People's Republic of China have signed an agreement providing for the exemption of a Presidential order banning the importation of munitions, principally guns and ammunition from China, was defeated by a rollcall vote of 6 yeas to 16 nays.

The vote was as follows:

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

IV. BUDGET EFFECTS

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this resolution, H.R. 4444 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.R. 4444 would affect revenues, but CBO has no basis for estimating the magnitude of this effect.

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, May 22, 2000.

Hon. BILL ARCHER,
*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.R. 4444, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) 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 contacts are Hester Grippando (for revenues), and Sunita D'Monte (for spending subject to appropriation).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4444—A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China

Summary: H.R. 4444 would allow the President to grant permanent Normal Trade Relations (PNTR) status to the People's Republic of China (China). H.R. 4444 would become effective no earlier than the date of the accession of the People's Republic of China to the World Trade Organization (WTO). CBO concludes that enactment of the bill would likely increase revenues, but CBO has no basis for estimating the revenue impact of granting the President

such authority. CBO estimates that implementing H.R. 4444 would cost \$1 million a year, subject to the availability of appropriate funds. Since enacting H.R. 4444 would affect revenues, pay-as-you-go procedures would apply.

H.R. 4444 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. By broadening the conditions under which the U.S. government could impose trade restrictions on Chinese goods, the bill could impose a private-sector mandate on importers of Chinese goods if those conditions are met. However, CBO has no basis for estimating the cost of this mandate.

Estimated cost to the Federal Government

Revenues

H.R. 4444 would remove China from the list of countries under Title IV of the Trade Act of 1974 (the Jackson-Vanik amendment). The Jackson-Vanik amendment sets forth freedom-of-emigration criteria which must be met or waived by the President and a bilateral trade agreement must be in place in order for a non-market economy to be granted normal trade relations (NTR) status. A waiver of the Jackson-Vanik amendment by the President is subject to disapproval by the United States Congress. Removing China from the Jackson-Vanik amendment would allow the President to grant PNTR to China.

CBO estimates that in itself, granting PNTR treatment to China would have no impact on receipts relative to its revenue baseline. The People's Republic of China has received NTR, renewed annually on the basis of a Presidential waiver of the Jackson-Vanik amendment, since February 1, 1980. CBO's revenue baseline assumes that the People's Republic of China will continue to receive NTR status.

Granting China PNTR status could have an effect on receipts by allowing the United States to trade with China under the WTO, if and when China should enter the WTO. On November 15, 1999, the President negotiated a bilateral trade agreement with China intended to govern the conditions under which the United States and China would trade once China enters the WTO. H.R. 4444 would require that the President certify that the final terms of China's accession into the WTO are equivalent to that agreement. Without legislation enabling the President to grant PNTR to China, the United States would not be able to trade with China under the WTO.

Imports of textile and apparel products from China are currently subject to quotas. If the United States were to trade with China under the WTO, these quotas would be liberalized. Imports of textile and apparel products from China would likely increase. CBO expects that increased imports from China would be partly offset by decreased imports from other countries. The increase in imports could also be offset by a provision in H.R. 4444 that would allow the President to place increased duties or other restrictions on Chinese imports if it is determined that such imports cause or threaten to cause market disruption to domestic producers. The result of

these changes would be an increase in collections of tariff revenues. However, because of the complexity of the world market, undetermined issues facing if, how, and when China would join the WTO, and administrative mechanisms that could potentially be employed to alter the China's quota under the WTO, CBO has no basis to determine what the magnitude of such an effect would be.

Spending subject to appropriation

H.R. 4444 would require the International Trade Commission (ITC) to investigate and report on petitions filed with it alleging that China has engaged in either market disruption or trade diversion. Based on information from ITC, CBO estimates that this bill would increase spending subject to appropriation by \$1 million a year.

Estimated impact on state, local, and tribal governments: H.R. 4444 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: The bill would broaden the conditions under which the U.S. government could impose trade restrictions on imports of Chinese goods that are found to seriously harm or threaten domestic production of competing or similar goods. Certain trade restrictions that could result from this bill—such as increased duties, or quota limits more restrictive than under current law—would impose mandates on importers of affected items. Those restrictions would impose costs on the private sector, but CBO cannot predict whether such market conditions would be found or, if found, the incidence of trade restrictions resulting from the new conditions defined in this bill. Thus, CBO has no basis for estimating the direct costs of the mandate.

Estimate prepared by: Federal revenues: Hester Grippando; Federal spending: Sunita D'Monte; and impact on the private sector: Patrice Gordon.

Estimated approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis. 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, concluded that it is appropriate and timely to enact the provisions included in the bill as reported.

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 H.R. 4444.

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 1 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.")

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

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* * * * *

TITLE I—NEGOTIATING AND OTHER AUTHORITY

* * * * *

CHAPTER 2—OTHER AUTHORITY

* * * * *

SEC. 123. COMPENSATION AUTHORITY.

(a) Whenever—

(1) any action taken under chapter 1 of title II or chapter 1 of title III, or under chapter 2 of title IV of the Trade Act of 1974; or

* * * * *

TITLE IV—TRADE RELATIONS WITH COUNTRIES NOT [CURRENTLY] RECEIVING NONDISCRIMINATORY TREATMENT

CHAPTER 1—TRADE RELATIONS WITH CERTAIN COUNTRIES

SEC. 401. EXCEPTION OF THE PRODUCTS OF CERTAIN COUNTRIES OR AREAS.

Except as otherwise provided in this title, the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on the date of the enactment of this Act.

* * * * *

CHAPTER 2—RELIEF FROM MARKET DISRUPTION TO INDUSTRIES AND DIVERSION OF TRADE TO THE UNITED STATES MARKET

SEC. 421. ACTION TO ADDRESS MARKET DISRUPTION.

(a) *PRESIDENTIAL ACTION.*—If a product of the People’s Republic of China is being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of a like or directly competitive product, the President shall, in accordance with the provisions of this section, proclaim increased duties or other import restrictions with respect to such product, to the extent and for such period as the President considers necessary to prevent or remedy the market disruption.

(b) *INITIATION OF AN INVESTIGATION.*—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)), upon the request of the President or the United States Trade Representative (in this subtitle referred to as the “Trade Representative”), upon resolution of either the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate (in this subtitle referred to as the “Committees”) or on its own motion, the United States International Trade Commission (in this subtitle referred to as the “Commission”) shall promptly make an investigation to determine whether products of the People’s Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.

(2) *The limitations on investigations set forth in section 202(h)(1) of the Trade Act of 1974 (19 U.S.C. 2252(h)(1)) shall apply to investigations conducted under this section.*

(3) *The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.*

(4) *Whenever a petition is filed, or a request or resolution is received, under this subsection, the Commission shall transmit a copy thereof to the President, the Trade Representative, the Committee on Ways and Means of the House of Representatives, and the Committee of Finance of the Senate, except that in the case of confidential business information, the copy may include only nonconfidential summaries of such information.*

(5) *The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.*

(c) *MARKET DISRUPTION.—(1) For purposes of this section, market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.*

(2) *For purposes of paragraph (1), the term “significant cause” refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.*

(d) *FACTORS IN DETERMINATION.—In determining whether market disruption exists, the Commission shall consider objective factors, including—*

(1) *the volume of imports of the product which is the subject of the investigation;*

(2) *the effect of imports of such product on prices in the United States for like or directly competitive articles; and*

(3) *the effect of imports of such product on the domestic industry producing like or directly competitive articles.*

The presence or absence of any factor under paragraph (1), (2), or (3) is not necessarily dispositive of whether market disruption exists.

(e) *TIME FOR COMMISSION DETERMINATIONS.—The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b)(1) at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting relief under subsection (i)) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.*

(f) *RECOMMENDATIONS OF COMMISSION ON PROPOSED REMEDIES.—If the Commission makes an affirmative determination*

under subsection (b), or a determination which the President or the Trade Representative may consider as affirmative under subsection (e), the Commission shall propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (g), separate views regarding what action, if any, should be taken to prevent or remedy market disruption.

(g) *REPORT BY COMMISSION.*—(1) Not later than 20 days after a determination under subsection (b) is made, the Commission shall submit a report to the President and the Trade Representative.

(2) The Commission shall include in the report required under paragraph (1) the following:

(A) The determination made under subsection (b) and an explanation of the basis for the determination.

(B) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e), the recommendations of the Commission on proposed remedies under subsection (f) and an explanation of the basis for each recommendation.

(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

(D) A description of—

(i) the short- and long-term effects that implementation of the action recommended under subsection (f) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (but shall not include confidential business information) and cause a summary thereof to be published in the Federal Register.

(h) *OPPORTUNITY TO PRESENT VIEWS AND EVIDENCE ON PROPOSED MEASURE AND RECOMMENDATION TO THE PRESIDENT.*—(1) Within 20 days after receipt of the Commission's report under subsection (g) (or 15 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative shall publish in the Federal Register notice of any measure proposed by the Trade Representative to be taken pursuant to subsection (a) and of the opportunity, including a public hearing, if requested, for importers, exporters, and other interested parties to submit their views and evidence on the appropriateness of the proposed measure and whether it would be in the public interest.

(2) Within 55 days after receipt of the report under subsection (g) (or 35 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative, taking into ac-

count the views and evidence received under paragraph (1) on the measure proposed by the Trade Representative, shall make a recommendation to the President concerning what action, if any, to take to prevent or remedy the market disruption.

(i) *CRITICAL CIRCUMSTANCES.*—(1) When a petition filed under subsection (b) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to the product identified in the petition, the Commission shall, not later than 45 days after the petition containing the request is filed—

(A) determine whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair; and

(B) if the determination under subparagraph (A) is affirmative, make a preliminary determination of whether imports of the product which is the subject of the investigation have caused or threatened to cause market disruption.

If the Commissioners voting are equally divided with respect to either of its determinations, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

(2) On the date on which the Commission completes its determinations under paragraph (1), the Commission shall transmit a report on the determinations to the President and the Trade Representative, including the reasons for its determinations. If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Commission shall include in its report its recommendations on proposed provisional measures to be taken to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determinations under paragraph (1) are eligible to vote on the proposed provisional measures to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determinations may submit, in the report, dissenting or separate views regarding the determination and any recommendation of provisional measures referred to in this paragraph.

(3) If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Trade Representative shall, within 10 days after receipt of the Commission's report, determine the amount or extent of provisional relief that is necessary to prevent or remedy the market disruption and shall provide a recommendation to the President on what provisional measures, if any, to take.

(4)(A) The President shall determine whether to provide provisional relief and proclaim such relief, if any, within 10 days after receipt of the recommendation from the Trade Representative.

(B) Such relief may take the form of—

(i) the imposition of or increase in any duty;

(ii) any modification, or imposition of any quantitative restriction on the importation of an article into the United States;

or

(iii) any combination of actions under clauses (i) and (ii).

(C) Any provisional action proclaimed by the President pursuant to a determination of critical circumstances shall remain in effect not more than 200 days.

(D) Provisional relief shall cease to apply upon the effective date of relief proclaimed under subsection (a), upon a decision by the President not to provide such relief, or upon a negative determination by the Commission under subsection (b).

(j) AGREEMENTS WITH THE PEOPLE'S REPUBLIC OF CHINA.—(1) The Trade Representative is authorized to enter into agreements for the People's Republic of China to take such action as necessary to prevent or remedy market disruption, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in subsection (e) or a determination which the Trade Representative considers to be an affirmative determination pursuant to subsection (e).

(2) If no agreement is reached with the People's Republic of China pursuant to consultations under paragraph (1), or if the President determines that an agreement reached pursuant to such consultations is not preventing or remedying the market disruption at issue, the President shall provide import relief in accordance with subsection (a).

(k) STANDARD FOR PRESIDENTIAL ACTION.—(1) Within 15 days after receipt of a recommendation from the Trade Representative under subsection (h) on the appropriate action, if any, to take to prevent or remedy the market disruption, the President shall provide import relief for such industry pursuant to subsection (a), unless the President determines that provision of such relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action pursuant to subsection (a) would cause serious harm to the national security of the United States.

(2) The President may determine under paragraph (1) that providing import relief is not in the national economic interest of the United States only if the President finds that the taking of such action would have an adverse impact on the United States economy clearly greater than the benefits of such action.

(l) PUBLICATION OF DECISION AND REPORTS.—(1) The President's decision, including the reasons therefor and the scope and duration of any action taken, shall be published in the Federal Register.

(2) The Commission shall promptly make public any report transmitted under this section, but shall not make public any information which the Commission determines to be confidential, and shall publish notice of such report in the Federal Register.

(m) EFFECTIVE DATE OF RELIEF.—Import relief under this section shall take effect not later than 15 days after the President's determination to provide such relief.

(n) MODIFICATIONS OF RELIEF.—(1) At any time after the end of the 6-month period beginning on the date on which relief under subsection (m) first takes effect, the President may request that the Commission provide a report on the probable effect of the modification, reduction, or termination of the relief provided on the relevant

industry. The Commission shall transmit such report to the President within 60 days of the request.

(2) The President may, after receiving a report from the Commission under paragraph (1), take such action to modify, reduce, or terminate relief that the President determines is necessary to continue to prevent or remedy the market disruption at issue.

(3) Upon the granting of relief under subsection (k), the Commission shall collect such data as is necessary to allow it to respond rapidly to a request by the President under paragraph (1).

(o) **EXTENSION OF ACTION.**—(1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any relief provided under subsection (k) is to terminate, the Commission shall investigate to determine whether action under this section continues to be necessary to prevent or remedy market disruption.

(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under subsection (m) is to terminate.

(4) The President, after receiving an affirmative determination from the Commission under paragraph (3), may extend the effective period of any action under this section if the President determines that the action continues to be necessary to prevent or remedy the market disruption.

SEC. 422. ACTION IN RESPONSE TO TRADE DIVERSION.

(a) **MONITORING BY CUSTOMS SERVICE.**—In any case in which a WTO member other than the United States requests consultations with the People's Republic of China under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the World Trade Organization, the Trade Representative shall inform the United States Customs Service, which shall monitor imports into the United States of those products of Chinese origin that are the subject of the consultation request. Data from such monitoring shall promptly be made available to the Commission upon request by the Commission.

(b) **INITIATION OF INVESTIGATION.**—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974, upon the request of the President or the Trade Representative, upon resolution of either of the Committees, or on its own motion, the Commission shall promptly make an investigation to determine whether an action described in subsection (c) has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States.

(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity

to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

(c) ACTIONS DESCRIBED.—An action is described in this subsection if it is an action—

(1) by the People's Republic of China to prevent or remedy market disruption in a WTO member other than the United States;

(2) by a WTO member other than the United States to withdraw concessions under the WTO Agreement or otherwise to limit imports to prevent or remedy market disruption;

(3) by a WTO member other than the United States to apply a provisional safeguard within the meaning of the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO; or

(4) any combination of actions described in paragraphs (1) through (3).

(d) BASIS FOR DETERMINATION OF SIGNIFICANT DIVERSION.—(1) In determining whether significant diversion or the threat thereof exists for purposes of this section, the Commission shall take into account, to the extent such evidence is reasonably available—

(A) the monitoring conducted under subsection (a);

(B) the actual or imminent increase in United States market share held by such imports from the People's Republic of China;

(C) the actual or imminent increase in volume of such imports into the United States;

(D) the nature and extent of the action taken or proposed by the WTO member concerned;

(E) the extent of exports from the People's Republic of China to that WTO member and to the United States;

(F) the actual or imminent changes in exports to that WTO member due to the action taken or proposed;

(G) the actual or imminent diversion of exports from the People's Republic of China to countries other than the United States;

(H) cyclical or seasonal trends in import volumes into the United States of the products at issue; and

(I) conditions of demand and supply in the United States market for the products at issue.

The presence or absence of any factor under any of subparagraphs (A) through (I) is not necessarily dispositive of whether a significant diversion of trade or the threat thereof exists.

(2) For purposes of making its determination, the Commission shall examine changes in imports into the United States from the People's Republic of China since the time that the WTO member commenced the investigation that led to a request for consultations described in subsection (a).

(3) If more than 1 action by a WTO member or WTO members against a particular product is identified in the petition, request, or resolution under subsection (b) or during the investigation, the Commission may cumulatively assess the actual or likely effects of such

actions jointly in determining whether a significant diversion of trade or threat thereof exists.

(e) *COMMISSION DETERMINATION; AGREEMENT AUTHORITY.*—(1) *The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b) at the earliest practicable time, but in no case later than 45 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.*

(2) *The Trade Representative is authorized to enter into agreements with the People's Republic of China or the other WTO members concerned to take such action as necessary to prevent or remedy significant trade diversion or threat thereof into the domestic market of the United States, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in paragraph (1) or a determination which the Trade Representative considers to be an affirmative determination pursuant to paragraph (1).*

(3) *REPORT BY COMMISSION.*—

(A) *Not later than 10 days after a determination under subsection (b), is made, the Commission shall transmit a report to the President and the Trade Representative.*

(B) *The Commission shall include in the report required under subparagraph (A) the following:*

(i) *The determination made under subsection (b) and an explanation of the basis for the determination.*

(ii) *If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e)(1), the recommendations of the Commission on increased tariffs or other import restrictions to be imposed to prevent or remedy the trade diversion or threat thereof, and explanations of the bases for such recommendations. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy the trade diversion or threat thereof.*

(iii) *Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in clauses (i) and (ii).*

(iv) *A description of—*

(I) *the short- and long-term effects that implementation of the action recommended under clause (ii) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and*

(II) *the short- and long-term effects of not taking the recommended action on the petitioning domestic indus-*

try, its workers and the communities where production facilities of such industry are located, and on other domestic industries.

(C) *The Commission, after submitting a report to the President under subparagraph (A), shall promptly make it available to the public (with the exception of confidential business information) and cause a summary thereof to be published in the Federal Register.*

(f) *PUBLIC COMMENT.—If consultations fail to lead to an agreement with the People’s Republic of China or the WTO member concerned within 60 days, the Trade Representative shall promptly publish notice in the Federal Register of any proposed action to prevent or remedy the trade diversion, and provide an opportunity for interested persons to present views and evidence on whether the proposed action is in the public interest.*

(g) *RECOMMENDATION TO THE PRESIDENT.—Within 20 days after the end of consultations pursuant to subsection (e), the Trade Representative shall make a recommendation to the President on what action, if any, should be taken to prevent or remedy the trade diversion or threat thereof.*

(h) *PRESIDENTIAL ACTION.—Within 20 days after receipt of the recommendation from the Trade Representative, the President shall determine what action to take to prevent or remedy the trade diversion or threat thereof.*

(i) *DURATION OF ACTION.—Action taken under subsection (h) shall be terminated not later than 30 days after expiration of the action taken by the WTO member or members involved against imports from the People’s Republic of China.*

(j) *REVIEW OF CIRCUMSTANCES.—(1) The Commission shall review the continued need for action taken under subsection (h) if the WTO member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the People’s Republic of China pursuant to consultation referred to in subsection (a). The Commission shall, not later than 60 days after such notification, determine whether a significant diversion of trade continues to exist and report its determination to the President. The President shall determine, within 15 days after receiving the Commission’s report, whether to modify, withdraw, or keep in place the action taken under subsection (h).*

SEC. 423. REGULATIONS; TERMINATION OF PROVISION.

(a) *TO CARRY OUT RESTRICTIONS AND MONITORING.—The President shall by regulation provide for the efficient and fair administration of any restriction proclaimed pursuant to the subtitle and to provide for effective monitoring of imports under section 422(a).*

(b) *TO CARRY OUT AGREEMENTS.—To carry out an agreement concluded pursuant to consultations under section 421(j) or 422(e)(2), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement.*

(c) *TERMINATION DATE.—This subtitle and any regulations issued under this subtitle shall cease to be effective 12 years after the date*

of entry into force of the Protocol of Accession of the People's Republic of China to the WTO.

* * * * *

VII. ADDITIONAL VIEWS OF CONGRESSMAN PETE STARK

Mr. Chairman, as one of four Members of the Ways and Means Committee to vote against extending permanent most favored nation status to China, I feel compelled to explain the reasons for my vote.

First, the Administration missed several opportunities to incorporate the concerns of many Members of Congress in the bilateral trade agreement it reached with China last November. Second, Congressman Levin attempted to address the concerns raised by many Members of this Committee with legislation that falls short of providing any real protection for labor. And then, many Members were told that the human rights and rule-of-law provisions would be inserted in the bill that reaches the House floor. Before voting on final passage, the Committee had yet one last opportunity to address concerns I raised at the markup regarding Taiwan's accession to the WTO as well as President Clinton's 1994 order to ban assault weapon imports from China. To no avail, the Committee ignored the very real concerns facing our nation in the name of corporate interests and free trade. Because the markup bill failed to address all of these concerns, I voted not to extend permanent most favored nation trade status to China.

I commend Rep. Levin for attempting to bring the interests of labor and trade to common ground. Unfortunately, the import surge proposal is essentially a new form of existing authorities the Administration currently has, but never fully utilizes. The result is a toothless proposal that leaves action up to the discretion of the Administration—no change from current law. The surge import proposal conditions any action on the part of the President to correct a surge in imports from China on consultations with China. The PRC has broken every bilateral agreement it has with the U.S. and ignored numerous memorandums of understanding. The People's Republic of China has done nothing to make me believe that it will work with the U.S. to correct any import surge or unfair trade practices after it accedes to the WTO. After the U.S. consults with China, final action on the part of the President is discretionary under the Levin proposal. If the President believes that action might somehow jeopardize U.S.-Sino relations, then the surge will be ignored. This does nothing to help the U.S. workers who will face lay-offs due to product-specific surges from China. The only way for Congress to have any type of oversight of our trade laws, and then to enforce domestic statute, is to prohibit extension of MFN trade status to China.

Once China enters the WTO, it will actively spearhead efforts to block Taiwan's entry in the WTO. I offered an amendment that conditions permanent MFN status to China on Taiwan's accession to the WTO prior to, or on the same day as China. Proponents of permanent MFN claim that this is a false fear on the part of

PMFN opponents. The Administration assured me that China has already verbally agreed to allow Taiwan to enter the WTO unimpeded. If they've already agreed, there should have been no opposition to putting that agreement in statute. However, on May 16, 2000, the very same day I offered my amendment, China proved that it will in fact try to block Taiwan's entry into the WTO. The PRC led the charge against Taiwan's fourth bid for observer status in the World Health Organization (WHO). If China is willing to go to great lengths to block Taiwan from the WHO, it is certain to lead a full campaign against Taiwan's application for WTO membership. Unfortunately, the Ways & Means Committee defeated this amendment.

I also offered an amendment that conditions extension of permanent MFN on an additional agreement between the U.S. and China on President Clinton's 1994 embargo on arms and ammunition imports.

In 1994, as a condition of granting China annual MFN status, President Clinton issued an order that bans the imports of assault weapons from China. Under World Trade Organization (WTO) rules, the U.S. is required to treat foreign and domestic goods identically. The U.S. continues to manufacture and sell assault weapons. Clearly, by banning China from selling to the U.S. market, but allowing domestic manufacturers to continue with business as usual, the U.S. does not treat foreign and domestic goods identically.

This means that once China accedes to the WTO, they will have every right as a member to dispute the U.S. ban. And since the order does violate WTO rules, the WTO will most likely find the U.S. in violation of treating China's assault weapons differently from those in the U.S. This would mean that the U.S. would have to lift the import ban on China, or ban the sale and manufacture of its own assault weapons as well as the imports from other countries.

China accounted for forty-two percent of all rifles imported into the U.S. civilian market between 1987 and 1994, the year in which President Clinton finally blocked the Chinese gun dumping. This flood of Chinese weapons was so great that it strongly boosted the overall import of guns to the U.S. Chinese rifles and handguns accounted for 15 percent of all firearms imported for the civilian market in six of the eight years between 1987 and 1994. The import of Chinese guns was effectively stopped in 1994 when President Clinton imposed a ban as a condition of renewing China's most favored nation status.

If we grant China permanent most favored nation trade status, China, not the Members of the 106th Congress, will dictate U.S. gun import policy.

The issues I have mentioned are just a few, of a much greater list, of the problems I have with granting China permanent MFN status. Until trade agreements incorporate the needs of labor, the environment and human rights I will have to oppose their cause. The U.S. cannot continue to promote the interests of multinational corporations while ignoring the real problems faced by the exploited. Labor, the environment and human rights are inherent functions of trade. If we don't begin to include them in our trade

negotiations today, they will continue to splinter the U.S. Congress and its desire to achieve real global progress.

PETE STARK.

