

DISAPPROVAL OF NORMAL TRADE RELATIONS FOR THE
PEOPLE'S REPUBLIC OF CHINA

JULY 18, 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

ADVERSE REPORT

[To accompany H.J. Res. 103]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 103) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People's Republic of China, having considered the same, report unfavorably thereon without amendment and recommend that the joint resolution do not pass.

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I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.J. Res. 103 would disapprove the extension of normal trade relations (NTR status) to the products of the People's Republic of China.

B. BACKGROUND

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

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

In the case of the People's Republic of China, a bilateral commercial agreement, as required by the Jackson-Vanik amendment, was concluded on July 7, 1979, and has remained in force since that time. NTR was first granted to China on February 1, 1980, and has been renewed annually since then on the basis of Presidential waivers. On June 2, 2000, 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, 2000, through July 2, 2001.

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

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

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

If both chambers of Congress do not pass a resolution of disapproval within 60 calendar days following the July 3, 2000, expiration of the existing waiver authority, China's NTR status is automatically renewed through July 2, 2001. House Joint Resolution 103 was introduced by Representative Rohrabacher on June 23, 2000. The resolution provides for disapproval of extension of the waiver authority recommended by the President on June 2, 2000, with respect to China for the period beginning July 3, 2000.

H.R. 4444

In response to significant progress in China's negotiations to accede to the World Trade Organization, the House approved H.R. 4444, a bill to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China, and to establish a framework for relations between the United States and the People's Republic of China. H.R. 4444, which was approved by the House on May 24, 2000 by a vote of (237-197) amends Title IV of the Trade Act of 1974 to remove the People's Republic of China (China) from the list of countries subject to this provision upon the accession of China to the WTO and upon certification by the President that the final terms of 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.

In addition to granting the President the authority to remove China from application of Jackson-Vanik, H.R. 4444 also: (1) establishes a Congressional-Executive Commission to monitor China's progress on human rights, worker rights, and enforcement of its WTO agreements; (2) includes trade enhancement provisions, including a safeguard mechanism to protect U.S. industry and workers from unexpected import surges from China; (3) authorizes additional funds to monitor China's adherence to WTO commitments, and requires annual reports on China's compliance with its WTO commitments; (4) provides technical assistance in developing the rule of law in commercial and labor markets, as well as democracy-building in China; (5) establishes a task force on prison labor imports; and (6) expresses a sense of the Congress that Taiwan should enter the WTO at the same General Council session as China. At the time H.R. 4444 is signed into law, the annual review of China's NTR status will no longer be necessary upon China's accession to the WTO. However, until that time, it remains necessary for the Committee to consider H.J. Res 103 according to the privileged procedures set out in Title IV of the Trade Act 1974.

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 com-

puter-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, including the two 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 upon its accession to the WTO.

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.

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

C. LEGISLATIVE HISTORY

Committee action

House Joint Resolution 103 was introduced on June 23, 2000, by Representative Rohrabacher (R-CA) and was referred to the Committee on Ways and Means. On July 13, 2000, the Committee ordered House Joint Resolution 103 reported adversely without amendment to the House by voice vote, with a quorum present.

Legislative hearing

The Committee considered the issue of whether to normalize trade relations with China and to remove China from Title IV of the Trade Act of 1974 in the context of the debate surrounding permanent NTR and China's imminent membership in the World Trade Organization. In hearings held on February 16, April 12, and May 3, 2000, 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 cabinet members appeared in favor of normalizing trade relations with China.

II. EXPLANATION OF THE RESOLUTION

Present law

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

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

Explanation of the resolution

House Joint Resolution 103 states that the Congress does not approve the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974, recommended by the President to the Congress on June 2, 2000, with respect to the People's Republic of China.

Reasons for committee action

The Committee has long supported a policy of engagement with China and has consistently rejected annual legislation to revoke normal trade relations, or nondiscriminatory 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. The Committee is also concerned about China's continued suppression of labor rights. 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.

The House demonstrated a commitment to the policy of engagement with China earlier this year when on May 24, 2000 it voted (237-197) to approve H.R. 4444, which would remove China from Title IV of the Trade Act of 1974 upon its accession to the World Trade Organization. This action was taken in response to China's pending accession to the WTO and the completion of the Bilateral Trade Agreement between the United States and China on November 15, 1999. At the time H.R. 4444 is signed into law, the annual review of China's NTR status will no longer be necessary upon China's accession. However, until that time, it remains necessary for the Committee to consider the annual disapproval resolution (if such a resolution is introduced) according to the privileged procedures set out in Title IV of the Trade Act 1974. Ending the annual consideration of NTR status for China and granting permanent NTR will allow U.S. farmers and businesses to benefit from China's WTO commitments once China becomes a full member of the WTO.

Withdrawing NTR for China would also have a serious adverse effect on Hong Kong and Taiwan due to the high levels of trade and investment between Hong Kong and China and between Taiwan and China. By severely disrupting trade in the region, terminating NTR 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. Terminating NTR would jeopardize efforts to bring China into the WTO.

Finally, the Committee believes that revoking China's NTR status as of July 3 of this year would constitute too blunt a sanction and would work against U.S. Government efforts to bring China into the global community of civilized nations. Rejecting annual NTR in light of the House's recent approval of legislation to remove China from Title IV and grant permanent NTR would send con-

flicting signals as to U.S. policy with respect to China. 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.

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of the joint resolution, H.J. Res. 103.

MOTION TO REPORT THE BILL

The joint resolution, H.J. Res. 103, was ordered adversely reported by a voice vote, with a quorum being present.

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, House Joint Resolution 103 as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.J. Res. 103 would increase customs duty receipts due to higher tariffs imposed on goods from China.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 18, 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.J. Res. 103, disapproving the extension of nondiscriminatory treatment to the products of 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 and

Erin Whitaker (for revenues) and Lauren Marks (for private-sector mandates).

Sincerely,

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

Enclosure.

H.J. Res. 103—Disapproving the extension of nondiscriminatory treatment to the products of the People’s Republic of China

Summary: Under the Trade Act of 1974, nondiscriminatory trade relations may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. However, the President may waive this prohibition on an annual basis if he certifies that doing so would promote freedom of emigration in that country. On June 2, 2000, President Clinton transmitted to Congress his intention to waive the prohibition with respect to the People’s Republic of China for a year, beginning July 3, 2000. H.J. Res. 103 would disapprove the President’s extension of this waiver. CBO estimates that denying nondiscriminatory tariff treatment to the People’s Republic of China would increase revenues by \$520 million over the fiscal year 2000–2001 period. Since adopting this resolution would affect receipts, pay-as-you-go procedures would apply.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. H.J. Res. 103 would impose a private-sector mandate on importers of Chinese goods that would be subject to higher tariffs. CBO estimates that the increased costs in tariffs to importers would total \$425 million in fiscal year 2001, exceeding the threshold for private-sector mandates (\$109 million in 2000, adjusted annually for inflation) estimated in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.J. Res. 103 is shown in the following table.

| | By fiscal year, in millions of dollars— | | | | | |
|--------------------------|---|------|------|------|------|------|
| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
| CHANGES IN REVENUES | | | | | | |
| Estimated revenues | 95 | 425 | 0 | 0 | 0 | 0 |

Basis of estimate: Denial of nondiscriminatory trade relations to the People’s Republic of China would substantially increase the tariff rates imposed on its exports to the United States. CBO assumes that these higher tariff rates would increase U.S. prices and would decrease U.S. demand of goods imported from the People’s Republic of China. CBO estimates that imports from the People’s Republic of China would decline by more than enough to offset the higher rates, so that the U.S. customs duties collections on Chinese imports would fall. However, CBO estimates that some of that drop in trade with the People’s Republic of China would be offset by an increase in imports from other countries with normal trade relations status. The increase in revenues from this effect would outweigh the reduction in revenues from the People’s Republic of China. Assuming an effective date of August 1, 2000, CBO estimates that revenues would increase by \$520 million over the fiscal

year 2000–20001 period. The People’s Republic has received normal trade relations status through presidential proclamation on an annual basis beginning in 1980 and CBO assumes there would be a resumption of normal trade relations with the People’s Republic of China after July 3, 2001.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

| | By fiscal year in millions of dollars— | | | | | | | | | | | |
|---------------------------|--|------|------|------|------|------|------|------|------|------|------|----------------|
| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | |
| Changes in outlays | | | | | | | | | | | | Not applicable |
| Changes in receipts | 95 | 425 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

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

Estimated impact on the private sector: H.J. Res. 103 would impose a private-sector mandate on importers of Chinese goods that would be subject to higher tariffs. CBO estimates that the increased costs in tariffs to importers would total \$425 million in fiscal year 2001, exceeding the threshold for private-sector mandates (\$109 million in 200, adjusted annually for inflation) established in UMRA. U.S. consumers of Chinese goods would also bear indirect costs if they chose to substitute goods from other foreign or domestically produced good for Chinese products.

Previous estimate: On July 12, 1999, CBO transmitted an estimate for H.J. Res. 57, disapproving the extension of the waiver authority contained in section 402(c) with respect to the People’s Republic of China, as ordered reported adversely by the house Committee on Ways and Means. CBO estimated that the resolution would increase revenues by \$507 million in 2000.

On May 22, 2000, CBO prepared estimates for H.R. 4444 and S. 2277, bills to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People’s Republic of China, as ordered reported by the House Committee on Ways and Means and the Senate Committee on Finance, respectively. CBO concluded that enactment of these bills would likely increase revenues because they would allow the United States to trade with China under the World Trade Organization (WTO). Under that trading regime, imports of textiles and apparel from China would increase because they would be subject to less restrictive trade quotas. CBO found it had no basis for estimating the revenue impact of granting the President such authority.

Estimate prepared by: Federal costs: Hester Grippando and Erin Whitaker; Impact on the private sector: Lauren Marks.

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

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

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, believes that revoking China's NTR status as of July 3, 2000, would be unwise and counterproductive.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

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

C. CONSTITUTIONAL AUTHORITY STATEMENT

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

