

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

COMMITTEE ON FINANCE
UNITED STATES SENATE

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(II)

Preface

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

CONTENTS

	Page
Preface	III
Summary	1
Freedom of emigration and the Trade Act	1
Procedures for review of the waiver provisions of section 402 of the Trade Act	2
Key dates under the waiver provisions of title IV	3
Emigration from Romania	3
U.S. trade with Romania	5
Appendix	7

Summary

On June 2, 1976, the President asked Congress to renew for twelve months his authority to waive the freedom of emigration requirements of the Trade Act of 1974. Section 402 of the Trade Act of 1974 prohibits the granting of most favored nation (MFN) treatment, government credits or investment guarantees, or the negotiation of a commercial agreement with any communist country if that country does not allow its citizens the freedom to emigrate. Section 402 permits the President to waive this prohibition for limited periods of time if he determines that doing so will promote freedom of emigration. Specifically at issue is whether MFN treatment should be continued in the case of the Socialist Republic of Romania, the only communist country to have been designated for such treatment under the Trade Act. The President is not expected to exercise the authority with respect to any other country during the next twelve months.

The President's request set in motion an elaborate timetable of procedures by which Congress may terminate, affirmatively vote to extend, or permit by inaction the extension of the authority under which the President may waive the requirement of freedom of emigration. The deadline for Congressional action is October 15, 1976. After that date, if Congress takes no action, the waiver authority is automatically extended until July 3, 1977. Tables presenting available information on Romanian emigration appear on pages 4 and 5 of this pamphlet.

U.S. trade with Romania has grown steadily in recent years, with the exception of 1975 when economic recession caused a temporary decline. (See table, page 6.) The U.S. has traditionally enjoyed a substantial trade surplus with Romania, though there are signs the U.S. advantage may be narrowing. Romania has been designated a beneficiary developing country under the Generalized System of Preferences, entitling certain of its exports to the U.S. to duty free treatment.

Freedom of Emigration and the Trade Act

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

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

Section 402(c)(1) of the Trade Act authorizes the President to waive the requirements of section 402 (a) and (b) until July 3, 1976, for any communist country if he reports to the Congress that:

- (1) he has determined that the waiver for that country would substantially promote the objectives of freedom of emigration;
- and

(2) he has received assurances that the emigration practices of that country would henceforth lead substantially to the achievement of the objectives of freedom of emigration.

The first period for congressional review of the President's waiver authority has now begun. In recommending the extension for another 12 months of MFN treatment to Romania, the President has determined that the continuation of his waiver authority promotes the objective of freedom of emigration. (See appendix, page 7.) The Trade Act establishes an elaborate timetable under which the extension of the President's waiver authority can be reviewed. The Congress had an opportunity between June 3 and July 3, 1976, to approve the extension of the waiver authority for one year by a concurrent resolution; if that concurrent resolution had been defeated by both Houses, the waiver authority and Romanian MFN treatment would have expired on July 3. Such a concurrent resolution was not introduced in either House of Congress. During the period beginning July 3 and ending August 31, Congress may extend for one year the waiver authority and MFN treatment for Romania by concurrent resolution. If both Houses vote to defeat the concurrent resolution, MFN treatment and the waiver authority would be discontinued. If there has been neither a positive nor a negative vote by both Houses on the concurrent resolution by August 31, the Congress may veto the extension of the waiver authority by a one-House vote from September 1 until October 15, 1976. If neither House vetoes the extension of the waiver and MFN treatment for Romania during this period, the waiver will be automatically extended through July 3, 1977.

Further extensions of the waiver authority may be recommended by the President for successive 12-month periods. In such event, either House of Congress will have a 60-day period following the end of the previous extension (July 3) in which to veto the extension. If neither House has vetoed the extension by the end of that period, it will be extended automatically until the following July 3.

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

Beginning with the date of enactment of the Trade Act, January 3, 1975, the President was given authority to waive the requirements of section 402 until July 3, 1976, 18 months, for any country after receiving assurances that the emigration practices of that country will lead substantially to the achievement of the objectives of section 402.

Eighteen months after the date of enactment of the Act, the waiver authority may be renewed upon the adoption of a concurrent resolution extending the authority for one year. If an extension is desired, a request shall be made by the President no later than 30 days prior to expiration of the 18-month period, or June 3, 1976.

In the event that the Congress has not voted on a resolution of approval by the end of the 18-month period, the waiver authority will be extended for up to 60 days after the end of the 18-month period, September 1, 1976, to permit the Congress additional time to act on the concurrent resolution. If the vote on the resolution of approval fails in both Houses, the waiver authority expires.

In the event that Congress within 60 days after the expiration of the 18-month period does not adopt or disapprove a concurrent resolution on the issue of extending the authority, the authority will nevertheless continue in force unless either House of Congress (within 45 calendar days of the expiration of the 60-day period, October 15, 1976) passes a simple resolution of disapproval of the continuation of the waiver authority.

The waiver may be further extended by Executive Order at one-year intervals upon a Presidential determination and report to Congress that such extension will substantially promote the objectives of Section 402, provided that neither House of Congress (within 60 calendar days of the issuance of the Executive Order) adopts a resolution of disapproval of the extension.

The statutory language permits the concurrent resolution or the simple resolution of disapproval to exclude one or more countries from the extensions of the waiver authority. Resolutions may be amended to include or exclude any particular country.

Any extension of waiver authority will not apply to any country which has been excluded in a concurrent resolution or in a resolution of either House.

Key Dates Under the Waiver Provisions of Title IV

(Enactment of Trade Act on January 3, 1975)

January 3, 1975–July 3, 1976.—President may waive requirements of section 402 (denying MFN and credits to any nonmarket country which denies free emigration) upon a determination and a report to Congress of assurances that the emigration practices of such country will lead substantially to the achievement of the objectives of free emigration.

June 3, 1976.—President may request a 1-year extension of the waiver by June 3 (30 days before expiration) if the Congress has not defeated a resolution extending the waiver.

July 3–Sept. 1, 1976.—Waiver extended for 60 days if President has so requested. Congress may extend waiver by concurrent resolution (majority of both Houses). Waiver expires if concurrent resolution vote fails.

Sept. 1–Oct. 15, 1976.—If there is no vote, President may extend waiver another 45 days. Congress may cut off MFN and credits to any country by a simple majority of either House.

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

Emigration from Romania

The tables below present available information on emigration from Romania:

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

	<i>Immigrant visas issued by Embassy Bucharest</i>
1975:	
January	27
February	13
March	14
April	24
May	20
June	29
July*	110
August	182
September	181
October	131
November	62
December	97
Total 1975	890
Dual nationals.....	60
Grand total	950
1976:	
January	74
February	87
March	130
April	97
May	77
June	111
July	96
Total for first 7 months of 1976	672
Dual nationals.....	40
Grand total for first 7 months	712

*The Congress approved most-favored-nation treatment for Romania on July 29, 1975.

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

Source: Department of State.

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

IV's issued fiscal year 1965.....	274
IV's issued fiscal year 1966.....	104
IV's issued fiscal year 1967.....	19
IV's issued fiscal year 1968.....	23
IV's issued fiscal year 1969.....	154
IV's issued fiscal year 1970.....	372
IV's issued fiscal year 1971.....	629
IV's issued fiscal year 1972.....	269
IV's issued fiscal year 1973.....	357
IV's issued fiscal year 1974.....	511
IV's issued fiscal year 1975.....	328
IV's issued calendar year 1975.....	849

Source: Department of State.

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

	<i>Number of immigrants</i>
1975:	
January.....	62
February.....	41
March.....	102
April.....	60
May.....	46
June.....	199
July*.....	403
August.....	238
September.....	262
October.....	350
November.....	130
December.....	115
Total.....	2008
1976:	
January.....	328
February.....	232
March.....	99
April.....	51
May.....	143
June.....	211
July.....	237
Total first 7 months of 1976.....	1301

Annual totals for Romanian Jewish immigration to Israel

	<i>Number of immigrants</i>
1971.....	1900
1972.....	3000
1973.....	4000
1974.....	3700
1975*.....	2008
1976 (first 7 months).....	1301

*The Congress approved most-favored-nation treatment for Romania on July 23, 1975.

NOTE.—Total first 7 months of 1975 equals 913.

Source: Department of State.

United States Trade With Romania

Trade between the United States and Romania increased substantially during the past decade. Total trade between the countries was valued at \$8 million in 1965 and \$80 million in 1970. Growth continued during the seventies. In 1974 U.S. exports to Romania were more than double their 1973 level because of unusual, nonrecurring purchases of new aircraft and grain. U.S. imports from Romania in 1975 were more than 4 times their value in 1972. The balance of trade has been in favor of the United States for each year of the past 10.

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

UNITED STATES-ROMANIAN TRADE, 1972 TO MARCH 1976

[Millions of dollars]

	1972	1973	1974	1975	January-March	
					1975	1976
U.S. exports:						
Manufactured goods ¹	18.5	31.7	108.6	56.9	18.70	10.41
Other.....	50.6	84.8	168.5	132.4	55.24	32.63
Total.....	69.1	116.5	277.1	189.3	73.94	43.04
U.S. general imports ²	34.7	61.4	143.8	146.5	19.9	49.7
Trade turnover.....	103.8	177.9	420.9	335.8	93.8	92.7
U.S. trade balance.....	34.4	55.1	133.3	42.8	54.0	-6.7

¹ Schedule B-5 through 8.² Imports are c.i.f. values.

Source: Department of Commerce.

U.S. IMPORTS FOR CONSUMPTION FROM ROMANIA, 1973 TO MARCH 1976

[In millions of dollars ¹]

Schedule A	Commodity	1973	1974	1975	6 mo pre-MFN ²	6 mo post-MFN ³
0	Food and live animals.....	7.70	11.15	9.64	4.63	6.96
1	Beverages and tobacco.....	.04	.19	.02	.01	.....
2	Crude materials, inedible except fuels.....	.99	1.02	3.58	1.15	2.68
3	Mineral fuels, lubricants and related products.....	15.76	76.41	85.65	22.63	67.79
4	Animal and vegetable oils and fats.....	.....	.....	.....	.....	.....
5	Chemicals.....	.54	3.64	2.00	1.61	1.22
6	Manufactured goods by chief materials.....	7.17	5.82	7.65	3.35	9.28
7	Machinery and transport equipment.....	6.26	8.55	9.62	4.13	5.51
8	Miscellaneous manufactured articles not elsewhere classified.....	16.87	18.69	15.34	6.66	14.31
9	Items and trans N, class.....	.25	.35	1.55	.45	.41
	Total.....	55.58	125.82	135.06	44.61	107.87

¹ Imports are customs value.² 4th quarter 1974 and 1st quarter 1975.³ 4th quarter 1975 and 1st quarter 1976.

Source: Department of Commerce.

UNITED STATES EXPORTS TO ROMANIA, 1973-75

[In millions of dollars]

Schedule B	Commodity	Total			Quarters (4th)	
		1973	1974	1975	1974	1975
0	Food and live animals.....	38.20	93.35	75.60	45.63	.....
1	Beverages and tobacco.....	.....	.13	.....	.....	.....
2	Crude materials, inedible except fuels.....	40.9	69.16	37.90	6.94	7.58
3	Mineral fuels, lubricants, and related products.....	5.89	5.54	17.56	1.90	10.78
4	Animal and vegetable oils and fats.....	.....	.....	.....	.....	.....
5	Chemicals.....	5.69	7.94	4.90	2.34	.05
6	Manufactured goods by chief materials.....	4.95	10.72	6.59	3.64	.89
7	Machinery and transport equipment.....	20.41	88.24	42.37	15.61	8.33
8	Miscellaneous manufactured articles, not elsewhere classified.....	.63	1.65	3.76	.36	1.32
9	Items and trans N, class.....	.14	.38	.60	.05	.07
	Total.....	116.51	277.14	189.28	76.47	29.02

Source: Department of Commerce.

Appendix

(From the *Weekly Compilation of Presidential Documents*,
June 7, 1976, Volume 12, No. 23, page 991.)

TRADE WITH ROMANIA—THE PRESIDENT'S MESSAGE TO THE CONGRESS
TRANSMITTING HIS RECOMMENDATION TO EXTEND WAIVER AUTHORITY
GRANTED BY SECTION 402(c) (1) OF THE TRADE ACT OF 1974;
JUNE 2, 1976

To the Congress of the United States:

In accordance with section 402(d) (1) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a period of 12 months.

This recommendation sets forth the reasons for extending waiver authority, and for my determination relating to continuation of the waiver applicable to the Socialist Republic of Romania, as called for by subsections (d) (1) (B) and (d) (1) (C) of section 402 of the Trade Act. I include, as part of this recommendation, my determination that extension of the waiver authority, and continuation of the waiver applicable to the Socialist Republic of Romania, will substantially promote the objectives of section 402.

GERALD R. FORD.

THE WHITE HOUSE, June 2, 1976.

RECOMMENDATIONS FOR EXTENSION OF WAIVER AUTHORITY

Pursuant to section 402(d) (1) of the Trade Act of 1974 I have today determined that extension of the waiver authority granted by section 402(c) (1) of the Trade Act of 1974, and continuation of the waiver extended by Executive Order 11874 of April 24, 1975 currently applicable to the Socialist Republic of Romania pursuant to section 402(c) (1) of the Trade Act of 1974, will substantially promote the objectives of section 402 of the Trade Act of 1974.

Extension of the waiver authority conferred by section 402(c) (1) of the Trade Act of 1974 is desirable because it would permit the continuation in effect of the US-Romanian Trade Agreement, which I believe to be in the national interest.

I am convinced that the continuation of the US-Romanian Trade Agreement will serve to promote mutually beneficial growth in two-way trade between the United States and Romania. This agreement has marked a major step forward in our economic relations with Romania. It places our bilateral trade on a basis beneficial to economic growth in both countries. Further, it brings our commercial relations into accord with our very satisfactory political ties.

Continued good US-Romanian relations, both political and commercial, serve the foreign policy interests of both countries. The dominant theme of Romania's foreign policy is the desire to maintain a high degree of independence. More than any other Warsaw Pact country, Romania has pursued friendly relations with countries of differing political and economic systems—with the United States, the People's Republic of China, the developing world, and with Israel as well as Arab countries. Romania participates actively in a number of international organizations. It is the only COMECON country which is a member of the IMF and the World Bank. Romania has acceded to the GATT. It leads the COMECON countries in the proportion of its trade with the West.

We desire to encourage Romania's independent policy orientation through the expansion and improvement of bilateral relations. I am convinced that continuation of the Trade Agreement with Romania is essential to this end.

I believe that continuation of the waiver applicable to the Socialist Republic of Romania will substantially promote the objectives of section 402 of the Trade Act of 1974. Since the implementation of the Trade Agreement with Romania the flow of emigration from that country to the United States and Israel has increased markedly. Nearly twice as many persons left Romania with Romanian approval for the United States in the ten-month period between July 1, 1975 and April 30, 1976 than left in any preceding twelve-month period in the past two decades.

Emigration from Romania to Israel also increased following the implementation of the Trade Agreement with Romania. While emigration figures to the United States and Israel are subject to fluctuation on a monthly basis, I am confident that the generally positive and encouraging overall trend in emigration from Romania will continue.

I therefore recommend to the Congress pursuant to subsection 402(d)(1) of the Trade Act of 1974 that the waiver authority granted by subsection (c)(1) of section 402 of the Trade Act of 1974 be extended for a period of twelve months.

**TRADE WITH ROMANIA—PRESIDENTIAL DETERMINATION No. 76-17;
JUNE 2, 1976**

MEMORANDUM FOR THE SECRETARY OF STATE

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

Pursuant to the authority vested in me by the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978; hereinafter called the Act), I hereby determine, pursuant to section 402(d)(1) of the Act, that the extension of the waiver authority granted by subsection (c)(1) of section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine, pursuant to subsection (d)(1)(C) of section 402 of the Act, that continuation of the waiver applicable to the Socialist Republic of Romania will substantially promote the objectives of section 402.

This determination shall be published in the Federal Register.

GERALD R. FORD.

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