

APPROVING THE EXTENSION OF NONDISCRIMINATORY  
TREATMENT (MOST FAVORED NATION TREATMENT) TO  
THE PRODUCTS OF THE REPUBLIC OF BULGARIA

OCTOBER 15 (legislative day, SEPTEMBER 19), 1991.—Ordered to be printed

Mr. BENTSEN, from the Committee on Finance,  
submitted the following

REPORT

[To accompany S.J. Res. 169]

The Committee on Finance, to which was referred the joint resolution (S.J. Res. 169) to approve the extension of nondiscriminatory treatment to the products of the Republic of Bulgaria, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

I. SUMMARY

S.J. Res. 169 would approve the extension of nondiscriminatory (most-favored-nation ("MFN")) treatment to products imported into the United States from the Republic of Bulgaria ("Bulgaria"). The extension of reciprocal MFN treatment was one of the principal provisions of the trade agreement negotiated between the United States and Bulgaria and signed on April 22, 1991. On June 25, 1991, the President formally submitted the agreement and accompanying side letters to the Congress for its consideration, along with his proclamation extending nondiscriminatory treatment to imports from Bulgaria.

Under section 405(c) of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 (Public Law 101-382), the trade agreement and proclamation may take effect only if the House and Senate adopt a joint resolution of approval.

On July 11, 1991, the House Committee on Ways and Means Subcommittee on Trade ordered favorably reported H.J. Res. 282, the companion to S.J. Res. 169.

## II. GENERAL EXPLANATION

### A. THE STATUTORY FRAMEWORK

Title IV of the Trade Act of 1974, as amended, authorizes the President to extend MFN treatment to non-market economies not accorded MFN status if two conditions are met: (1) compliance with the freedom-of-emigration provisions under section 402 of the Trade Act of 1974 (commonly referred to as the Jackson-Vanik amendment); and (2) conclusion of a bilateral commercial agreement under section 405 of the Trade Act of 1974 providing reciprocal nondiscriminatory treatment. Section 404 of the Trade Act of 1974 stipulates the MFN treatment shall remain in effect only as long as the bilateral commercial agreement is in effect. Section 404 also provides that the President may suspend or withdraw MFN treatment at any time.

(1) *Compliance with freedom-of-emigration provisions.*—Section 402 of the Trade Act of 1974 (the Jackson-Vanik amendment) provides that products from certain non-market economies may not be accorded MFN status, and the country may not participate in U.S. financial credit or guarantee programs if the President determines that the country: (a) denies its citizens the right or opportunity to emigrate; (b) imposes more than nominal tax on visas or other documents required for emigration; or (c) imposes more than nominal levy, fine, fee, or other charge on any citizen as a consequence of the desire to emigrate.

A country may become eligible for MFN treatment and U.S. financial programs and may conclude a commercial agreement only if the President submits a report to Congress indicating that the country does not violate these conditions. Alternatively, the President may waive the Jackson-Vanik requirements if he reports to Congress that a waiver will substantially promote the objectives of the law and if the President has received assurances that the emigration practices of the country will hence forth lead substantially to the achievement of the objectives of the freedom-of-emigration provisions. The waiver authority may be extended by Presidential action for one-year periods, subject to Congressional review.

(2) *Bilateral commercial agreement.*—Under section 405(b) of the Trade Act of 1974, all bilateral commercial agreements must:

- (a) provide that the agreement is subject to termination or suspension for national security reasons;
- (b) include safeguards against market disruption;
- (c) provide for the protection of intellectual property;
- (d) include dispute settlement provisions;
- (e) include arrangements for the promotion and facilitation of trade; and
- (f) provide for consultations to review the agreement and the status of bilateral commercial relations.

The agreement must be limited to an initial period of three years. The agreement is, however, renewable for additional three-year periods if a satisfactory balance of concessions in trade and services has been maintained during the life of the agreement and if the President determines that actual or foreseeable reductions in U.S. tariffs and non-tariff barriers to trade resulting from multilat-

eral negotiations are satisfactorily reciprocated by the other party to the agreement.

#### B. PRESIDENTIAL ACTION AND CONGRESSIONAL CONSIDERATION

(1) *Presidential action.*—On January 22, 1991, the President waived the application of sections 402 (a) and (b)—the Jackson-Vanik requirements—with respect to Bulgaria upon his determination that such a waiver would substantially promote the Act's objectives relating to freedom of emigration. On June 3, 1991, the President notified Congress of his intention to extend the waiver for Bulgaria for the year beginning July 4, 1991.

The President reported that Bulgaria had passed in 1989 new passport, travel and citizenship laws that lifted previous travel restrictions. The President further noted that, in 1990, passports were issued to thousands of Bulgarian citizens, many of whom left the country to seek work or asylum in the West. The President also stated that, in August 1990, Bulgaria's Grand National Assembly invited all emigres to return to Bulgaria without fear of persecution or punishment for certain previously illegal acts, including political offenses, and that a number of leading dissidents had since returned to the country.

On April 22, 1991, U.S. Trade Representative (USTR) Carla Hills and Bulgaria's Ambassador to the United States Ognian Pishev signed a bilateral trade agreement. Accompanying side letters concerning the protection of intellectual property, the promotion of tourism and commercial tourism enterprises, currency convertibility and other business facilitation issues are also integral parts of the agreement. The agreement, side letters, and a proclamation proclaiming MFN treatment for Bulgaria were submitted formally to the Congress on June 25, 1991.

(2) *Congressional consideration.*—Sections 405(c) and 407(c) of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 (Public Law 101-382), provide that a trade agreement and the Presidential proclamation granting MFN status may take effect only after the House and Senate adopt a joint resolution of approval. The joint resolution is subject to the "fast-track" implementing procedures of the House and Senate under section 151 of the Trade Act of 1974, as amended. Under section 151, the approval resolution is automatically referred to the Committee on Finance. No amendments are in order. The procedures of section 151 provide for final Congressional action on an approval resolution within 60 session days after its introduction (or 90 days if the resolution is a revenue measure).

On June 25, 1991, S.J. Res. 169 and H.J. Res. 282—identical resolutions approving the proclamation of nondiscriminatory treatment to imports of products from Bulgaria—were introduced in the Senate and House, respectively. S.J. Res. 169 was referred to the Senate Committee on Finance and H.J. Res. 282 to the House Committee on Ways and Means. On June 28, 1991, the Committee on Finance issued a press release requesting public comments on the agreement. The Committee received one comment urging it to approve the extension of MFN treatment to Bulgaria.

On July 11, 1991, the Committee on Ways and Means Subcommittee on Trade ordered H.J. Res. 282 favorably reported to the full Committee.

### C. SUMMARY OF THE U.S.-BULGARIAN TRADE AGREEMENT

The U.S.-Bulgarian trade agreement contains numerous provisions designed to facilitate two-way trade between the two countries. The agreement provides that the United States and Bulgaria will accord each other MFN treatment with respect to customs duties and charges, the method of payment of imports and exports, all rules and formalities in connection with importation and exportation, taxes and internal charges and other laws and regulations affecting the sale, distribution and storage of products. The countries also agreed to accord to the products of the other MFN treatment with respect to the allocation of and access to the currency needed to pay for such imports.

The agreement also commits both countries to maintain a "satisfactory balance of market access opportunities" and to take "appropriate measures" to encourage the expansion of trade. Under the agreement, trade between the two countries is to be conducted by means of contracts concluded as exercises of independent commercial judgment on the basis of nondiscrimination and customary commercial considerations. In addition, neither country will require or encourage barter or countertrade. Bulgaria also agrees to accede to the International Convention on the Harmonized Commodity Description and Coding System, and the United States agrees to provide appropriate technical assistance to aid Bulgaria's accession.

Additional provisions in the agreement are designed to promote trade and facilitate transactions between the two countries. Included in the agreement are measures that:

- (a) facilitate the holding of trade promotion events;
- (b) ease the establishment of both government and private sector commercial offices, the direct hire of employees, importation of office equipment, access to office space and living accommodations, employment of agents and distributors, the stocking and distribution of samples and replacement parts, advertising and market research;
- (c) improve the transparency of laws, regulations and rulings that affect trade, investment and other commercial matters;
- (d) require that trade between the two countries be conducted in U.S. dollars or other convertible currencies, unless the parties to individual transactions agree otherwise;
- (e) bind the countries not to restrict the export of convertible currencies or deposits obtained in connection with trade in goods and services and require the parties to provide nondiscriminatory treatment with respect to a range of financial transactions;
- (f) provide adequate and effective protection of intellectual property;
- (g) provide procedures for the settlement of disputes and guarantee companies and nationals of each country access to the other's courts and administrative bodies; and

(h) establish a Joint Commercial Commission to review the operation of the agreement.

In addition, three sets of side letters that are an integral part of the trade agreement were negotiated and exchanged between the two countries. In the first set of side letters, both countries commit to provide adequate and effective protection of intellectual property and detail the specific measures they will take. In the second exchange of letters, Bulgaria stated its intention to make its currency convertible as soon as possible, use a simple registration process for establishing commercial offices and hiring agents, consultants, and distributors. In the third exchange, Bulgaria and the United States agreed on procedures for the establishment of non-profit tourism promotion offices and for the treatment of private sector tourism offices. The terms of reference for the U.S.-Bulgarian Joint Commercial Commission also accompany the agreement.

#### D. U.S.-BULGARIAN TRADE AND IMPACT OF TRADE AGREEMENT

(1) *U.S.-Bulgarian trade.*—Over the last four years, two-way trade with Bulgaria has averaged \$164 million annually, with the United States posting an average annual surplus of \$76 million. U.S. exports to Bulgaria averaged \$132 million annually from 1987 through 1989, but dropped in 1990 to \$84 million. The decline was attributable chiefly to Bulgaria's recession and hard currency shortage. Leading U.S. exports included aircraft and parts, soybeans, coal, and corn.

U.S. imports from Bulgaria, which average \$45 million annually in the 1987-1989 period, dropped slightly in 1990 to \$43 million. Principal imports included tobacco, urea, petroleum products, cheese, manual typewriters, and wine.

(2) *Impact of the trade agreement.*—The General Accounting Office ("GAO") has estimated that granting MFN status to Bulgaria would reduce the weighted average tariff rate on dutiable products from Bulgaria from 21 percent to 5.2 percent—a drop of almost 16 percentage points. However, the GAO has also noted that, since Bulgaria's share of U.S. imports is less than one-tenth of one percent and its total exports to all countries amount to only 3.5 percent of total U.S. imports, even if Bulgaria diverted all of its exports to the United States, there would only be a small impact on the U.S. economy.

The Committee expects that the benefits of the trade agreement would not, however, be one-way. Exports from the United States to Bulgaria will also benefit from MFN tariff rates. U.S. exports of aircraft and parts, (our leading export to Bulgaria in 1990), which currently face a 15 percent duty, will enter duty-free once MFN is granted to U.S. products. The tariff on soybeans, the second largest U.S. export to Bulgaria, will drop from 32 percent to 10 percent, and the duty on coal will drop from 15 percent to zero.

In addition, the Committee expects that increased Bulgarian exports to the United States will generate hard currency and provide the means for that country to import more goods necessary to improve its productivity and standard of living. Moreover, many other provisions of the agreement are designed to facilitate transactions

between United States and Bulgarian companies and should lead to increased U.S. exports to and investment in Bulgaria.

The Committee believes that prompt enactment of the U.S.-Bulgarian trade agreement is in the best interest of the United States. The Committee believes that the agreement will help spur the development of two-way trade. In addition, the Committee notes that Bulgaria, despite its current adverse economic situation, is pressing ahead with a wide-ranging economic reforms. The Government launched in February 1991 a comprehensive price reform program, introduced a new exchange rate system aimed at making its currency convertible, and eliminated import bans and quotas. It is also developing a privatization program and is attempting to reduce its budget deficit and hard currency debt. These reforms will not yield immediate results, but the Committee is convinced that Bulgaria is headed in the right direction.

The Committee believes that U.S. companies can assist Bulgaria's transition to a market-based economy and that the prompt enactment of the U.S.-Bulgarian trade agreement is an important step toward that end. Accordingly, the Committee strongly supports enactment of S.J. Res. 169 and the extension of MFN treatment to Bulgaria.

### III. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that S.J. Res. 169 was ordered favorably reported by voice vote.

### IV. BUDGETARY IMPACT OF THE BILL

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office regarding the budgetary impact of the bill:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 25, 1991.*

Hon. LLOYD BENTSEN,  
*Chairman, Committee on Finance,*  
*U.S. Senate Washington, DC.*

DEAR MR. CHAIRMAN. The Congressional Budget Office has reviewed S.J. Res. 169, a joint resolution approving the extension of most-favored-nation (MFN) status to Bulgaria, as ordered reported by the Senate Committee on Finance on July 25, 1991. The COB estimates that extending MFN status to Bulgaria would result in a \$2 million reduction in federal government revenues in fiscal year 1992.

Under title IV of the Trade Act of 1974, MFN status may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. Because of this stipulation, Bulgaria currently does not qualify for MFN status. Under present law, however, the President may waive this prohibition on an annual basis if he certifies that granting MFN status would pro-

mote freedom of emigration in that country. The President first waived this stipulation on January 22, 1991.

On June 3, 1991, the President notified Congress of his intention to extend the waiver of the application of title IV of the Trade Act of 1974 with respect to Bulgaria for one year. On June 25, 1991, the President transmitted to Congress the trade agreement according MFN status to Bulgaria. S.J. Res. 169 approves the extension of MFN status to Bulgaria. Granting Bulgaria MFN status would lower tariff rates on imports from Bulgaria. The net effect on the federal budget of lowering the tariff rate would be a reduction in customs duty revenues below the level projected under current tariff rates. While imports would rise in response to the lower domestic price resulting from the lower tariffs, the negative effect on revenues of the lower tariff rates would outweigh the positive effect on revenues of the greater volume of imports. The CBO estimates that the agreement between the United States and Bulgaria will be implemented in fiscal year 1992 and estimates that the resolution would result in a reduction in federal customs duty revenues of \$2 million in fiscal year 1992.

#### PAY-AS-YOU-GO CONSIDERATIONS

(By fiscal year, in millions of dollars)

	1992	1993	1994	1995
Changes in Receipts.....	-2	0	0	0
Changes in Outlays.....	(1) <sup>1</sup>	(1) <sup>1</sup>	(1) <sup>1</sup>	(1) <sup>1</sup>

<sup>1</sup> Not applicable.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell at 226-2720 or Trevor Alleyne at 226-2758.

Sincerely,

ROBERT D. REISCHAUER,  
*Director.*

#### V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee states that the bill will not significantly regulate any individuals or business, will not impact on the personal privacy of individuals, and will result in no significant additional paperwork.

#### VI. CHANGES IN EXISTING LAW

Pursuant to the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate, Changes in existing law made by the resolution, S.J. Res. 169, as reported, are shown as follows (existing law proposed to be omitted in enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

# UNITED STATES CODE

## TITLE 19—CUSTOMS DUTIES

### CHAPTER 18—IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE

Harmonized Tariff Schedule of the United States (1991) Annotated  
for Statistical Reporting Purposes

#### GENERAL NOTES

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3(a) \* \* \* \* \*

(b) *Rate of Duty Column 2.* Notwithstanding any of the foregoing provisions of this note, the rates of duty shown in column 2 shall apply to products, whether imported directly or indirectly, of the following countries and areas pursuant to section 401 of the Tariff Classification Act of 1962, to section 231 or 257(e)(2) of the Trade Expansion Act of 1962, to section 404(a) of the Trade Act of 1974 or to any other applicable section of law, or to action taken by the President thereunder:

Afghanistan	Kampuchea	Romania
Albania	Laos	Union of Soviet Socialist
<b>[Bulgaria]</b>	Latvia	Republics
Cuba	Lithuania	Vietnam
Estonia	Mongolia	
German Democratic Republic	North Korea	

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