

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

AUGUST 10 (legislative day, AUGUST 5), 1992.—Ordered to be printed

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

R E P O R T

[To accompany S.J. Res. 317]

The Committee on Finance, to which was referred the joint resolution (Senate Joint Resolution 317) to approve the extension of nondiscriminatory treatment to the products of the Republic of Albania, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

I. SUMMARY

Senate Joint Resolution 317 would approve the extension of non-discriminatory (most-favored-nation ("MFN")) treatment to products imported into the United States from the Republic of Albania ("Albania"). The extension of reciprocal MFN treatment was one of the principal provisions of the trade agreement negotiated between the United States and Albania and signed on May 14, 1992. On June 15, 1992, the President formally submitted the agreement and accompanying side letters to the Senate for its consideration, along with his proclamation extending nondiscriminatory treatment to imports from Albania.

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 29, 1992, the House Committee on Ways and Means ordered favorably reported H.J. Res. 507, the companion to S.J. Res.

317. The House of Representatives approved H.J. Res. 507 on August 3, 1992.

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 that 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 a nominal tax on visas or other documents required for emigration; or (c) imposes more than a 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 henceforth 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 multilateral negotiations are satisfactorily reciprocated by the other party to the agreement.

B. PRESIDENTIAL ACTION AND CONGRESSIONAL CONSIDERATION

(1) *Presidential action.*—On May 20, 1992, the President waived the application of sections 402 (a) and (b)—the Jackson-Vanik requirements—with respect to Albania upon his determination that such a waiver would substantially promote the Act's objectives relating to freedom of emigration. On June 3, 1992, the President notified Congress of his intention to extend the waiver for Albania for the year beginning July 4, 1992.

The President reported that he had received from the Albanian Government the requisite assurances on freedom of emigration. Specifically, the President stated that the U.S. Ambassador to Albania, during two meetings with Albanian Foreign Minister Serregi, had "received assurances that the government of Albania strongly favors free emigration and will do all in its power to assure that the country's emigration practices reflect a total commitment to free emigration."

On May 14, 1992, U.S. Trade Representative Carla Hills and Albania's Deputy Minister for Trade and Foreign Economic Relations Naski Afezulli signed a bilateral trade agreement. Accompanying side letters concerning the promotion of tourism and setting forth the terms of reference for the U.S.-Albanian Joint Commercial Commission are also integral parts of the agreement. The agreement, side letters, and a proclamation proclaiming MFN treatment for Albania were submitted formally to the Senate on June 15, 1992.

(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 that is a revenue measure with 90 session days.

House Joint Resolution 507 and Senate Joint Resolution 317—identical resolutions approving the proclamation of nondiscriminatory treatment to imports of products from Albania—were introduced in the House (on June 22, 1992) and in the Senate (on June 23, 1992), respectively. Senate Joint Resolution 317 was referred to the Senate Committee on Finance and House Joint Resolution 507 to the House Committee on Ways and Means. On July 2, 1992, the Committee on Finance issued a press release requesting public comments on the agreement by July 17, 1992. The Committee received four comments urging it to approve the extension of MFN treatment to Albania.

On July 29, 1992, the Committee on Ways and Means ordered House Joint Resolution 507 favorably reported to the full House. On August 3, 1992, the measure was approved by the House of Representatives.

C. SUMMARY OF THE U.S.-ALBANIAN TRADE AGREEMENT

The U.S.-Albanian trade agreement contains numerous provisions designed to facilitate two-way trade between the two countries. The agreement provides that the United States and Albania will accord each other nondiscriminatory 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. Albania also agrees to accede to the Convention Establishing the Customs Cooperation Council and the International Convention on the Harmonized Commodity Description and Coding System.

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, two 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, Albania 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 second side letter sets out the terms of reference for the U.S.-Albanian Joint Commercial Commission.

D. U.S.-ALBANIAN TRADE AND IMPACT OF TRADE AGREEMENT

(1) *U.S.-Albanian trade.*—Trade volumes with Albania are low. U.S. exports in 1991 reached \$18 million, with coal (\$6.7 million), wheat (\$5.5 million) and butter (\$1.7 million) our leading exports. U.S. imports from Albania totaled \$3.2 million, led by crude vegetable materials (\$3 million) and explosives (\$73,000). In the first five months of 1992, U.S. exports reached \$15 million, a 143 percent increase over the comparable period in 1991. U.S. imports from Albania in the January-May 1992 period were valued at less than \$1 million.

(2) *Impact of the trade agreement.*—The General Accounting Office ("GAO") has estimated that granting MFN status to Albania would have limited impact on the tariff rates paid on U.S. imports from Albania unless there is a major change in the composition of trade. According to the GAO, most of the items the United States has historically imported from Albania are ones that entered the United States duty free or with low tariff rates. For example, average duties on crude vegetable materials, which accounted for 79 percent of total U.S. imports from Albania over the 1987-1991 period, fell from 1.45 percent in 1987 to 0.62 percent in 1988 to zero in 1989 and 1990. In 1991, less than one-tenth of one percent of U.S. imports of vegetable materials from Albania were subject to import duties. The GAO also noted that some products which the United States has purchased in small quantities from Albania, including pig iron, will benefit from reduced tariffs. Overall, however, the GAO concluded that, because of the small size of the Albania economy and its limited export potential, it is unlikely that there will be a significant increase in imports from Albania if MFN is granted.

Nevertheless, the Committee believes that approval of the trade agreement and the extension of MFN treatment to Albania will start the two countries down the road toward increased economic cooperation, which will, over time, benefit companies in the United States as well as Albania. Accordingly, the Committee believes that prompt enactment of the U.S.-Albania 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 Albania, despite its current adverse economic situation, is pressing ahead with wide-ranging economic reforms, and commends these difficult but necessary steps.

The Committee believes that U.S. companies can assist Albania's transition to a market-based economy and that the prompt enactment of the U.S.-Albania trade agreement and extension of MFN

treatment is an important step toward that end. Accordingly, the Committee strongly supports enactment of S.J. Res. 317 and the extension of MFN treatment to Albania.

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. 317 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, August 4, 1992.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 317, a joint resolution approving the extension of most-favored-nation (MFN) status to Albania, as ordered reported by the Senate Committee on Finance on August 4, 1992. The CBO estimates that extending MFN status to Albania would cause a negligible reduction in federal government receipts in fiscal year 1993.

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, Albania does not currently 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 promote freedom of emigration in that country.

On June 3, 1992, 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 Albania for one year. S.J. Res. 317 approves the extension of MFN status to Albania. Granting Albania MFN status would result in a loss of customs duties because imports from Albania would be subject to lower tariff rates. CBO assumes enactment in fiscal year 1993 and estimates that the reduction in federal customs duties would be negligible.

S.J. Res. 317 would affect receipts and this would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Changes in outlays.....	(¹)	(¹)	(¹)	(¹)
Changes in receipts.....	0	0	0	0

¹ Not applicable.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell of the Tax Analysis Division.

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 businesses, 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. 317, 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*):

UNITED STATES CODE

TITLE 19—CUSTOMS DUTIES

CHAPTER 18—IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (1992) ANNOTATED FOR STATISTICAL REPORTING PURPOSES

GENERAL NOTES

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3(a) * * *

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(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
Albania
Cuba
Kampuchea

Laos
North Korea
Romania

Union of Soviet Socialist
Republics
Vietnam

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