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SENATE

REPORT
107–49

APPROVING THE EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS) TO THE PRODUCTS OF THE SOCIALIST REPUBLIC OF VIETNAM

JULY 27, 2001.—Ordered to be printed

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

REPORT

[To accompany S.J. Res. 16]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the joint resolution (S.J. Res. 16) approving the extension of nondiscriminatory treatment to the products of the Socialist Republic of Vietnam, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

I. SUMMARY

S.J. Res. 16 would approve the extension of nondiscriminatory (normal trade relations ("NTR")) treatment to products imported into the United States from the Socialist Republic of Vietnam ("Vietnam"). The reciprocal extension of NTR treatment is a principal provision of the Agreement Between the United States of America and the Socialist Republic of Vietnam on Trade Relations ("the U.S.-Vietnam Trade Agreement" or "the Agreement"), which was signed by U.S. Trade Representative Charlene Barshefsky and Vietnam's Trade Minister Vu Khoan, on July 13, 2000. On June 8, 2001, the President formally transmitted the agreement, including related annexes and exchanges of letters, to the Congress for its consideration, along with his proclamation extending nondiscriminatory treatment to imports from Vietnam.

Under section 405(c) of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 (Public Law No. 101–382), the trade agreement and proclamation may take effect only if a joint resolution approving the agreement is enacted into law.

89–010

II. General Explanation

A. THE STATUTORY FRAMEWORK

Title IV of the Trade Act of 1974, as amended, authorizes the President to extend NTR treatment to the products of any country not receiving such treatment on the date of enactment of that act (January 3, 1975) 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 NTR 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 NTR 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 are not eligible to receive NTR treatment, and that such countries may not participate in any U.S. Government 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 tax, levy, fine, fee or other charge on any citizen as a consequence of the desire of such citizen to emigrate. Further, the President is prohibited from concluding any commercial agreement with any country in which the foregoing restrictions apply.

A country may become eligible for NTR treatment and U.S. financial programs, and may conclude a commercial agreement with the United States, only if the President submits a report to Congress indicating that the country is not in violation of the provisions of section 402 as outlined above.

Alternatively, the President may waive the Jackson-Vanik requirements if he reports to Congress that a waiver will substantially promote the objectives of section 402 of the Trade Act of 1974, and if the President has received assurances that the emigration practices of the country will henceforth lead substantially to achievement of the objectives of such section. Waivers of the Jackson-Vanik requirements may be made for 12 months at a time. A recommendation to extend a waiver must be made not later than 30 days before the existing waiver expires. The recommendation to extend must be made in a report transmitted by the President to the Congress, setting forth his reasons for determining that extension of the waiver will substantially promote the objectives of section 402 of the Trade Act of 1974.

Renewal of a Jackson-Vanik waiver for a country triggers an opportunity for any Member of Congress to introduce a resolution disapproving the waiver. A resolution of disapproval is subject to special “fast track” rules for consideration by both Houses of Congress. If a resolution of disapproval with respect to a given country is enacted into law, the waiver for that country ceases to be effective starting on the 61st day after enactment of the resolution.

(2) Bilateral commercial agreement.—Section 405(b) of the Trade Act of 1974 requires that a bilateral commercial agreement with a Jackson-Vanik country:

(a) be limited to an initial 3-year period;

(b) be subject to suspension or termination for national security reasons;

(c) include "safeguard" provisions, allowing the United States to put measures in place to prevent "market disruption" from "actual or prospective imports";

(d) provide rights to U.S. patent and trademark holders not less than those provided for in the Paris Convention for the Protection of Industrial Property;

(e) provide rights to U.S. copyright holders not less than the rights provided for in the Universal Copyright Convention;

(f) provide arrangements for the protection of industrial rights and processes;

(g) provide arrangements for the settlement of commercial differences and disputes;

(h) provide for promotion of trade (including, for example, facilitation of trade fairs and activities of governmental commercial officers);

(i) provide for consultations to review the operation of the agreement; and

(j) provide for such other arrangements of a commercial nature as will promote the purpose of the Trade Act.

An agreement may be renewable for additional periods, each not to exceed 3 years, 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.—As a non-market economy country, Vietnam is subject to the Jackson-Vanik provisions (sections 402(a) and (b) of the Trade Act of 1974). On March 9, 1998, President Clinton determined for the first time since enactment of the Jackson-Vanik provisions that they should be waived with respect to Vietnam (Pres. Det. No. 98–17, reprinted in H. Doc. No. 105–227). On April 7, 1998, he issued an executive order to that effect (reprinted in H. Doc. No. 105–238). On June 3, 1998, he renewed the waiver for a full 12-month period, commencing July 3, 1998 (reprinted in H. Doc. No. 105–263).

In the report submitted with his June 3, 1998 waiver renewal, the President stated that "Vietnam's emigration policy has liberalized considerably over the last 10–15 years." He observed that, among other things, 480,000 Vietnamese had entered the United States under the Orderly Departure Program (ODP), and the Government of Vietnam had located, contacted, screened, and authorized for interview by the U.S. Immigration and Naturalization Service 78% of persons eligible for the Resettlement Opportunity for Vietnamese Returnees (ROVR) program (a U.S.-Vietnamese program leading to the resettlement in the United States of refugees from Vietnam).

The Jackson-Vanik waiver for Vietnam was renewed in 1999 and 2000. Resolutions of disapproval were introduced following each such renewal but failed to be enacted. The most recent waiver renewal was transmitted to the Congress by President Bush on June 1, 2001 (Pres. Det. No. 2001–17). The accompanying report stated, "Vietnam has a solid record of cooperation with the United States to permit Vietnamese emigration." The President observed that the majority of ODP and ROVR cases had completed processing in fiscal year 1999. He reported that, as of May 11, 2001, only 73 of nearly 21,000 ROVR applications were still pending.

The Jackson-Vanik waivers for Vietnam since March 9, 1998 have made Vietnam eligible for participation in certain U.S. government-sponsored financial credit and guarantee programs. However, absent a bilateral commercial agreement, the waivers have not resulted in extension of NTR status to products from Vietnam.

In 1996, the United States and Vietnam began negotiations on a bilateral trade agreement. This led to an agreement in principle in June 1999. Finally, on July 13, 2000, an agreement was signed by U.S. Trade Representative Charlene Barshefsky and Vietnam's Trade Minister, Vu Khoan. The agreement, including related annexes and exchanges of letters, was transmitted on June 8, 2001, by the President to the Congress for its consideration, along with his proclamation extending nondiscriminatory treatment to imports from Vietnam, as required by statute.

(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 No. 101–382), provide that a trade agreement and the Presidential proclamation granting NTR status may take effect only after a joint resolution of approval is enacted into law. Such a joint resolution is subject to the "fast-track" implementing procedures of the House and Senate set forth in section 151 of the Trade Act of 1974, as amended.

Section 151(b)(3) of the Trade Act of 1974 prescribes the text of an approval resolution. Section 151(c)(2) provides for the introduction of such a resolution in both Houses, upon transmittal of a bilateral commercial agreement by the President. It also provides for referral of the Senate resolution to the Committee on Finance and the House resolution to the Committee on Ways and Means. No amendments are in order. The procedures of section 151 provide for final congressional action on an approval resolution that is a revenue measure within 90 session days.

S.J. Res. 16 and H.J. Res. 51—identical resolutions approving the extension of nondiscriminatory treatment with respect to the products of Vietnam—were introduced in the Senate (on June 11, 2001) and in the House (on June 12, 2001), respectively. S.J. Res. 16 was referred to the Senate Committee on Finance, and H.J. Res. 51 was referred to the House Committee on Ways and Means.

On June 26, 2001, the Committee on Finance held a hearing on the U.S.-Vietnam Trade Agreement. Witnesses appearing before the Committee were Peter Davidson, Esquire (General Counsel, Office of the United States Trade Representative); the Honorable Ralph L. ("Skip") Boyce (Deputy Assistant Secretary of State for East Asian and Pacific Affairs); Virginia B. Foote (U.S.-Vietnam Trade Council); Lionel Johnson (Vice President and Director, International Government Relations, Citigroup, Inc.); and Mark

Levinson (Chief Economist and Director of Policy, Union of Needletrades, Industrial and Textile Employees). Other interested parties submitted written testimony for the record.

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

The core of the U.S.-Vietnam Trade Agreement consists of four chapters covering the following subjects: (1) trade in goods; (2) intellectual property rights; (3) trade in services; and (4) investment. In addition, there are chapters covering: (5) business facilitation (*i.e.*, rules requiring that each country allow nationals of the other country to engage in activities such as renting office space, importing business equipment, advertising, performing market studies, etc.); (6) transparency (*i.e.*, rules requiring that laws, rules and procedures be regularly and promptly published, that nationals of each country be given access to non-proprietary economic data, that nationals of each country be given a fair opportunity to comment on the formulation of laws, rules and procedures, etc.); and (7) cross-cutting matters (*e.g.*, national security exception, freedom of currency transfers, consultation provisions, etc.). Finally, appended to the agreement is an exchange of letters (incorporated by reference into the agreement) on the subject of investment licensing.

A chapter-by-chapter summary of the agreement follows:

Chapter I.—Chapter I of the agreement covers trade in goods. The United States and Vietnam each agree to accord non-discriminatory (NTR) treatment to products originating in or exported to the other country (*i.e.*, treatment no less favorable than that accorded to like products originating in or exported to a third country). The NTR requirement applies to customs duties and charges of any kind imposed on or in connection with importation or exportation; methods of payment for imports and exports; rules and formalities in connection with importation and exportation; taxes and other internal charges; and laws, regulations, and other requirements affecting the sale, offering for sale, purchase, transportation, distribution, storage, and use of products. Additionally, the United States and Vietnam each agree to accord national treatment to products originating in the other country (*i.e.*, treatment no less favorable than that accorded to like domestic products). The national treatment requirement applies with respect to internal taxes and charges as well as to other laws and regulations affecting products' internal sale, offering for sale, purchase, transportation, distribution storage or use.

Further, the agreement requires Vietnam to phase in "trading rights" (*i.e.*, rights of eligible companies to import and export goods) over a period of 3 to 7 years. Upon entry into force of the agreement, U.S.-invested companies will be allowed to import goods to be used in production activities in Vietnam and in exports from Vietnam. By the end of the 7-year period, U.S.-owned companies will be allowed to engage in most trading activities (subject to certain limitations with respect to particular product categories).

Vietnam is required to phase out quantitative restrictions on imports of certain products into Vietnam over periods of 3 to 7 years, depending on the product. Vietnam also has agreed to reduce tariffs on approximately 250 products. The parties also agree to pursue "the satisfactory reciprocation of reductions in tariffs and non-tariff barriers to trade in goods resulting from multilateral negotiations."

The agreement sets forth a "safeguard" procedure, authorizing the countries to put emergency measures into place in the event surges of imports from one country cause or threaten to cause market disruption in the other country.

The agreement requires each country to grant to nationals and companies of the other country access to all competent courts and administrative bodies. It also encourages the use of arbitration to settle commercial disputes.

The agreement permits Vietnam to continue operating state enterprises for the import and export of certain products. However, such enterprises are required to make purchases or sales involving imports or exports solely in accordance with commercial considerations.

Chapter II.—Chapter II of the agreement covers intellectual property rights. The parties are required to give effect to the substantive economic provisions of major intellectual property conventions. Further, each country is required to afford nationals of the other country treatment no less favorable than treatment it affords to its own nationals with regard to the acquisition, protection, enjoyment and enforcement of all intellectual property rights and any benefits derived therefrom.

The agreement contains several articles setting forth rights and obligations with respect to specific categories of intellectual property, including copyright, satellite signals, trademarks, patents, integrated circuit designs, trade secrets, and industrial designs. In general, Vietnam's obligations under these provisions are equal to or greater than the obligations that it would undertake if it were a party to the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property.

Each country is required to provide procedures in domestic law to permit prompt and effective action against infringement of intellectual property rights, including prompt and effective provisional measures. The agreement spells out certain due process requirements for such procedures. It further requires each country to provide "criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or infringement of copyrights or neighboring rights on a commercial scale." It also requires each country to adopt procedures enabling private parties to petition for suspension by the customs authorities of the release of imported goods that are found to infringe certain intellectual property rights.

The United States agrees to provide technical assistance to Vietnam "to strengthen its regime for the protection and enforcement of intellectual property rights."

With respect to most of its obligations under Chapter II, Vietnam is entitled to a transition period for compliance, with most core obligations phasing in by 18 months after entry into force of the agreement. Vietnam's trademark and patent obligations phase in 12 months after entry into force of the agreement. Most of its copyright and trade secrets obligations phase in 18 months after entry into force of the agreement.

Chapter III.—Chapter III of the agreement concerns trade in services. Each country is required to accord "immediately and unconditionally to services and service suppliers of the other country treatment no less favorable than it accords to like services and service suppliers of any other country" (*i.e.*, NTR treatment).

Under Chapter III, the United States and Vietnam made specific commitments with respect to particular service sectors. Vietnam made commitments in the following sectors (among others): legal services, accounting, computer services, telecommunications services, audio-visual services, construction, banking, insurance, and distribution. In sectors where a country made specific commitments, it generally is required to accord services and service suppliers of the other country treatment no less favorable that it accords its own like services and service suppliers (*i.e.*, the national treatment standard). Other commitments apply to such sectors as well. For example, the country is prohibited from applying excessively burdensome licensing requirements.

The agreement incorporates by reference certain provisions adopted by some members of the World Trade Organization, as follows: the Annex on Financial Services to the WTO General Agreement on Trade in Services ("GATS"); the GATS Annex on Movement of Natural Persons; the GATS Annex on Telecommunications, and the GATS Telecommunications Reference Paper.

Chapter IV.—Chapter IV of the agreement concerns development of investment relations. Investment is also addressed in an exchange of letters between U.S. Trade Representative Charlene Barshefsky and Vietnam's Trade Minister Vu Khoan, which is incorporated into the agreement.

Each country is required to extend the better of NTR treatment or national treatment to investments of nationals of the other country. This obligation applies with respect to all phases of investment (*i.e.*, establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition). Each country also is required to accord "fair and equitable treatment and full protection and security" to investments of nationals of the other country. This is an international law standard separate from the NTR/national treatment obligation.

Each country is required to provide nationals of the other country effective means to enforce rights with respect to investments in the territory of the first country. Each country also consents to submit investment disputes brought by nationals of the other country to binding arbitration.

Each country is prohibited from requiring technology transfers as preconditions for investment by nationals of the other country.

Any direct or indirect expropriations by either country must be for a public purpose, non-discriminatory, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law.

The agreement contains obligations on trade-related investment measures (such as requirements that products manufactured in a country contain specified quantities of local content). The parties agree not to apply any measures inconsistent with the WTO Agreement on Trade-Related Investment Measures. However, Vietnam is given a 5-year period in which to phase out certain such measures.

The agreement allows Vietnam to keep certain restrictions on investment in place during an initial 3-year period. For example, during this period, Vietnam may require that the capital contribution by U.S. nationals to joint ventures in Vietnam be at least 30%. Further, pursuant to the exchange of letters on investment licensing, Vietnam will be allowed to "pre-screen" certain investments before licensing those investments. Gradually (over a 9-year period), Vietnam will adopt a registration regime, akin to the regime for establishing a business in the United States.

Chapter V.—Chapter V of the Agreement covers business facilitation. Each country is obligated to permit nationals of the other country to rent office space, bring employees into the country, engage in advertising and direct sales, and engage in certain other conduct "to facilitate business activity."

Chapter VI.—Chapter VI of the agreement concerns transparency-related provisions and the right to appeal. Under this chapter, the parties are obligated to "publish on a regular and prompt basis all laws, regulations, and administrative procedures of general application pertaining to any matter covered by [the] Agreement." Each country also is obligated to provide nationals and companies of the other with data on the national economy and individual sectors. Each country also must afford nationals of the other country, to the extent possible, the opportunity to comment on the formulation of laws, regulations, and administrative procedures of general application.

The parties are required to publish measures of general application in a designated official journal.

The parties are required to administer their laws in a "uniform, impartial, and reasonable manner." They also are required to maintain administrative and judicial tribunals for the prompt review and correction of administrative action in areas covered by the agreement.

Chapter VII.—Chapter VII of the agreement, entitled "general articles," covers several miscellaneous issues. It requires that all cross-border commercial transactions be conducted in U.S. dollars or other freely usable currency, unless otherwise agreed to by the parties to such transactions. It also requires each country to extend non-discriminatory treatment with respect to transfers into and out of the country.

Chapter VII allows each country to take measures that it considers necessary for the protection of its own national security interests, notwithstanding its obligations under the agreement. It also provides for certain exceptions to the ordinary rules of the agreement (as, for example, in the case of measures taken to protect health and safety).

Chapter VII establishes a Joint Committee on Development of Economic and Trade Relations between Vietnam and the United States of America. The Committee's responsibilities will include monitoring operation of the agreement and addressing matters arising from interpretation or implementation of the agreement.

Finally, Chapter VII provides that the agreement will remain in place for an initial 3-year period and that it will be automatically renewable for successive 3-year periods, unless either country notifies the other of its intent to terminate at least 30 days before the date on which the 3-year term would end.

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

(1) U.S.-Vietnamese Trade.—Two-way trade (imports plus exports) between the United States and Vietnam in 2000 was $1.189 billion. This represents a five-fold increase from levels in 1994, when the embargo on Vietnam was lifted. In 2000, U.S. imports from Vietnam totaled $821.66 million, and U.S. exports to Vietnam totaled $367.72 million.

The main products the United States currently imports from Vietnam are: shrimps and prawns, coffee, rubber-soled footwear, petroleum oils, and cashew nuts.

The main products the United States currently exports to Vietnam are: steam turbine parts, machine parts, computers and computer parts, electronic circuits, and fertilizers.

U.S. foreign direct investment in Vietnam is roughly $1 billion, making the United States the ninth-largest foreign investor in Vietnam.

(2) Impact of the Trade Agreement.—The extension of nondiscriminatory treatment to goods imported into the United States from Vietnam means that tariffs imposed on such goods will fall from an average of 35% by value to an average of about 5% by value.

A 1999 World Bank study found that extending NTR treatment to imports into the United States from Vietnam would lead to a $430 million increase in the value of such imports over 1996 levels. The study found that using a more recent baseline (1998), the increase would likely be closer to $750 million per year. *See* E. Fukase & W. Martin, The Effect of the United States' Granting Most Favored Nation Status to Vietnam at 12 & n.10 (World Bank, 1999). The extension of NTR also will likely affect the composition of Vietnamese exports to the United States. Goods currently imported in small volumes or not at all may now be imported in significant quantities, due to lower tariffs. Based on Vietnam's exports to the European Union and Japan, likely categories of increased imports into the United States are garments, leather products, footwear, household plastic products, and processed foods.

Imports of apparel from Vietnam, in particular, are expected to increase dramatically. The above-cited World Bank study projected a 15-fold increase (from a 1996 baseline) in the value of U.S. imports of apparel products from Vietnam. Fukase & Martin, *supra,* at 12. In the event that such actual or prospective imports of apparel products (or any products) from Vietnam caused or threatened to cause or significantly contributed to market disruption in the United States, then the United States would be authorized to take a "safeguard" measure under Chapter I, Article 6 of the U.S.-Vietnam Agreement (concerning emergency action on imports). Such measures could include quantitative import limitations or tariff measures.

Moreover, under section 204 of the Agricultural Act of 1956 (7 U.S.C. § 1854), the President is authorized to negotiate agreements limiting the exportation from foreign countries and importation into the United States of textile and textile products. While the rules of the World Trade Organization limit the U.S. ability to negotiate such agreements in most cases, those rules do not apply to trade with Vietnam, since Vietnam is not a WTO member.

Benefits to U.S. exporters from the U.S.-Vietnam Trade Agreement are likely to phase in gradually, as Vietnam undertakes the market-oriented reforms required by the Agreement. Noticeable near-term impact should be a business environment in Vietnam more hospitable to U.S. investors, including shorter delays in obtaining investment licenses and enhanced legal protections.

In addition to the measurable benefits expected to flow from approval of the U.S.-Vietnam Trade Agreement, the Committee believes that the establishment of normal commercial ties between the United States and Vietnam will help bring about substantial, albeit less quantifiable benefits. These anticipated benefits include an increasingly open society governed by the rule of law and democratic principles. Striving towards these objectives is very much in the spirit of "the continued dedication of the United States to fundamental human rights," identified in the opening sentences of the Jackson-Vanik provisions of the Trade Act of 1974 (19 U.S.C. §2432(a)). In the expectation that a normalization of commercial relations will advance these goals, the Committee reports favorably S.J. Res. 16, approving the extension of NTR treatment to products of Vietnam, with the hope that the Senate will be able to act promptly on the resolution.

III. Congressional Action

On June 8, 2001, President Bush, in a message to the Congress, transmitted the Agreement Between the United States of America and the Socialist Republic of Vietnam on Trade Relations, signed July 13, 2000, including annexes and an exchange of letters forming an integral part of the Agreement. The President also transmitted with the same message a proclamation implementing the Agreement, and a report relative to the Agreement. The report urged the Congress to "act as soon as possible to approve, by a joint resolution referred to in section 151(b)(3) of the Trade Act, the extension of nondiscriminatory treatment to the products of Vietnam as provided for in the Agreement."

On June 11, 2001, Senator Daschle (for himself and Senator Lott) (by request) introduced S.J. Res. 16, a resolution approving the extension of nondiscriminatory treatment to the products of the Socialist Republic of Vietnam. The resolution was read twice and referred to the Committee on Finance.

On June 12, 2001, Congressman Armey (for himself, Congressman Gephardt, and Congressman Crane) (all by request) introduced H.J. Res. 51, which is identical in substance to S.J. Res. 16. H.J. Res. 51 was referred to the Committee on Ways and Means.

IV. 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. 16 was ordered favorably reported by voice vote with a quorum present on July 17, 2001.

V. Budgetary Impact of the Bill

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 27, 2001.

Hon. Max Baucus,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S.J. Res. 16, a joint resolution approving the extension of nondiscriminatory treatment to the products of the Socialist Republic of Vietnam.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

S.J. Res. 16—Approving the extension of nondiscriminatory treatment to the products of the Socialist Republic of Vietnam

Summary: S.J. Res. 16 would approve extension of nondiscriminatory treatment, or Normal Trade Relations (NTR) status, to the Socialist Republic of Vietnam, as transmitted by the President on June 8, 2001. CBO expects that enacting the bill would reduce revenues by $33 million in 2002, by $181 million over the 2002–2006 period, and by $416 million over the 2002–2011 period. Since enacting S.J. Res. 16 would affect revenues, pay-as-you-go procedures would apply.

S.J. Res. 16 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S.J. Res. 16 is shown in the following table.

[By fiscal year, in millions of dollars]

	2002	2003	2004	2005	2006
CHANGES IN REVENUES					
Estimated revenues	−33	−34	−36	−38	−40

Basis of estimate: S.J. Res. 16 would immediately extend NTR to products from Vietnam. Such products currently bear general rates of duty which are significantly higher than the rates applied to products from countries with NTR treatment. Based on information from the Office of the United States Trade Representative (USTR) and from Census Bureau data on imports from Vietnam, CBO estimates that the reduction of tariff rates would reduce revenues by about $33 million in 2002, net of income and payroll tax offsets. This estimate includes the effects of increased imports from Vietnam that would result from reduced prices of imported products in the United States—reflecting the lower tariff rates—and has been estimated based on the expected substitution between U.S. products and imports from Vietnam. In addition, it is likely that part of the increase in U.S. imports from Vietnam would displace imports from other countries. In the absence of specific data on the extent of this substitution effect, CBO assumes that an amount equal to one-half the increase in U.S. imports from Vietnam will displace imports from other countries.

An extension of NTR treatment to products from Vietnam would be subject to annual review. 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. The President may waive this prohibition on an annual basis, however, if he certifies that doing so would promote freedom of emigration in that country. Vietnam has received such a waiver on an annual basis since 1998, and CBO assumes that Vietnam would continue to receive such a waiver after enactment of S.J. Res. 16. Based on information from the USTR and the Census Bureau, CBO estimates enacting the legislation would reduce revenues by $181 million over the 2002–2006 period, and by $416 million over the 2002–2011 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up procedures for legislation affecting receipts or direct spending. 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]

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	0	−33	−34	−36	−38	−40	−42	−44	−47	−49	−52
Changes in outlays[1]											

[1] Not applicable.

Intergovernmental and private sector impact: S.J. Res. 16 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of State, local or tribal governments.

Estimate prepared by: Federal Revenues: Erin Whitaker. Impact on State, local, and tribal governments: Scott Masters. Impact on the Private Sector: Paige Piper/Bach.

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

VI. Regulatory Impact and Other Matters

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 affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4). The Committee has reviewed the provisions of S.J. Res. 16 as approved by the Committee on July 17, 2001. In accordance with the requirements of Pub. L. No. 104–4, the Committee has determined that the resolution contains no intergovernmental mandates, as defined in the UMRA, and would not affect the budgets of state, local or tribal governments.

VII. 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. 16, 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 HARMONIZED TARIFF SCHEDULE

Harmonized Tariff Schedule of the United States (2001) 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, Cuba, Laos, North Korea【, Vietnam】.

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