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EXTENSION OF NONDISCRIMINATORY TREATMENT TO PRODUCTS OF HUNGARY

JUNE 22 (legislative day, MAY 17), 1978.—Ordered to be printed

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

REPORT

[To accompany H. Con. Res. 555]

The Committee on Finance, to which was referred the concurrent resolution (H. Con. Res. 555), having considered the same, reports favorably thereon without amendment and recommends that the concurrent resolution do pass.

I. SUMMARY

House Concurrent Resolution 555 would approve the extension of nondiscriminatory (most-favored-nation (MFN)) treatment to products imported from Hungary into the United States. The extension of such treatment was the subject of a trade agreement between the United States and the Hungarian People's Republic. This agreement was signed on March 17, 1978. The President proclaimed the extension of nondiscriminatory treatment to imports from Hungary on April 7, 1978.

Under section 405(c) of the Trade Act of 1974, neither the trade agreement or proclamation are effective until both Houses of Congress adopt a concurrent resolution of approval. House Concurrent Resolution 555 passed the House on May 22, 1978. If it is adopted by the Senate, the trade agreement and proclamation will become effective.

II. GENERAL EXPLANATION

THE STATUTORY FRAMEWORK

Title IV of the Trade Act of 1974 authorizes the President to extend, under certain circumstances, MFN treatment to countries whose products do not currently receive such treatment. The only countries not now receiving MFN treatment are the Communist nations

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(with the exception of Poland, Yugoslavia, and Romania). Under title IV, only countries entering into bilateral commercial agreements with the United States may receive MFN treatment. This treatment may remain in effect only so long as the agreement remains in force between the United States and the nonmarket economy country concerned, or until the President suspends or withdraws such treatment, which he may do at any time.

All title IV bilateral agreements between the United States and a nonmarket economy country are required to include provisions for:

1. Suspension or termination for reasons of national security;
2. Safeguards against disruption of U.S. markets;
3. Protection of patents, if the nonmarket economy country is not a member of the Paris Convention for the Protection of Industrial Property, and protection of rights such as copyrights;
4. Settlement of commercial disputes and the promotion of trade and other commercial arrangements; and
5. Consultations for reviewing the operation of the agreement and relevant aspects of relations between the United States and the other country.

Trade benefits, including MFN treatment, under any bilateral agreement must be limited to an initial period not exceeding 3 years. Thereafter, an agreement may be renewed for additional periods, each of not more than three years, providing that a satisfactory balance of concessions in trade and services has been maintained and that U.S. reductions in trade barriers have been reciprocated by the other party. Services include transportation and insurance and other commercial services associated with international trade.

All bilateral agreements entered into between the United States and a nonmarket economy nation are subject to approval by both Houses of Congress. Under section 405(c) of the Trade Act of 1974, an agreement may take effect only if a concurrent resolution of approval is adopted within 60 working days after the President submits the agreement to Congress. Special procedural rules for congressional consideration of the resolution are contained in section 151 of the Trade Act.

In addition to the requirements regarding content of the agreement and specific approval by Congress, title IV imposes another condition on the delegation of authority to the President to enter into such agreements and to extend MFN treatment. Section 402 of the Trade Act provides that no country is eligible to receive MFN tariff treatment or U.S. Government credits, credit guarantees or investment guarantees if the President determines such country: (1) denies its citizens the right or opportunity to emigrate; (2) imposes more than a nominal tax on emigration, or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or (3) imposes more than a nominal tax, levy, fine, fee or any charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice. A country may become eligible for nondiscriminatory treatment under title IV only after the President has determined that it has not violated any of the above conditions and so reports his determination to Congress.

Title IV does contain a provision allowing the President to waive the freedom of emigration requirement for any country if he reports to Congress that: (1) he has determined that such a waiver would promote the objectives of free emigration, and (2) he has received assurances that the emigration practices of such country will henceforth lead substantially to freer emigration. The waiver authority may be extended by Presidential action for one-year periods, subject to congressional review.

PRESIDENTIAL ACTION AND HOUSE CONSIDERATION

On April 7, 1978, the President transmitted to Congress pursuant to section 407 of the Trade Act the Agreement on Trade Relations Between the United States and the Hungarian People's Republic along with a proclamation extending nondiscriminatory treatment to imports of products from Hungary. Pursuant to section 151 of the Trade Act providing for congressional implementation procedures, an approval resolution—House Concurrent Resolution 555—was introduced on April 10, and referred to the Committee on Ways and Means. An identical resolution, Senate Concurrent Resolution 76, was introduced in the Senate on April 7, and was referred to the Committee on Finance. The resolutions would approve the extension of nondiscriminatory treatment and permit the commercial agreement to become effective. On May 22, 1978, the House approved House Concurrent Resolution 555. The resolution was sent to the Senate and referred to the Committee on Finance.

As noted, in addition to congressional approval of the trade agreement itself, all commercial agreements with nonmarket economy countries are subject to the freedom-of-emigration requirements of section 402 of the Trade Act. The requirements may be waived by the President, subject to congressional review. At the time of submission of the United States-Hungarian Trade Agreement to Congress, the President waived the freedom-of-emigration requirements for Hungary, reporting to Congress that he determined that such a waiver would promote the objective of free emigration and that he had received assurances that the emigration practices of Hungary would lead substantially to free emigration.

The procedures for congressional consideration of a freedom-of-emigration waiver are separate and distinct from the approval procedures for the trade agreement and extension of MFN treatment. No action with respect to the waiver is required now by the Senate. Under the Trade Act, congressional review of this waiver by the President occurs when the President recommends to Congress that his authority to waive the freedom-of-emigration requirements be extended for a 1-year period. The President must request such an extension of the waiver authority at least 30 days before its expiration. On June 2, 1978, the President submitted a recommendation to Congress that the authority be extended for an additional year. The Congress, within 60 days after the end of the previous extension, i.e., July 3, 1978, may disapprove such extension entirely or for individual countries by adoption of a simple resolution of disapproval. Congressional disapproval would terminate MFN treatment.

THE UNITED STATES-HUNGARIAN TRADE AGREEMENT

On March 17, 1978, the United States and the Hungarian People's Republic entered into a trade agreement. The following is a brief description of the main provisions of the agreement.

The agreement requires that both countries provide most-favored-nation treatment for the imports of products from the other country. It also provides that both countries agree to maintain a satisfactory balance of concessions in trade and services during the period of the agreement, and to reciprocate satisfactorily for reductions by the other party in tariffs and nontariff barriers to trade that result from multilateral trade negotiations.

The agreement provides that commercial transactions will be effected on the basis of contracts to be concluded between firms or enterprises of the two countries. Such contracts are generally to be concluded on the basis of commercial considerations and terms customary in international commercial practice.

The agreement provides for business facilitation arrangements. Firms of each country are to be afforded access to all courts and administrative agencies of the other country, and plaintiffs or defendants are to receive most-favored-nation treatment. In compliance with applicable laws and regulations, each country must permit business enterprises of the other to advertise and promote products and services and to provide technical services, to initiate and maintain contact with present or potential buyers, users and suppliers for authorized purposes, and to facilitate the entry, exit and stay within its territory of foreign employees and foreign representatives of firms of the other country. Further, each country agrees not to take measures which would unreasonably impair the contractual rights or other interests acquired within its territory by a firm of the other country. Except in time of declared national emergency, neither country is to place restrictions upon the export from its territory of freely convertible currency, deposits or instruments representative thereof, by the fims of the other country.

With respect to industrial and intellectual property rights, each party reaffirms the commitments made with respect to industrial property in the Paris Convention for the Protection of Industrial Property, and the commitments made in the Universal Copyright Convention. Each country is to provide to the firms of the other country national treatment or most-favored-nation treatment, whichever is more favorable, with respect to legal protection of these rights.

The agreement permits safeguard action by one country against market disruption by imports from the other country. The agreement requires prompt consultations in a situation where market disruption is occurring or is likely to occur. Market disruption is defined in the terms used in section 406 of the Trade Act of 1974, i.e., whenever imports of an article, like or directly competitive with an article produced by a domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to the domestic industry. Either country may impose restrictions on imports originating in the territory of the other country to prevent or remedy actual or threatened market disruption.

The agreement contains provisions relating to settlement of commercial disputes. Both countries endorse the use of arbitration for the settlement of disputes not otherwise amicably resolved.

The agreement will take effect when the domestic legal processes of each country necessary to make the agreement effective domestically have been concluded. The initial term of the agreement is to be three years. The agreement is to be extended for successive periods of three years each unless either country has given written notice to the other country of the termination of the agreement at least 30 days prior to expiration.

UNITED STATES-HUNGARIAN TRADE

Overview.—In the last 10 years the United States and Hungary have been taking steps to develop closer ties to the mutual benefit of both nations and peoples, culminating in the signing of the trade agreement. We have signed and implemented a consular convention (1972) as well as a cultural and scientific exchange agreement (1977). Economic relations have been improved through the conclusion of a claims settlement agreement (1973) and the establishment of the Hungarian-United States Economic Council. Most recently, in early 1978, the United States returned the Crown of St. Stephen, the Hungarian symbol of sovereignty, to the Hungarian people.

In comparison with most other Eastern European countries, Hungary is poor in natural resources. The only resources available are large deposits of bauxite, some uranium, natural gas, and copper. The supply of labor is limited and population growth is declining, a trend which is expected to continue for some years to come.

Given these constraints, the Hungarians have decided to modernize their industry by purchasing advanced technology from the West. The basic emphasis is to achieve growth and industrial output by raising labor productivity. This industrial development program is expected to produce export goods which are competitive in Western markets.

Notwithstanding the committee's favorable report of the resolution, the committee is particularly concerned about the full and faithful execution of that part of the trade agreement relating to industrial property rights. The committee has been informed by the American agricultural chemicals industry of certain past practices of firms and agencies in Hungary which will not be in accord with the spirit, if not the letter, of the agreement. These include the granting of patents to Hungarian firms while denying or failing to act on the applications of American firms. Furthermore, the committee understands Hungarian firms are selling agricultural chemicals protected by American owned patents in third countries, countries where the American chemical companies have patent protection, in a manner such that the American firms find it practically impossible to protect their industrial property rights. The committee expects that such practices will no longer take place under this new, mutual undertaking by the Government of Hungary and that of the United States. The committee will carefully monitor this problem during the life of the agreement and will again review it at the time for renewal and may recommend further action, if necessary.

It is also important to note that since most desired advance technology is not available in Eastern Europe, and hard currency needed for its purchase from the West is in short supply, the Hungarians are also liberalizing conditions for Western companies to set up manufacture in Hungary under so-called industrial cooperation agreements (ICA's) or as joint ventures. The two most important provisions of a new investment law now permit joint ventures in the production sector and majority equity ownership by foreign partners in joint ventures in finance and services. This law also provides for repatriation of profits in hard currency by Western firms operating in Hungary. Almost 500 ICA's and three joint venture agreements have been entered into between Western firms and Hungarian firms since the economic reform of 1968.

Total U.S. trade with Hungary has increased at a very rapid rate, rising from about $15 million in 1968 to $127 million in 1977, an increase of over 800 percent. U.S. exports to Hungary increased from about $11 million in 1968 to almost $80 million in 1976, or by about 750 percent. U.S. imports for consumption from that country rose nearly twice as fast, from about $4 million to $47 million during the same period, or by about 1,200 percent. In 1977, the balance of trade was favorable to the United States by about $33 million.

U.S. exports.—In 1977, as in prior years, exports were centered in agricultural products and heavy machinery. Agricultural products accounted for over 42 percent of U.S. exports to Hungary in 1977. Soybean oil-cake and meal remained the major items exported, but the value of these exports has declined steadily since 1975, from a peak of $34.9 million in that year to $14.5 million in 1976 and to $12.3 million in 1977. A substantial portion of these sales has probably been lost to Brazil, which has rapidly increased its soybean and soy product exports in recent years. Exports of yellow corn, however, increased twentyfold, from only $400,000 in 1976 to $8.2 million in 1977. Other major agricultural exports include dairy cattle for breeding stock, cattle hides, kip and sheepskins, and oats.

The other major category of U.S. export trade with Hungary is machinery and transport equipment. These exports have grown much faster than overall exports in the last decade, rising from less than $1 million in 1968 to $27.3 million in 1977. In 1976 and 1977, they accounted for approximately one-third of total U.S. exports to Hungary. Industrial trucks and tractors were the largest subgroup, totaling $6.1 million, followed by agricultural machinery at $5 million, calculator and computer equipment, glassworking machinery, scientific measuring and testing equipment, and metalworking machinery.

Exports of chemicals, which had shown promise in 1976, when they reached a record value of $16.7 million, declined to $11.3 million in 1977, barely above the 1975 level. This pattern was governed by fluctuating sales of concentrated superphosphate fertilizer, which comprised roughly three-fourths of the value of U.S. chemical exports to Hungary in the period 1975–77.

U.S. imports.—U.S. imports from Hungary are heavily weighted toward agricultural products; over 55 percent of the value is attributable to these items. This proportion has been increasing in the 1970's, as Hungary's traditional role as an agricultural producer and exporter has received renewed emphasis. The most important U.S. import in 1977 was canned hams weighing over 3 pounds, totaling $18.1 million. Other canned pork products imported from Hungary were valued at $1.9 million for the year. U.S. imports of Hungarian paprika rose to $1.1 million in 1977, compared with less than $700,000 in the previous year. Another major agricultural product was opium alkaloids used as the main ingredient in many opium-based drugs; imports of this item reached $2.5 million in 1977, and accounted for nearly the total increase in U.S. chemical imports from Hungary in that year.

Imports of manufactured goods, classified by chief material, declined slightly to $3.0 million in 1977, due principally to reduced shipments of rubber tires. Machinery and equipment imports fell more sharply, reflecting declining U.S. purchases of motor vehicle parts and miscellaneous machinery and appliances. Partially offsetting these reductions, U.S. imports of ladies' footwear from Hungary rose from $500,000 in 1976 to $1.7 million in 1977.

Impact on U.S. imports and exports of MFN status.—Under the trade agreement, each party agrees to extend MFN treatment in accordance with the principles of the General Agreement on Tariffs and Trade (GATT). In 1973 Hungary acceded to the GATT with a special protocol of accession. It was the fourth Communist nation to do so. However, unlike Poland, Yugoslavia, and Romania, which acceded prior to 1973, Hungary was able to offer tariff schedules as the basis of its concessions. Because Hungary's tariff does serve as an influential factor in trade, negotiated tariff concessions are of real value. Therefore, assuming congressional approval of the trade agreement, not only will Hungary benefit from MFN treatment in the U.S. market, access to Export-Import Bank credits, and strengthened technological ties with the United States, but also the United States will benefit from the application by Hungary of substantially lower MFN rates on U.S. imports.

The probable effect on U.S. imports of granting MFN status depends on the relative levels of MFN and non-MFN tariffs, the ability of Hungary to supply increased imports, and the U.S. demand for these imports. Estimates have indicated that U.S. imports of clothing, footwear, alumina, and electric light bulbs are leading candidates for increases. Imports of chairs, linens, refrigerators, electric power machinery, oil-seeds, and feathers may also increase, but to a smaller degree. Even substantial increases in imports of these products are not expected to have a large impact on the U.S. market, however. For example, imports of clothing from Hungary in 1975 represented only 0.4 percent of total U.S. clothing imports. In the same year, imports of Hungarian footwear represented only 0.01 percent of the import total.

Regarding the possible impact of MFN treatment on U.S. exports to Hungary, likely candidates for increased exports include pumps for liquids; air pumps, vacuum pumps, and air or gas compressors; air conditioners; industrial and laboratory furnaces and ovens; refrigerators and refrigerating equipment; excavating, extracting, leveling machinery; agricultural machinery for soil preparation; harvesting machinery; machine tools for working stone, ceramics, wood, etc.; bearings; and electrical generators and transformers.

III. Regulatory Impact of the Bill

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the committee states that the provisions of the bill should not result in new major and continuing regulatory activity.

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 the bill was ordered reported by voice vote.

V. Budgetary Impact of the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, and based on best available estimates, the committee estimates that the maximum Customs revenue loss which would result from passage of this resolution is $3.3 million in the first year of operation. This estimate is based upon calculations of the differences in duties which would have been collected under column 1 of the Tariff Schedules of the United States if Hungarian imports had entered thereunder and duties collected under column 2 in 1976 on imports from Hungary.

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