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107–154

DISAPPROVAL OF NORMAL TRADE RELATIONS TREATMENT TO THE PRODUCTS OF VIETNAM

JULY 23, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

ADVERSE REPORT

[To accompany H.J. Res. 55]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 55) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, having considered the same, report unfavorably thereon without amendment and recommend that the joint resolution do not pass.

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I. INTRODUCTION

A. PURPOSE AND SUMMARY

House Joint Resolution 55 would disapprove the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam.

B. BACKGROUND

Vietnam's trade status is subject to the "Jackson-Vanik" provisions in Title IV of the Trade Act of 1974 (the Act). This provision of law governs the extension of normal trade relations (NTR), including NTR tariff treatment, and access to U.S. Government credits, or credit or investment guarantees, to nonmarket economy countries ineligible for NTR treatment as of the enactment of the Act. A country subject to the provision may gain coverage by U.S. trade financing programs by complying with the freedom of emigration provisions under the Act. The extension of NTR tariff treatment also requires the conclusion and approval by Congress of a bilateral commercial agreement with the United States providing for reciprocal nondiscriminatory treatment.

The Act authorizes the President to waive the freedom of emigration requirement with respect to a particular country if he determines that a waiver will substantially promote the freedom of emigration provisions, and if he has received assurances that the emigration practices of the country will lead substantially to the achievement of those objectives. Waiver of the emigration requirement allows the country to be eligible for U.S. trade financing programs and, if the country has concluded a bilateral commercial agreement approved by Congress, to receive NTR tariff treatment.

Since the early 1990s, the United States has taken gradual steps to improve relations with Vietnam. On February 3, 1994, the President lifted the trade embargo on Vietnam in recognition of the cooperation received from the Government of Vietnam in Prisoner of War/Missing in Action (POW/MIA) accounting. On July 11, 1995, the President announced the establishment of diplomatic relations, which was followed by the appointment of former Congressman Douglas "Pete" Peterson as U.S. Ambassador to Vietnam. In 1997, the United States began negotiations with Vietnam toward the conclusion of a bilateral commercial agreement.

On March 9, 1998, the President first determined that a Jackson-Vanik waiver for Vietnam would substantially promote the freedom of emigration objectives under the Act. On April 7, 1998, the President issued Executive Order 13079, under which the waiver entered into force. The renewal procedure under the Act requires the President to submit to Congress a recommendation for a 12-month extension no later than 30 days prior to the waiver's expiration. The President has renewed Vietnam's waiver every year since 1998, most recently on June 1, 2001 (H. Doc. 107–82). This waiver authority will continue in effect unless disapproved by Congress within 60 calendar days after the expiration of the existing waiver (i.e., September 1). Disapproval, should it occur, would take the form of a joint resolution disapproving of the President's waiver determination.

On July 13, 2000, the bilateral commercial agreement was signed by the United States and Vietnam. On June 8, 2001, President

Bush transmitted the agreement to Congress for its approval. The agreement contains five major sections, including: (1) market access for agricultural and industrial goods; (2) intellectual property rights protection; (3) market access for services; (4) provisions to protect U.S. investments; and (5) measures to ensure transparency in Vietnamese laws, rules and regulations.

Because Congress has not yet approved the bilateral commercial agreement, Vietnam is ineligible to receive NTR tariff treatment. However, the President's annual determinations to grant a waiver of Jackson-Vanik emigration requirements to Vietnam allow U.S. exporters doing business in Vietnam to have access to U.S. government credits, or credit or investment guarantees, such as those provided by the Overseas Private Investment Corporation (OPIC), the Export-Import Bank (Ex-Im Bank), and the U.S. Department of Agriculture (USDA), provided that Vietnam meets the relevant program criteria. A formal agreement between OPIC and Vietnam was signed on March 19, 1998, and the Ex-Im Bank signed a framework guarantee agreement with the State Bank of Vietnam on December 9, 1999. Commercial sales of agricultural commodities to Vietnam are also eligible for coverage by USDA's Southeast Asia Regional GSM–102 program for short-term export credit guarantees.

Vietnam is the world's 13th most populous country, with nearly 80 million people. While the country has emerged as one of Southeast Asia's more promising economies and has the potential to be a strong trading partner for the United States, its full potential has yet to be realized. Cumulative foreign direct investment by U.S. companies in Vietnam is low, valued about $1 billion, making the United States the ninth-largest source of investment in Vietnam. As of March 31, 2001, OPIC has received political risk insurance registrations for 26 projects, representing potential U.S. investment of $900 million. However, actual current OPIC exposure is 2 projects, representing $10.3 million. Since the end of 1999, the Ex-Im Bank has issued over fifty letters of interest, although no final commitment applications have been received yet.

After the President ordered an end to the U.S. trade embargo in 1994, two-way trade between the United States and Vietnam increased steadily from $223 million in 1994 to $935 million in 1996. In part, this rapid growth was due to a large number of U.S. aircraft sales to Vietnam in 1996. Despite a dampening effect on trade as a result of the Asian financial crisis which began in 1997, two-way trade was still $666 million that year. Beginning in 1998, two-way trade began to increase again and reached $828 million in 1998, $880 million in 1999, and $1.16 billion in 2000. Last year, U.S. exports to Vietnam totaled $331 million, while U.S. imports in return were valued at $827 million. Between 1994 and 2000, total trade between the United States and Vietnam increased by 420 percent.

Top U.S. exports to Vietnam include aircraft, industrial and office machinery, footwear parts, telecommunications equipment, and fertilizer. Major U.S. imports from Vietnam include shrimp, footwear, coffee, petroleum products, and cashews.

C. LEGISLATIVE HISTORY

Committee action

House Joint Resolution 55 was introduced on June 21, 2001, by Mr. Rohrabacher to disapprove the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974, recommended by the President to Congress on June 1, 2001, with respect to Vietnam. The resolution was referred to the Committee on Ways and Means. On July 12, 2001, the Committee on Ways and Means ordered House Joint Resolution 55 reported adversely without amendment to the House of Representatives by a voice vote with a quorum present.

Legislative hearing

No legislative hearing was held.

II. EXPLANATION OF THE RESOLUTION

Present law

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 (P.L. 101–382), sets forth three requirements relating to freedom of emigration which must be met or waived by the President in order for a nonmarket economy country to gain access to U.S. government credits, or credit or investment guarantees. Congress has not yet approved the bilateral commercial agreement with Vietnam signed on July 13, 2000; therefore, Vietnam is not yet eligible to receive NTR tariff treatment. The President's waiver of the freedom of emigration requirements for Vietnam, however, currently gives U.S. exporters doing business in Vietnam access to U.S. government credits, or credit or investment guarantees, such as those administered by OPIC, the Ex-Im Bank, and USDA, provided that Vietnam meets the relevant program criteria.

The President's waiver authority under the Act expires at midnight on July 2 of each year. The Act also establishes procedures by which the President can renew his waiver on an annual basis and procedures for Congressional disapproval of the President's waiver. A waiver may be extended on an annual basis upon a Presidential determination and report to Congress that such extension will substantially promote the freedom of emigration objectives in the Act. The waiver authority continues in effect unless disapproved by the Congress, either generally or with respect to a specific country, within 60 calendar days after the expiration of the existing authority. Disapproval takes the form of a joint resolution disapproving the extension of Presidential authority to waive the freedom of emigration requirements in the Act. The resolution is referred to the Committee on Ways and Means, which has 30 days to consider it. The resolution is not amendable except to add or remove country names affected. If the resolution passes both Houses and is vetoed by the President, Congress must consider the veto message before the later of the end of the 60–day period or within 15 legislative days. The disapproval resolution is highly privileged.

On June 1, 2001, the President issued an extension of the waiver from the Jackson-Vanik freedom of emigration requirements for Vietnam. If both chambers of Congress do not pass a resolution of disapproval within the 60 calendar days following the expiration of the existing waiver authority, the President's waiver is automatically renewed through July 2, 2002. If a resolution of disapproval is enacted, it becomes effective 60 days after enactment.

Explanation of resolution

House Joint Resolution 55 states that Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974, recommended by the President to Congress on June 1, 2001, with respect to Vietnam.

Reasons for Committee action

The Committee on Ways and Means reports House Joint Resolution 55 adversely primarily because the Members support the Administration's policy of engagement and gradual normalization of relations with Vietnam. In particular, the Committee is convinced that this policy is the cornerstone on which the United States will be able to continue cooperation with the Vietnamese government to achieve the fullest possible accounting of POWs and MIAs in Vietnam. In addition, engagement enables the United States to influence the pace and direction of economic and political reform in Vietnam in a manner that will improve respect for fundamental human rights and promote democratic reforms. Furthermore, termination of the President's Jackson-Vanik waiver for Vietnam would undermine the ability of the United States to influence Vietnam's re-emergence into the community of nations. In recent years, Vietnam has joined the Association of Southeast Asian Nations and the Asia-Pacific Economic Cooperation group. Vietnam has also applied to become a member of the World Trade Organization.

The Committee recognizes that disapproving the President's extension of Vietnam's Jackson-Vanik waiver would derail the process of normalizing U.S. trade relations with Vietnam. In particular, overturning the Jackson-Vanik waiver would harm U.S. exporters and workers by delaying the possibility for the extension of NTR to Vietnam under the bilateral commercial agreement between the United States and Vietnam, which was recently submitted to Congress for its approval. As a direct consequence of terminating the Jackson-Vanik waiver, U.S. exporters doing business in Vietnam would lose access to U.S. trade financing programs, such as those administered by OPIC, the Ex-Im Bank, and USDA, thereby enabling foreign competitors to gain an unfair advantage in exports to Vietnam.

While emigration issues remain to be resolved, Vietnam has continued to make progress, and the Members of the Committee support the President's determination that waiving the Jackson-Vanik freedom of emigration criteria will substantially lead to the achievement of those emigration objectives. The Committee also believes the serious concerns that the United States has about human rights abuses and the need for economic and political reform in Vietnam are best addressed through expanding government and business contacts and the involvement of U.S. citizens in Vietnamese society, making full use of U.S. trade statutes where necessary.

Effective date

The resolution would be effective 60 days after enactment.

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the votes of the Committee in its consideration of House Joint Resolution 55.

Motion to report the resolution

House Joint Resolution 55 was ordered reported adversely without amendment by a voice vote with a quorum present.

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of House Joint Resolution 55, as reported: The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with subdivision 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the provisions of House Joint Resolution 55 do not involve any new budget authority, or any increase or decrease in revenues or tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 16, 2001.

Hon. WILLIAM "BILL" M. THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.J. Res. 55, disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker (for revenues) and Greg Hitz (for federal costs).

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

H.J. Res. 55—Disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam

Summary: 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. On June 1, 2001, President Bush transmitted to the Congress his intention to waive the prohibition with respect to Vietnam for a year, beginning July 3, 2001. H.J. Res. 55 would disapprove the President's extension of this waiver. This legislation could affect direct spending if credit-guaranteed sales of farm products to Vietnam are prohibited. However, CBO estimates that such sales are likely to be insignificant. Because the bill could affect direct spending, pay-as-you-go procedures would apply.

H.J. Res. 55 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: CBO estimates that disapproving the extension of the waiver with respect to Vietnam would have no significant impact on direct spending or receipts. Because the waiver contained in section 402(c) of the Trade Act of 1974, as recommended by the President, would not give Vietnam normal trade relations treatment, disapproving it would not affect customs duties.

Enacting H.J. Res. 55 would prohibit various U.S. government agencies from extending credit and insurance to Vietnam. CBO estimates that the resolution would have no significant effect on the Overseas Private Investment Corporation, Eximbank programs, or General Sales Manager (GSM) export credit guarantee programs of the U.S. Department of Agriculture (USDA). While Vietnam is currently eligible to purchase farm and food commodities backed by GSM export credit guarantees if the waiver is not disapproved, CBO estimates the likelihood that these guarantees will be offered is small. If USDA does offer GSM credit guarantees to Vietnam, the value of the sales and the associated costs during the next year are likely to be insignificant.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because H.J. Res. 55 could affect direct spending, pay-as-you-go procedures would apply. However, CBO estimates that disapproving the extension of the waiver to Vietnam would have no significant impact on direct spending.

Intergovernmental and private-sector impact: H.J. Res 55 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous estimate: On July 7, 2000, CBO transmitted an estimate for H.J. Res. 99, disapproving the extension of the waiver authority contained in section 402(c) with respect to Vietnam, as ordered reported adversely by the House Committee on Ways and Means. Last year's joint resolution would have disapproved the extension of the President's waiver for the period beginning on July 3, 2000, and ending on July 2, 2001. H.J. Res. 55 would disapprove of the extension of the President's waiver for the period beginning July 3, 2001, and ending July 2, 2002. The two CBO cost estimates for the disapprovals of such waivers are very similar.

Estimate prepared by: Federal revenues: Erin Whitaker; Federal costs: Greg Hitz; Impact on State, local, and tribal governments: Elyse Goldman; Impact on the private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee believes, based on information from the Administration, that terminating Vietnam's Jackson-Vanik waiver by enacting House Joint Resolution 55 would be unwise and counterproductive.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted by the Committee on Government Reform with respect to the subject matter contained in House Joint Resolution 55.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

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