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SENATE

REPORT
104–264

EXTENSION OF NONDISCRIMINATORY TREATMENT (MOST-FAVORED-NATION TREATMENT) TO THE PRODUCTS OF CAMBODIA

MAY 9, 1996.—Ordered to be printed

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

REPORT

[To accompany H.R. 1642]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 1642) to authorize the extension of nondiscriminatory, most-favored-nation (MFN) tariff treatment to products of the Kingdom of Cambodia ("Cambodia"), having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

I. BACKGROUND

General Note 3 of the Harmonized Tariff Schedule of the United States (HTS) currently lists "Kampuchea" (i.e., Cambodia) among those countries whose products are denied MFN tariff treatment. As such, imports from Cambodia are subject to substantially higher duty rates under HTS column 2.

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 ("Title IV"), which governs the extension of MFN status to non-market economy countries, has never applied to Cambodia. The provisions in Title IV apply only to countries denied MFN status as of January 3, 1975. Cambodia was first denied MFN treatment on April 18, 1975, when the President imposed a trade embargo on Cambodia after the Khmer Rouge had gained control of the country.

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II. Summary of H.R. 1642, as Amended

Section 1 sets forth four Congressional findings that support removing "Kampuchea" from the list of countries denied MFN treatment under General Note 3 of the HTS and extending to Cambodia permanent unconditional nondiscriminatory MFN status. First, despite recent increases in acts of repression by the Cambodian Government and growing government corruption that has contributed to substantial environmental degradation, Cambodia has made some progress toward democratic rule after 20 years of undemocratic regimes and civil war, and is striving to rebuild its market economy. Second, extension of unconditional MFN treatment would assist Cambodia in developing its economy based on free market principles and becoming competitive in the global marketplace. Third, establishing normal commercial relations on a reciprocal basis with Cambodia will promote U.S. exports to the rapidly growing Southeast Asian region and expand opportunities for U.S. business and investment in the Cambodian economy. Fourth, expanding bilateral trade relations, including a commercial agreement, may promote further progress by Cambodia on human rights and democratic rule and assist Cambodia in adopting regional and world trading rules and principles.

Section 2(a) would grant Cambodian imports unconditional MFN tariff treatment by striking "Kampuchea" from the list of those countries denied MFN treatment under General Note 3 of the HTS.

Section 2(b) states that subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the effective date of a notice published in the Federal Register by the U.S. Trade Representative (USTR) that a trade agreement obligating reciprocal MFN treatment between Cambodia and the United States has entered into force.

Section 3 would require the President to submit a report to Congress, no later than 18 months after the enactment of the Act, on the trade relations between the United States and Cambodia pursuant to the trade agreement between the two countries.

III. General Explanation

A. PRESIDENTIAL AND CONGRESSIONAL ACTION

1. *Presidential action.*—The United States and Cambodia established full diplomatic relations after formation of the Royal Cambodian Government on September 24, 1993. On April 30, 1994, the United States and Cambodia concluded negotiation of a bilateral agreement on trade relations and protection of intellectual property rights. The agreement included a proposal for a reciprocal extension of MFN tariff treatment between the United States and Cambodia. Entry into force of this agreement is contingent on Congress passing legislation extending MFN status to Cambodia.

2. *Congressional action.*—On January 19, 1995, Senator McCain introduced legislation (S. 251) on Cambodia's MFN status, which was referred to the Committee on Finance. S. 251 would make Cambodia eligible for conditional MFN status by making Cambodia subject to the provisions of Title IV. Section 402 of Title IV (also known as the Jackson-Vanik amendment) sets forth requirements

relating to freedom of emigration, which must be met or waived by the President in order for the President to grant nondiscriminatory, MFN status to nonmarket-economy countries.

On July 11, 1995, the House passed legislation (H.R. 1642), which would provide Cambodia permanent MFN tariff status, by striking Cambodia from the list of those countries denied MFN treatment under General Note 3 of the HTS. H.R. 1642 was referred to the Committee on Finance on July 12, 1995.

On August 1, 1995, the International Trade Subcommittee of the Committee on Finance held a hearing on the Cambodia MFN legislation, during which it received testimony in favor of granting Cambodia unconditional MFN status and no testimony in opposition. During his testimony before the Subcommittee, Senator McCain expressed his preference for the approach taken in H.R. 1642 to grant Cambodia unconditional MFN status.

On March 26, 1996, the House passed a resolution (H. Res. 345), expressing concern about the deterioration of respect for human rights in Cambodia. The resolution references H.R. 1642 and urges engagement with Cambodia on human rights issues, monitoring of the human rights situation in the country, and continued efforts to assist Cambodia in broadening democratic civil society, strengthening the rule of law, and ensuring fair and free elections.

B. U.S.-CAMBODIAN TRADE

Since the signing of the Paris Peace Accords in October 1991, two-way trade between the United States and Cambodia has remained at modest levels, but has risen from $15.9 million in 1992 to approximately $32.2 million in 1995. During this period, the United States' balance in merchandise trade with Cambodia has gone from a surplus of approximately $15.8 million in 1992 to a surplus of $21.8 million in 1995. U.S. exports to Cambodia rose from $15.8 million in 1992 to $27 million in 1995. Leading U.S. exports included: (1) transportation equipment (e.g., vehicles and aircraft); (2) machinery and mechanical appliances and electrical equipment; (3) pearls, precious stones, and metals; (4) prepared foodstuffs, beverages, and tobacco; and (5) chemical products. U.S. imports from Cambodia rose from $83,000 in 1992 to $5.2 million in 1995. Principal imports included: (1) optical, photographic, measuring, timekeeping and medical apparatus; (2) works of art and antiques, (3) machinery and mechanical appliances and electrical equipment; (4) plastics and rubber; and (5) textiles.

C. COMMITTEE VIEWS

The signing of the 1991 Paris Peace Accords and the United Nations-sponsored national elections in May 1993 ended 20 years of authoritarian and despotic regimes, genocide, and civil war in Cambodia. Since then, the Cambodian people have embarked on a path toward democratic rule and the rebuilding of a functioning market economy. The Committee applauds these developments, but recognizes that this path has been neither smooth nor always in the right direction.

While the Cambodian people have made progress since 1991, the Committee is deeply concerned about the current human rights and political situation in Cambodia. In particular, there has been a marked increase in acts of repression by the Cambodian Government directed at opposition parties and critics of the regime. The Committee is also concerned that the growing problem of government corruption in Cambodia, among other things, has contributed to substantial environmental degradation in Cambodia, has undermined public confidence, and contributed to an increase in narcotics trafficking. H.R. 1642 as amended, expresses these concerns in the congressional findings section in order to reflect changes in the political situation in Cambodia. The Committee expects that the Administration will continue to monitor developments in Cambodia carefully and to consult with Congress about its plans to address these problems.

In approving MFN status for Cambodia, the Committee believes that establishing normal bilateral economic and commercial relations between the United States and Cambodia would help integrate Cambodia into the world economic system and promote economic growth based on free market principles. The Committee also believes that these developments would, in turn, help direct Cambodia towards broadening democratic civil society, strengthening the rule of law and respect for human rights, and achieving political stability.

The Committee expects that providing unconditional MFN status to Cambodia will expand opportunities for U.S. business and investment in the Cambodian economy and also promote U.S. exports to the rapidly growing Southeast Asian region as a whole. U.S. companies operating in Cambodia will be in a position to provide substantial assistance for Cambodia's return to a market-based economy, thereby further stimulating economic growth and improving the standard of living for the Cambodian people. By facilitating Cambodia's integration into the world economy, MFN status will also encourage Cambodia's adoption of regional and world trading rules and principles and promote effective protection of intellectual-property rights.

Accordingly, the Committee supports the enactment of H.R. 1642, as amended, and the extension of unconditional MFN treatment to Cambodia.

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 H.R. 1642, as amended, was ordered favorably reported unanimously by voice vote on May 8, 1996.

V. 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 on the budgetary impact of the bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 8, 1996.

Hon. WILLIAM V. ROTH, JR.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1642, a bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia, as ordered reported by the Senate Committee on Finance on May 8, 1996. CBO estimates that extending most-favored-nation (MFN) status to the products of Cambodia would not significantly affect federal government receipts. Because H.R. 1642 could affect receipts, pay-as-you-go procedures would apply to the bill. The proposed legislation contains no intergovernmental or private sector mandates as defined in Public Law 104–4 and would impose no direct costs on state, local, or tribal governments

Under current law, general note 3(b) of the Harmonized Tariff Schedule of the United States (HTSUS) excludes the products of Cambodia from receiving nondiscriminatory treatment. The proposed legislation would amend general note 3(b) of the HTSUS by deleting "Kampuchea." Removing Kampuchea from the list would allow the United States Trade Representative (USTR) to negotiate a trade agreement obligating reciprocal MFN treatment between Cambodia and the United States.

Granting MFN status would lower tariff rates on imports from Cambodia. CBO estimates that lowering tariff rates would reduce customs duty revenues below the level projected under current import levels and tariff rates. However, we expect that imports would rise in response to the lower domestic price resulting from the lower tariffs. The negative effect on revenues from the lower rates would virtually be offset by the positive effect on revenues from the greater volume of Cambodian imports. CBO estimates that granting MFN status to the products of Cambodia would not significantly affect federal government receipts.

This estimate is based on 1994 Census data on imports from Cambodia. The increase in imports of goods from Cambodia resulting from the reduced prices of the imported products in the U.S.—reflecting the lower MFN tariff rates—has been calculated using estimates of the substitution between U.S. products and imports of the same goods. Also, the calculation assumes that the economy of Cambodia will function in the next year in a manner similar to that of the recent past. Obviously, political and economic changes could affect its ability to produce and export goods, its need to import goods from the U.S. and other countries, and the exchange rate between its currency and that of the U.S. However, we believe that the assumption of relatively constant economic performance is appropriate.

If you wish further details, please feel free to contact me or your staff may wish to contact Stephanie Weiner.

Sincerely,

JUNE E. O'NEILL, *Director.*

VI. 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.

VII. Changes in Existing Law Made by the Bill

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, 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):

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

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GENERAL NOTES

3. *Rates of Duty.* The rates of duty in the "Rates of Duty" columns designated 1 ("General" and "Special") and 2 of the tariff schedule apply to goods imported into the customs territory of the United States as hereinafter provided in this note:

(a) * * *

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

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