

## The Trade Act of 1974—Title IV: Considerations Involved in Granting Most-Favored-Nation Status to the Nonmarket Economy Countries

The Trade Act of 1974<sup>1</sup> incorporated the implementation of the United States' pledge made in the Soviet-American Trade Agreement of 1972,<sup>2</sup> and provisions allowing most-favored-nation treatment for the Soviet Union and other East European countries. Historically, the most-favored-nation (MFN) clause has been a basic principle of international commerce and has become a crucial issue in the development of Soviet-American trade relations. The inclusion of this provision evoked great controversy over the trade bill, causing almost a two year deadlock in Congress which demanded that the Soviet Union liberalize its policies on the emigration of its citizenry<sup>3</sup> as the price of trade détente. The Jackson-Vanik Amendment was, consequently, incorporated into Title IV (§ 402),<sup>4</sup> and the future of the entire trade bill was threatened.<sup>5</sup>

### Historical Context

Since the early 1900s, the Soviet Union has had various difficulties with the most-favored-nation clause in its trade relations with the United States. Its state-controlled economic and foreign trade system caused considerable conflict in the application of the unconditional MFN clause. Following the Revolution of 1917, most of the Western countries completely rejected nondiscriminatory

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<sup>1</sup>H.R. 10710, 93d Cong., 1st Sess. (1974).

<sup>2</sup>11 Int'l Legal Materials 1321 (1972).

<sup>3</sup>*Ibid.*, § 402.

<sup>4</sup>See text at notes 20-21 *infra*.

<sup>5</sup>Lawrence, *Passage of Trade Reform Bill Likely; Major Hurdle Cleared*, 17 J. Com. 8, 8-10 (1974).

treatment in commercial treaties with the Soviet Union,<sup>6</sup> rationalizing: (1) that complete monopolization of commerce presented insuperable difficulties with the traditional most-favored-nation clause,<sup>7</sup> and (2) that the Soviet Union had defaulted in the payment of the prewar debts of the Russian Empire.<sup>8</sup>

The United States accepted this viewpoint until 1935, when the first Soviet-American commercial agreement was concluded granting nondiscriminatory treatment for the export of Soviet products into the American market.<sup>9</sup> However, in 1947 the Soviet Union failed to join the General Agreement on Tariffs and Trade<sup>10</sup> with Czechoslovakia, Yugoslavia and the Western nations, and relations became gradually more strained during the Cold War. Difficulties between the Soviet Union and the United States reached a peak during the Korean War as illustrated by the following opinion of the minority members of the House Ways and Means Committee, later accepted by the full Congress:<sup>11</sup>

It is outrageous that our American soldiers should be fighting Communists in Korea, while at the same time all the Communist countries are enjoying the benefits made by the United States, . . . We recommend that this rank and preposterous inconsistency in our foreign policy be removed at once by the denying to Russia and Communist China, and to any Communist satellite country the benefit of the reduced rates which we have granted to the free world.

As a result, Congress passed the Trade Agreement Extension Act of 1951<sup>12</sup> which directed the President to withdraw or suspend the most-favored-nation status of all countries under the control of international Communism. Between September 1951 and July 1952, the President, by proclamation<sup>13</sup> and subsequent letters of implementation, directed that the congressional mandate be carried out by suspending the MFN policy toward all Communist countries except Yugoslavia.

This policy of discriminatory treatment has continued until the present time, with the exception of the American policy toward Poland.<sup>14</sup> The Trade Expansion Act of 1962<sup>15</sup> simply reaffirmed the previous trade policy of the United

<sup>6</sup>F. MADL, *FOREIGN TRADE MONOPOLY: PRIVATE INTERNATIONAL LAW* (1967).

<sup>7</sup>Domke and Hazard, *State Trading and the Most-Favored-Nation Clause*, 52 AM. J. INT'L. 1 (1958). See text at notes 44-52 *supra*.

<sup>8</sup>*Ibid.*

<sup>9</sup>49 Stat. 3805 (1935), E.A.S. No. 81. In return, the Soviet Union agreed to purchase thirty million dollars in American commodities within the ensuing twelve-month period.

<sup>10</sup>See General Agreement on Tariffs and Trade, Basic Instruments and Selected Documents, Volume IV, Text of the General Agreement, Geneva, 1969.

<sup>11</sup>H.R. Rep. No. 1612, 82d Cong., 1st Sess. 22 (1951).

<sup>12</sup>19 U.S.C. §1361 (1970).

<sup>13</sup>16 Fed. Reg. 7635 (1951). The President actually took away the MFN status for the Soviet Union on December 23, 1951.

<sup>14</sup>In December 1960, President Eisenhower restored the MFN status to Poland due to its increased independence from Moscow and its efforts since 1956 to strengthen its ties with the West. 22 U.S.C. §2407 (1970).

<sup>15</sup>19 U.S.C. §1801 (1970).

States. Section 231, depriving the President of any discretionary authority, denied MFN status to "any country or area dominated by Communism" regardless of whether that Communism was a national or international variety.<sup>16</sup> This strict prohibition was somewhat relaxed with the enactment of the Foreign Assistance Act of 1963,<sup>17</sup> which permitted trade concessions for the products of certain Communist countries (*i. e.*, Poland and Yugoslavia), if the President determined that it was in the national interest and would promote the independence of such countries from domination or control by international Communism.<sup>18</sup>

During the sixties, the foreign trade policies of the United States in this area remained relatively unchanged, while the European Socialist states experienced dramatic political and economic reconciliations with the countries belonging to the European Economic Community and Japan. The relaxed atmosphere between these nations created by political détente enabled the elimination of a major portion of the trade barriers, the cold war embargo and discriminating tariff treatments. In addition to political détente and reconciliation, other factors providing the main catalysts in promoting trade relations were: (1) traditional complementary market relations, and (2) general extension of unconditional most-favored-nation status.

Upon examination of these factors in the American-Soviet context, it is apparent that none of these played a role in promoting economic relations. To the contrary, these factors constituted restraining forces during the sixties as evidenced by: (1) the political confrontations (Cuba 1962, Berlin 1963, Vietnam 1966-1972); (2) the lack of natural, complementary market relations; and (3) the continuous denial of most-favored-nation status.<sup>19</sup>

Currently, political relations and economic conditions continue to constitute the determining factors in the development of East-West trade relations.<sup>20</sup> While both the internal economic situation of the United States and concern about international peace were reminiscent of 1935, improved détente spawned the 1972 Soviet-American Trade Agreement. The Trade Agreements of 1935 and 1972 granted similar MFN status to the Soviet Union, differing only in the contingencies required from the Soviet Union.

### Legal Framework

Article I of the Soviet-American Trade Agreement of 1972 proposed a recip-

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<sup>16</sup>Trade Expansion Act of 1969, 19 U.S.C. 1861, (1970).

<sup>17</sup>77 Stat. 390, §402.

<sup>18</sup>A. T. Wolf, "Effect of U.S. Granting of Most-Favored Nation Treatment to Imports from Eastern Europe; Polish Experience," Association for Comparative Economic Studies, Spring 1973.

<sup>19</sup>S. PISAR, COEXISTENCE AND COMMERCE, 7-15 (1970).

<sup>20</sup>Redri, *East-West Trade*, IVI Kulgazdasag, 65 (1972).

rocal exchange of MFN treatment in all matters pertaining to custom duties and charges without any further conditions. However, the Agreement required congressional approval for extending authority to the President to grant MFN status; and this requirement became a part of Title IV of the Trade Act of 1974, Congress having attached the Jackson-Vanik Amendment to the bill in Section 402,<sup>21</sup> which provides that no country shall be eligible to receive nondiscriminatory tariff treatment or United States government credits, credit guarantees, or investment guarantees if the President determines that such country:

1. [D]enies its citizens the right or opportunity to emigrate,
2. imposes more than a nominal tax for emigration or on visas or other documents required for emigration, for any purpose or cause whatsoever or,
3. otherwise imposes more than a nominal tax, levy, fare, fee or other charge on any citizen as a result of his or her desire to emigrate.<sup>22</sup>

Section 403 authorizes the President to grant MFN treatment to nonmarket economy countries by entering into bilateral agreements<sup>23</sup> with these countries or by their entrance into an "appropriate multilateral agreement" to which the United States is also a party.<sup>24</sup> Section 404 provides nondiscriminatory treatment in commercial agreements whenever such agreements would promote the purposes of the bill and are in the national interest.<sup>25</sup> There is, however, a restriction of a three-year time period with possible renewal. Section 406 delineates the procedure for congressional disapproval of any proclamation under Section 403 and permits annual congressional review of continuances of nondiscriminatory treatment.

Section 402 caused great dissension in the Congress. The main argument in favor of its inclusion centered on alleged continuous violations by the Soviet Union of the United Nations Universal Declaration on Human Rights,<sup>26</sup> signed by it in 1948, Article 13(2) of which states: "Every person has the right to leave any country including his own and to return to his country."<sup>27</sup> In the absence of effective enforcement of this provision by the United Nations, two traditional remedies are available: (1) humanitarian protest and (2) humanitarian intervention by individual states. The second alternative would not seem to be viable

<sup>21</sup> H.R. 10710, 93d Cong., 1st Sess., §402 (1974).

<sup>22</sup> *Ibid.*, §402 (b). MFN status would be granted only after a presidential determination and report to Congress that a particular nation was not violating any of these conditions.

<sup>23</sup> H.R. 10710, 93d Cong., 1st Sess. §403 (1974).

<sup>24</sup> *Ibid.*

<sup>25</sup> See Staff of Senate Comm. on Finance, 93d Cong., 1 Sess., Summary and Analysis of H.R. 10710, The Trade Reform Act of 1973 (1974).

<sup>26</sup> G.A. Res. 217, U.N. Doc. A/811 (1948).

<sup>27</sup> Krisbacher, *Aliyah of Soviet Jews: Protection of Emigration Under International Law*, 14 HARV. INT'L. L.J. 89 (1973).

in the Soviet-American superpower context. On the other hand, humanitarian protest has been raised several times on behalf of Jewish people in recent history.<sup>28</sup> Mere protest without political or economic pressure, however, has rarely been effective. Thus, certain congressional leaders have urged that the United States use its full economic pressure to guarantee these basic human rights.

The conflicting arguments surrounding the Jackson-Vanik Amendment focused on the methods of enforcement of this UN-proclaimed freedom of emigration. As expressed by then Secretary of State Henry Kissinger before the Senate Committee on Finance, the objective of promoting the realization of this basic human right was not disputed by either side.<sup>29</sup>

This is not a dispute between the morally sensitive and the morally obtuse—it is rather a problem of choosing between alternatives.

I do not oppose the objective of those who wish to use trade policy to effect the evolution of Soviet society; it does seem to me, however, that they have chosen the wrong context.

Kissinger defined the purpose of détente as the prevention of a nuclear disaster and argued that the transformation of Soviet domestic structure was not a realistic goal for détente.<sup>30</sup> On extending the MFN status to the Soviet Union, Kissinger asserted that he did not consider the extension of MFN status a privilege, but rather a removal of the discriminatory aspects of American foreign trade policy. He concluded by stating:

The extension of nondiscriminatory tariff treatment would for some time to come have only a modest impact on Soviet exports to the United States, which are largely raw materials not now subject to substantial tariffs. Thus the major impact of the continued denial of MFN status to the Soviet Union would be political, not economic.

As a result, he argued that the continuous denial of MFN status to the Soviet Union might well have a negative effect on and slow down the liberalization of Soviet emigration policy.<sup>31</sup>

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<sup>28</sup>For instance, protests were raised against the persecution of the Jewish people in Nazi Germany and against the Russian pogroms during 1883-1907.

<sup>29</sup>Hearings on H.R. 10710 Before the Senate Committee on Finance, 93d Cong., 1 Sess. (1974). The statement of Secretary Kissinger expressed, of course, the administration viewpoint.

<sup>30</sup>*Ibid.*

<sup>31</sup>*Ibid.* Summarizing the rate of Jewish emigration from the Soviet Union to Israel during the past five years, Kissinger noted that as the United States moved from confrontation to negotiation, emigration had increased from the sporadic trickle of the 1960s to a relatively steady flow of some 2,500 a month in the 1970s. Between 1969 and 1973, 81,000 Soviet Jews emigrated to Israel. More recently press reports have indicated a tightening up of this policy.

On October 18, 1974, after almost two years of constant debate, a compromise was reached by the parties. While the Soviet government refrained from acknowledging this publicly, it tacitly agreed to specific criteria that allow greater freedom of emigration.<sup>32</sup> Senator Jackson stated that this agreement would allow approximately 60,000 individuals to emigrate from the Soviet Union each year. The agreement was published by the exchanging of letters between Secretary of State Kissinger and Senator Jackson.<sup>33</sup> On January 14, 1975, Soviet officials rejected this compromise as a basis of implementation of the 1972 Trade Agreement stating that it violates the principles of non-interference in domestic affairs.

### **Economic Impact of MFN Status**

The economic impact of MFN status has many ramifications. However, in practical terms, the denial of MFN status has meant that the products of non-market economy countries (except Poland and Yugoslavia) are subject to the full tariff rates provided for in the rate column 2 of the Tariff Act of 1930. All other countries are enjoying MFN status and receiving treatment under the much lower column 1 rates,<sup>34</sup> which have been the subject of periodic reductions resulting from trade concessions. Thus, existing tariff discrimination is based on the difference between tariffs imposed under the two columns. When this difference exceeds five percent, it is considered by the International Trade

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<sup>32</sup>The actual agreement was announced by an exchange of letters between Secretary of State Kissinger and Senator Jackson, published in the *New York Times* on October 19, 1974, at p. 10: The following were assured by Dr. Kissinger as henceforth governing emigration from the Soviet Union:

1. Punitive acts against would-be emigrants are no longer to be permitted, including loss of job, demotion and public recrimination.
2. No unreasonable or "unlawful" impediments would be permitted against would-be applicants such as interference with travel or communications.
3. Applications are to be processed in order of receipt, without discrimination regarding residence, race, religion, national origin and professional status (an exception is that individuals holding security clearances may be delayed).
4. Hardship cases are to be processed sympathetically and expeditiously. Persons imprisoned who previously applied to emigrate are to be given prompt consideration upon release.
5. The suspended emigration tax is to remain suspended.
6. With respect to all the foregoing assurances (Dr. Kissinger wrote) the United States would be able to bring to the attention of the Soviet leadership any indications that the new criteria were not being applied. Such representation would receive "sympathetic consideration and response." Finally, Dr. Kissinger stated in his letter to Mr. Jackson that it would be the American assumption that with these criteria the rate of emigration would begin to rise promptly from last year's level and eventually "correspond to the number of applicants."

<sup>33</sup>*Ibid.*

<sup>34</sup>House Comm. on Ways and Means, Selected Provisions of the Tariff and Trade Laws of the United States, 90th Cong., 1st Sess. (1968).

Commission to be substantial discrimination.<sup>35</sup>

A research study by the United States International Trade Commission concluded that United States imports from nine Communist countries<sup>36</sup> would have been \$22.8 million higher in 1971 if they had enjoyed MFN status, representing an increase of 10 percent over actual imports of \$227 million.<sup>37</sup> While the granting of MFN status would have a different effect in the case of each country, the following data provides an estimate of the impact which might have been expected if MFN had been extended by the United States in 1971.<sup>38</sup>

Most raw materials and semi-finished products are subject to no duty or to a duty comparable to those in column one.<sup>39</sup> Consequently, the Soviet Union, the

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Average Rates of Duty Paid on U.S. Imports From  
East Europe, China, and All MFN Countries, 1970 and 1972

COUNTRY	AVERAGE RATE OF DUTY PAID ON DUTIABLE IMPORTS	
	1970	1972
All non-MFN countries <sup>a</sup> .....	23.5	23.9
Albania .....	b	3.9
Bulgaria .....	20.4	24.7
Czechoslovakia .....	28.5	27.2
East Germany .....	36.8	37.0
Hungary .....	22.4	20.3
Romania .....	22.8	23.0
U.S.S.R. ....	14.3	18.3
People's Republic of China .....	b	22.5
All MFN countries .....	10.0	8.6
Poland <sup>c</sup> .....	7.2	7.2

<sup>a</sup>Excluding Bulgaria and China for both years.

<sup>b</sup>Not determined.

<sup>c</sup>Poland receives MFN treatment.

Source: Official U.S Department of Commerce sources.

The discrimination has increased since 1970 as a consequence of the duty reductions under the Kennedy Round Tariff Agreement. 76 Stat. 872 (1962). From 1970 to 1972, the average rate of duty on United States dutiable imports increased slightly for the Communist countries from 23.5 percent to 23.9 percent but declined for the non-Communist countries from 10.0 percent to 8.6 percent.

<sup>36</sup>L. Jelacic, Impact on Granting Most Favored Nation Treatment to the Countries of Eastern Europe and the People's Republic of China, Staff Research Studies No. 6, U.S. Tariff Commission at 8 (1974).

<sup>37</sup>*Ibid.* at 12.

<sup>38</sup>*Ibid.* at 19.

<sup>39</sup>*Ibid.* at 15-16.

main exporter of raw materials, would be least affected by receiving MFN status. East Germany and Czechoslovakia, on the other hand, would obtain the greatest benefit from nondiscriminatory tariff treatment, because their exports consist mainly of finished products and machinery subject to substantially higher tariff rates.

COUNTRY	VALUE OF 1971 IMPORTS BY U.S. (Thousands of Dollars)	RANGE OF INCREASE IN IMPORTS AFTER EXTENDING MFN	
		MIN. CHANGE (0%) (Thousands of Dollars)	MAX. CHANGE (÷ 18.9%) (Thousands of Dollars)
USSR	57,599	0	10,886
East Germany	10,131	0	1,915
Czechoslovakia	23,618	0	4,464
Hungary	7,750	0	1,465
Romania	13,771	0	713
Bulgaria	2,614	0	494
Albania	279	0	53
China	4,916	0	949
	120,678	0	22,808

As the statistical survey conducted by the Trade Commission<sup>40</sup> proves, granting the MFN status would definitely stimulate East European exports. However, removal of tariff discrimination would constitute only one major factor; other trade barriers such as credit restrictions (for example, Export-Import Bank loans), shipping requirements, export controls, and quotas, also play a significant role.<sup>41</sup> Moreover, resistant attitudes against Communist products still exist, as evidenced by boycotts and strikes against such products in the past,<sup>42</sup> while the nonmarket character of the Communist economic system

<sup>40</sup>*Ibid.*

<sup>41</sup>Other barriers to East-West trade were contemplated in a series of preliminary agreements between the United States and the U.S.S.R. See Osakwe, *Legal Aspects of Soviet-American Trade: Problems and Prospects*, 48 TUL. L. REV. 539 (1974).

<sup>42</sup>Melish, A., United States East European Trade, Staff Research Studies No. 4, U.S. Tariff Commission at 20-22 (1972).

constitutes probably another major obstacle in the increase of exports from these countries. In recent years, the Eastern European countries recognized and made an effort to diminish this obstacle. The introduction of more market-oriented economic reforms represents an important step in this direction.<sup>43</sup>

There is little doubt that an exchange of MFN status would benefit both nations. In 1972, the Soviet Union agreed to settle its Lend-Lease obligations dependent upon United States extension of MFN treatment.<sup>44</sup> In addition, the United States received *quid pro quo* MFN treatment in return for extending it to the Soviet Union.<sup>45</sup>

The obvious economic effect of MFN status is the immediate stimulation and the increase of East European exports. This would alleviate the major obstacle of the American-East European trade by providing a better balance of trade situation for nonmarket economy countries to finance their imports from the American market. By granting equal treatment for these countries, the American businessman would gain equal opportunities to compete with the representatives of the European Economic Community countries and Japan in utilizing a market which provides for a third of the world's population.<sup>46</sup>

### Market Disruption

The economic differences between the two systems is the main reason that the United States requested and received certain legal safeguards and concessions during the negotiations of the Trade Agreement of 1972. One of the most important legal safeguards in this context was protection against market disruption.

Section 405 of the Trade Act includes provisions on market disruption.<sup>47</sup> The principal purpose is to provide special legal safeguards against the pricing activities of centrally planned economies.

A problem in trade with nonmarket countries is the possibility that such a country, through its control of distribution of the products which it produces and of the price at which those articles are sold, could disrupt the domestic market of its trading partners and injure producers in those countries.<sup>48</sup>

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<sup>43</sup>See I. VAJDA, *FOREIGN TRADE IN A PLANNED ECONOMY* 36 (1971); I. FRISS, *ECONOMIC LAWS, POLICY, PLANNING* 58 (1971).

<sup>44</sup>Agreement Regarding Settlement of Lend Lease, Reciprocal Aid and Claims, 23 U.S.T. 2910, T.I.A.S. No. 7478, reproduced in 11 *INT'L LEGAL MATERIALS* 1315 (1972).

<sup>45</sup>*Ibid.*

<sup>46</sup>See International Economic Report of the President, Transmitted to the Congress January 1977, Executive Office of the President, Council on International Economic Policy.

<sup>47</sup>H.R. 10710, 93d Cong., 1st Sess. § 405 (1974).

<sup>48</sup>House Committee on Ways and Means, 93d Cong., 1st Sess., Report on Trade Act of 1974, H.R. 6767 at 82 (1974).

Under Section 405, a special escape clause procedure is established, whereby the International Trade Commission is responsible for determining whether imports of an article manufactured or produced in a country receiving MFN treatment under Title IV are causing or are likely to cause market disruption and material injury to a domestic industry.<sup>49</sup> Subsection (c) of Section 405 defines market disruption as existing

whenever imports of a like or directly competitive article are substantial, are increasing rapidly both absolutely and as a proportion of total domestic consumption, and are offered at prices substantially below those of comparable domestic articles.<sup>50</sup>

Upon an affirmative finding of market disruption and material injury, the Tariff Commission could then grant relief pursuant to Section 201(b), the normal escape clause provision of the Trade Act. The President, in turn, could then provide import relief in the form of adjustment assistance for the injured party or by imposition of duties, tariff rate quotas, or quantitative restrictions.<sup>51</sup>

The statutory language of Section 405 in determining the criteria for import relief is less definitive and more permissive than comparable provisions in the General Agreement on Trade and Tariffs (GATT)<sup>52</sup> and the present Trade Act.<sup>53</sup> Both Article XIX of the GATT and Section 201(b) of the Trade Act specify certain causation links between the increase in imports and injury in domestic industry. The market disruption standard of Section 405 is less stringent in this context, simply requiring causation of injury without any qualification.<sup>54</sup> Such terms as "substantial," "increasing rapidly" and "substantially below," employed in Section 405, do not necessitate precise definitions and allow for conflicting interpretations.<sup>55</sup> These criteria for a determination of material injury are more flexible and cover a broader scope of import situations than the serious injury test of the GATT and the present Trade Act, allowing import relief which is unavailable under the more stringent standards of the latter agreements.<sup>56</sup>

<sup>49</sup>U.S International Trade Commission, the Trade Reform Act of 1973: Analysis and Comparison (1974).

<sup>50</sup>H.R. 10710, § 405(c). 93d Cong., 1st Sess., § 405(c) (1974).

<sup>51</sup>Senate Comm. on Finance, 93d Cong., 1st Sess., Summary and Analysis of H.R. 10710, The Trade Act of 1974.

<sup>52</sup>T.I.A.S. No. 1700, 55 U.N.T.S. 187.

<sup>53</sup>19 U.S.C. § 1351 (1962).

<sup>54</sup>See Summary, *supra*, note 49, at 57.

<sup>55</sup>*Ibid.*, at p. 58.

<sup>56</sup>In examining the relationship between the market disruption and the Antidumping Code, 19 U.S.C. § 160-171, the House Report on Trade Reform Act provides that the "provisions of this section (405) are in addition to the protections already afforded under the Anti-dumping Act."

However, the application of the antidumping provisions in East-West relations causes difficulties in determination of the less than fair market value sales, which is the basic criteria in antidumping cases. The domestic prices in the nonmarket economy countries do not reflect cost and market relations; and the available statistical data is quite limited. Consequently, there are two available alternatives:

## **Conclusion**

The controversy that has embroiled the most-favored-nation clause spans political, economic, and legal arenas. Viewing this as a political issue, the granting of MFN would remove the last vestige of the cold war discriminatory trade policy in Soviet-American relations. The prospective economic impact of MFN would be one of stimulating imports, particularly of finished and semi-finished products, from nonmarket economic countries, resulting in a definite increase in the volume of East-West trade. The Socialist countries, on the other hand, consider the status as basically a legal category. They view their situation as one of either equality or inequality before the law, and, as expected, they demand the restoration of non-discriminatory treatment.

In the past, the Congress of the United States has expressed some reservation as to the necessity of granting MFN status to Socialist countries, feeling that there should also be some legal protection for American economic interests. Title IV provides much of this legal protection, as it contains specific provisions on the limitation of presidential authority, time limits and a veto power by the Congress. Also operating is Section 405 which attempts to guard against market disruption, when such legal remedies provided under the GATT and the regular provision of the Trade Act fail.

The distance is substantial from the cold war embargo to several abortive trade bills, further still to the granting of non-discriminatory treatment to non-market economy countries. Normalization of trade relations by granting MFN status should be considered a significant, but only an initial, step in the progress of trade relations between the United States and the Soviet Union. It appears that both sides have much to gain from the restoration of most-favored-nation status. In the present climate, it would appear that both economic and political compromises are essential to effectuate the legal provisions that will allow increased economic opportunities in the form of trade and greater détente, thus furthering world peace and human relations.

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(1) accepting a constructed less than fair market value, ignoring the actual domestic price, or (2) extending the provisions of market disruption to certain situations. It would appear that the application of market disruption offers a more effective remedy.

