

104th Congress, 1st Session - - - - - House Document 104-81

EXTENSION OF WAIVER AUTHORITY

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION THAT A CONTINUATION OF A WAIVER CURRENTLY IN EFFECT FOR ALBANIA, ARMENIA, AZERBAIJAN, BELARUS, GEORGIA, KAZAKHSTAN, KYRGYZSTAN, MOLDOVA, MONGOLIA, TAJIKISTAN, TURKMENISTAN, UKRAINE AND UZBEKISTAN WILL SUBSTANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402, OF THE TRADE ACT OF 1974, PURSUANT TO 19 U.S.C. 2432 (c), (d)



JUNE 6, 1995.—Referred to the Committee on Ways and Means and ordered to be printed

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WASHINGTON : 1995

LETTER OF TRANSMITTAL

THE WHITE HOUSE,
Washington, June 2, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended (the "Act"), with respect to a further 12-month extension of the authority to waive subsections (a) and (b) of section 402 of the Act. This document constitutes my recommendation to continue in effect this waiver authority for a further 12-month period, and includes my reasons for determining that continuation of the waiver authority and waivers currently in effect for Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan will substantially promote the objectives of section 402 of the Act. I will submit a separate report with respect to the People's Republic of China.

Sincerely,

WILLIAM J. CLINTON.

REPORT TO CONGRESS CONCERNING EXTENSION OF WAIVER
AUTHORITY

Pursuant to subsection 402(d)(1) of the Trade Act of 1974, as amended ("the Act"), I hereby recommend further extension of the waiver authority granted by subsection 402(c) of the Act for twelve months. I have determined that such extension will substantially promote the objectives of section 402 of the Act, and that continuation of the waivers currently applicable to Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan will also substantially promote the objectives of section 402 of the Act. (Note: The Russian Federation no longer requires a waiver as it was found in full compliance last year. This required a separate report to Congress and separate semi-annual reports to Congress thereafter.) My determination is attached and is incorporated herein.

The waiver authority conferred by section 402 of the Act is an important means of strengthening mutually beneficial relations between the United States and the aforementioned countries. The waiver authority has permitted the United States to conclude and maintain in force bilateral commercial agreements with the majority of these countries. These agreements are fundamental elements in our political and economic relations with these nations. The reciprocal Most-Favored-Nation (MFN) trade treatment and other provisions of these agreements enhance the ability of U.S. companies to compete in the relevant markets. Waiver authority has also allowed U.S. Government credit and investment guarantees to support U.S. trade and investment activities in these countries. These considerations clearly warrant this renewal of the waiver authority.

I believe that continuing the current waivers applicable to the following countries will substantially promote the objectives of section 402 of the Act. Overall, emigration policies for almost all of the countries discussed in this report have improved over the past five years. An exception is Turkmenistan, which has blocked the emigration of the family of a political dissident.

Albania: Regulations on emigration have been liberalized. Passports are available to all citizens, and the practice of limiting them to specific countries of destination was abandoned in 1991.

Armenia: The government does not restrict emigration for political reasons. Travel passports are withheld, however, from Armenians lacking invitations from the country that they wish to visit, from those possessing state secrets, and from those whose relatives have made financial claims against them. The Soviet-era Office of Visas and Registrations (OVIR) impedes travel and emigration through delays and various bureaucratic obstacles, but the government does not actively hinder emigration. Members of Armenia's small Jewish and Greek communities continued during the past

twelve months to emigrate at a rapid rate. After the 1988–89 anti-Armenian pogroms in Azerbaijan connected with the Nagorno-Karabkh conflict, the government discriminated against ethnic Azeris and allowed the local population to intimidate them, often violently. The government forcibly deported many while the rest fled. It appears increasingly unlikely that these people will be able to return, as is the case with the nearly 400,000 Armenian refugees who fled Azerbaijan after the pogroms.

Azerbaijan: The Azerbaijani government officially recognizes freedom of emigration; a law passed in June 1994 guarantees that right. This right may only be limited in cases involving military draft liability, criminal record or impending criminal suit, or previous access to state secrets. There were 1,956 Jewish emigrants to Israel in 1944, with no applications being denied. Less than one-half of one percent of the population in Azerbaijan is comprised of Armenians or part-Armenians, and most of those are in mixed marriages. There is no evidence of government policies designed to prevent Armenians from leaving Azerbaijan. In general, low-level officials seeking bribes harass members of minorities wishing to emigrate.

Belarus: A law on entry and exit came into effect on January 1, 1994 that abolishes the former Soviet requirement of mandatory official permission for each trip abroad by authorizing Belarusians to receive “global” exit visas good for from one to five years and valid for travel to all countries. In March 1994, the Belarusian parliament ratified a new constitution that specifically grants citizens the right to leave and return as they wish. Limited issuance of the global exit visas began in August 1993, but is currently hampered by a one to two month processing period. Soviet-era legislation restricting emigration by those with access to “state secrets” remains in force. However, citizens denied permission to emigrate have the right to reapply for emigration after six months, except for those who had access to state secrets who are informed at the time of denial when they may re-apply, usually in two years. Neither the Belarusian League for Human Rights nor the Belarusian National Jewish Council report excessive restrictions on the ability of citizens to emigrate. According to data for the first nine months of 1994, no citizen was denied permission to emigrate.

Georgia: The government of Georgia maintains a policy of unrestricted emigration both legally and in practice. The legal basis for emigration is the Law on Emigration passed by the parliament in 1993. In 1994 no emigration requests were denied. The government of Georgia has been extremely accommodating towards Jewish emigration. Cases are processed expeditiously, usually within one month, and none have been refused in the past two years. During the changeover in passports, the Georgian government made special arrangements for Jewish emigration to Israel when other emigration had ground to a halt. The U.S. Embassy in Tbilisi reports that Georgian emigration practices are consistent with Jackson-Vanik requirements.

Kazakhstan: The Constitution of Kazakhstan provides for the right to emigrate. The right is respected in practice.

Kyrgyzstan: Kyrgyzstan does not have a law on emigration. Administrative procedures dating from the Soviet era require that

citizens applying for passports must present a letter of invitation from the country to which they intend to emigrate. There are no reports, however, that citizens presenting such a letter were denied a passport or an exit visa. Kyrgyzstan has drafted an agreement with Russia to ease voluntary emigration for the members of the Russian-speaking minority, which provides for the establishment of migration services in Kyrgyzstan and Russia in order to facilitate a more orderly transition for the migrants.

Moldova: Moldovans generally were able to travel and emigrate freely in 1994. The requirement for exit visas was lifted in July 1994. Restrictions on emigration remain in force, however, including a requirement to gain the permission of close relatives in order to emigrate. The government may also deny permission to emigrate if the applicant had access to state secrets. New legislation, passed in November 1994, retained these emigration restrictions. Such cases are, however, very rare, and none were reported in 1994.

Mongolia: The new Constitution provides Mongolians the right to choose their residence, travel and reside abroad, and to return to Mongolia. The right to travel abroad may, however, be limited by law in order to ensure national security and protect public order. At least some Mongolians are required to surrender their passports upon completion of foreign travel and must request their return for further use.

Tajikistan: The November 1994 constitution guarantees the right to emigrate; however, since no new legislation has been adopted on emigration since independence, the 1991 Soviet law remains in effect. In practice, the government has not raised any significant obstacles to emigration. Persons who wish to migrate within the former Soviet Union must simply alert the Ministry of Internal Affairs to their departure. Persons wishing to migrate beyond the borders of the former Soviet Union must receive the approval of the relevant country's embassy prior to the issuance of an international passport.

Some 90% of Tajikistan's 20,000-strong-Jewish community have emigrated since 1990, mostly to Israel. As a result of conflict, instability and a depressed economy, an estimated 150,000 ethnic Russians or Russian-speakers and 9,000 ethnic Germans left Tajikistan in 1992 and 1993.

Turkmenistan: Citizens of Turkmenistan are generally permitted to emigrate without undue restriction. In one known case, the family members of a political dissident have been prevented from emigrating. The U.S. government has urged Turkmenistan to respect free emigration rights, and in this case, to issue the required external passports. Many Russians and other non-Turkmen residents have left for other former Soviet republics during the past twelve months, and many members of the small Jewish community have emigrated to Israel.

Ukraine: Ukrainian law guarantees all Ukrainian citizens the right to emigrate. In 1993 Ukraine dropped requirements for exit permission and made all citizens eligible for passport that permit free travel abroad. Passports issued before independence in 1991 must be submitted for certification of citizenship status. The processing of passport applications takes less than two months. Cases involving applicants who had or have access to secret information

usually take longer but this has not been used as grounds for denying permission to emigrate.

Ukraine does not impose taxes or fees on exercise of the right to emigrate. Ten of thousands of Ukrainian citizen emigrate annually. Although, through bureaucratic inertia and stubbornness at the local level, permission to emigrate for former so-called refuseniks is sometimes denied, human rights groups report that persons need only appeal to national-level authorities to resolve their status and establish their right to emigrate. There is no standard procedure for this appeal in as much as there are no grounds for denial of the right to emigrate, though some draft-age men may be refused the right to emigrate until their status is clarified. Ukrainian and International Human Rights Groups, leaders of Jewish communities in Ukraine, and officials of third governments confirm that the freedom to emigrate has been irrevocably established in Ukraine.

Uzbekistan: The Constitution of Uzbekistan guarantees citizens free movement across the country's border. Potential emigrants who can find a host country willing to accept them are able to leave the country. Since independence, a significant number of Uzbekistanis, including Russians, Jews, Ukrainians, and others have emigrated, although no exact figures are available.

I have concluded that continuing waivers under Section 402 of the Act in effect for all of the above-mentioned countries will help preserve the gains already achieved on freedom of emigration and encourage further progress.

Presidential Determination No. 95-24

THE WHITE HOUSE,
Washington, June 2, 1995.

Memorandum for the Secretary of State

Subject: Determination Under Subsection 402(d)(1) of the Trade
Act of 1974, as Amended—Continuation of Waiver Authority

Pursuant to subsection 402(d)(1) of the Trade Act of 1974, as amended (the “Act”), I determine that the further extension of the waiver authority granted by subsection 402(c) of the Act will substantially promote the objectives of section 402 of the Act. I further determine that the continuation of the waivers applicable to Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the *Federal Register*.

WILLIAM J. CLINTON.

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