

UPDATED REPORT CONCERNING THE EMIGRATION
LAWS AND POLICIES OF THE RUSSIAN FEDERATION

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN UPDATED REPORT CONCERNING THE EMIGRATION LAWS AND
POLICIES OF THE RUSSIAN FEDERATION—RECEIVED IN THE
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THE WHITE HOUSE,
Washington, December 30, 1996.

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

DEAR MR. SPEAKER: On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russian and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

Sincerely,

WILLIAM J. CLINTON.

REPORT TO CONGRESS CONCERNING
EMIGRATION LAW AND POLICIES OF
THE RUSSIAN FEDERATION

This report is submitted pursuant to sections 402 and 409 of the Trade Act of 1974, as amended ("the Act"), following Presidential Determination Number 94-51 of September 21, 1994, and the accompanying report to Congress, that the Russian Federation is not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act.

All current information indicates that the emigration laws and practices of the Russian Federation continue to satisfy the criteria set forth in sections 402(a) and 409(a) of the Act in respect of all matters covered in those subsections.

Since the break-up of the Soviet Union in 1991, the Russian Federation has made steady progress in establishing and implementing legal guarantees of the right to emigrate. This right, which is enshrined in Russia's 1993 Constitution, was strengthened during 1996 with the passage of the law on "Procedures for Departing and Entering the Russian Federation," which was signed into law by President Yeltsin on August 15, 1996. This law reaffirms Russia's policy of allowing all of its citizens to freely exercise the right to travel abroad and to emigrate. It also details the procedures for obtaining travel documents, such as passports, and elaborates the circumstances under which the state can limit the freedom of travel. The law replaces corresponding USSR laws and the interim procedures that had been adopted by Russia.

The new entry and exit law contains significant improvements over the previous regulations as well as needed clarification of some controversial policies. Significantly, the law clarifies exit restrictions for citizens who have had access to state secrets. The law gives the Russian government the right to deny Russian nationals who, during the course of their work, had access to "secret," "top secret," and "highly sensitive" material, permission to travel abroad for up to ten years following the last date of access to such material. Under the law, this restriction must be explicitly stated in the employment contract signed by the employee when commencing work. It also provides a measure of transparency by requiring that denial of exit on secrecy grounds specify the reasons for and the duration of the restriction and indicate the name and position of the official responsible for the decision. In the past, such rulings were frequently made anonymously and without stated reasons.

The entry and exit law also formalizes the status of the "Interagency Commission for the Protection of State Secrets" (commonly referred to as the Ivanov Commission), which hears appeals of Russian nationals who have been refused permission to travel on secrecy grounds. Since its inception in 1993, the Ivanov Commission has met over 60 times and has heard over 800 cases. According to the Russian Ministry of Foreign Affairs (MFA), between July 1996 (after the last report was submitted to Congress) and November 1996, the Interagency Commission met 6 times and reviewed 168 cases -- 149 of these were decided in favor of the applicant, 16 applicants were refused permission to travel until the expiration of the five-year period of prohibition against travel abroad due to an individual's previous access to sensitive materials, and decisions on 3 cases were postponed pending the receipt of additional information. Because there is currently a backlog of approximately 250 cases before the Commission, it can take more than six months to have a case heard. An estimated 5,000 to 6,000 persons, who have not appealed to the Ivanov Commission, have been refused passports on security grounds and are waiting the requisite time. Some human rights groups have criticized some of the decisions of the Ivanov Commission. In one contested case, the applicant, who is blind and elderly, has been told he must wait until 1999 to receive a passport because he previously worked with secret documents.

Similarly, the new law loosens restrictions on draft-age men seeking permission to travel and grants the state the right to refuse passports to individuals who are the subject of legal proceedings or convicts who have not served their sentences. The new law, however, retains restrictions that allow the state to deny the right to travel "temporarily" if an individual has evaded performance of financial obligations imposed by a court -- such as alimony payments -- until the obligations are fulfilled or the parties have come to agreement. In practice, this rule has sometimes allowed relatives or former spouses to effectively delay or even veto the emigration plans of some Russian nationals. The United States has consistently urged the Russian government to resolve these so-called "poor relative" cases and will continue to monitor such cases to determine whether this law presents undue obstacles to emigration.

After decades of Soviet rule during which the right to travel abroad was restricted to a narrow segment of society, the Russian government has succeeded in developing procedures that allow its nationals to travel abroad and emigrate without hindrance. According to the U.S. Embassy in Moscow, the time for processing passport applications for Russian nationals with

passports who wish to travel to a foreign country or who wish permanent residence abroad is two to six months. The time for processing passport applications for Russian nationals who wish to emigrate who do not already have a passport is four to five months on average.

As a result of such progress, tens of thousands of Russian citizens emigrate annually. In FY 1996, approximately 7,586 Russian citizens emigrated to the United States and 17,512 Russian citizens emigrated to Israel. The number of state secrecy and "poor relatives" cases on the listings of "refuseniks" maintained by American Jewish organizations has decreased from over one thousand in the late 1980's to about eighty today. Russian and American human rights groups, leaders of Jewish communities in Russia, and officials of third governments continue to tell us as they have for the past two years that freedom of emigration is a reality in Russia and that Jewish life in Russia is experiencing a remarkable renaissance.

On April 4, the Russian Ministry of Justice revoked the accreditation of the Jewish Agency (JA), a quasi-governmental organization which assists Jews from the former Soviet Union to emigrate to Israel, effectively suspending the Agency's legal right to operate in Russia. JA operations were not interrupted in practice and there were no reports of any Jewish émigrés being prevented from leaving Russia. Following consultations with the Russian authorities, JA officials and Russian Jewish community leaders founded the Jewish Agency of the Russian Federation (JARF), essentially giving the JA the legal status of a Russian organization rather than of a foreign one. After a series of delays, this process was completed in October.

Although not condoned by Russian authorities, anti-Semitic incidents continued to occur in 1996. Some of the hate crimes included an August bomb attack, attributed to anti-Semitic hooligans, on the Marina Roshcha Chasidic Synagogue. In June, the walls of the Moscow Choral Synagogue were defaced with anti-Semitic slogans and swastikas. In May, approximately forty gravestones in an ancient Jewish cemetery in Kursk were vandalized. In April, a bomb in the entrance of the Yaroslavl Synagogue damaged the library and offices, a Jewish center in Smolensk was robbed and sprayed with anti-Semitic graffiti, and a Jewish history class was interrupted by Interior Ministry agents in Pyatigorsk. And in January, members of the para-military group Russian National Unity broke up a meeting between Jewish and Israeli representatives in Orel by shouting racial epithets.

Opposition politicians have also been guilty of anti-Semitic utterances. In June, the head of the Communist Party's radical wing, Working Russia, Viktor Anpilov, called the Yeltsin Administration "a Jewish conspiracy" and held up a cartoon depicting the President and Moscow's Mayor Yuriy Luzhkov, wearing Jewish skullcaps with the caption: "These Moscow residents have made their choice!" In July, then-Russian Security Council Secretary Aleksandr Lebed caused a flap by asserting that there were three "traditional" religions in Russia: Orthodox Christianity, Islam and Buddhism. He subsequently explained that he did not intend the list to be comprehensive. The Russian leadership immediately repudiated any suggestion that Lebed's remarks signaled a change in Russia's policy of religious toleration. Prime Minister Chernomyrdin affirmed this in a conversation with President Clinton during the G-7 Summit in Lyon in July.

The Russian government has made firm public statements against anti-Semitism and intolerant behavior. This fall, Prime Minister Chernomyrdin sent an open letter of congratulations to the Jewish community to mark the Jewish New Year. The letter expressed indignation at crimes directed against the Jewish community and stated that "the future of Russia, to a considerable extent, depends on kind, respectful relationships among the great number of peoples inhabiting our country, and, as well, on the consideration and respect of the state towards them." At a ceremony in the Kremlin in October, the Russian Government donated copies of documents from the Russian archives related to crimes against humanity committed during World War II to the United States Holocaust Memorial Museum in Washington, D.C. The materials were added to the Museum's library and will be available to the public in the coming months.

In sum, the Russian Federation continues to make steady progress in developing policies and practices that provide its citizens with rights to foreign travel and emigration that are in conformity with internationally recognized human rights norms.