

105th Congress, 1st Session - - - - - House Document 105-91

EXTENSION OF WAIVER AUTHORITY FOR ALBANIA,
BELARUS, KAZAKSTAN, KYRGYZSTAN, TAJIKISTAN,
TURKMENISTAN, AND UZBEKISTAN

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION THAT A WAIVER OF THE APPLICATION OF SUBSECTIONS (a) AND (b) OF SECTION 402 OF THE TRADE ACT OF 1974 WITH RESPECT TO ALBANIA, BELARUS, KAZAKSTAN, KYRGYZSTAN, TAJIKISTAN, TURKMENISTAN, AND UZBEKISTAN WILL SUBSTANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402, PURSUANT TO 19 U.S.C. 2432(c) AND (d)



JUNE 3, 1997.—Message and accompanying papers referred to the
Committee on Ways and Means and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-011

WASHINGTON : 1997

To the Congress of the United States:

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 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, Belarus, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan will substantially promote the objectives of section 402 of the Act. I have submitted a separate report with respect to the People’s Republic of China.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 3, 1997.*

REPORT TO CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR ALBANIA, BELARUS, KAZAKSTAN, KYRGYZSTAN, TAJIKISTAN, TURKMENISTAN AND UZBEKISTAN

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, Belarus, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan will also substantially promote the objectives of section 402 of the Act. My determination is attached and is incorporated herein.

The waiver authority conferred by section 402 of the Act has permitted the United States to conclude and maintain in force bilateral commercial agreements with these countries. 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 some of 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.

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.

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 passports containing "global" exit visas good for from one to five years and valid for travel to all countries. This is still a two-step process: first a passport must be obtained, then an exit visa. In November 1996, Belarus adopted a new constitution that specifically grants citizens the right to leave and return as they wish. Issuance of new passports began in August 1993, and applicants generally receive a passport and exit visa within 2–3 months of application. Reports to the U.S. Embassy in Minsk indicate that the widespread practice of petty bribery often accelerates or delays the 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 re-apply 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 reapply (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. During 1996, no citizen was denied permission to emigrate.

Kazakstan: The constitution of Kazakstan provides for the right to emigrate. The right is respected in practice. However, all intending emigrants must obtain an exit visa from the government before they are allowed to emigrate. Exit visas are only issued after a

number of bureaucratic requirements have been met. For example, close relatives with a claim to support from the applicant must give their concurrence. Intending emigrants must also obtain evidence that they have no outstanding financial obligations before the government will issue an exit visa. There have been no reports of Kazakstani citizens being denied permission to emigrate.

Kyrgyzstan: Kyrgyzstan does not yet have a law on emigration. The government currently is following procedures as outlined in a draft law on emigration, which the Parliament is expected to pass soon. This draft law is based on the emigration practices of the Soviet era. According to the draft law and current practice, citizens who wish to emigrate must present an application to the Office of Visa and Registration (OVIR). This application is filed on behalf of the intending emigrant by his/her parents or spouse and states that the person has the permission of the next-of-kin to emigrate. The applicant also must present legal documents concerning marital status, outstanding debts, and other facts. The applicant should have an invitation from a relative living abroad. Once the appropriate documents have been filed with OVIR, the applicant must pay 750 soms, about U.S. \$40.

Reports from OVIR indicate that less than 10 percent of those who applied for emigration in 1996 were refused. Those refusals were based on the fact that the applicant or the inviting party had illegally emigrated or significantly over-stayed a tourist visa.

Kyrgyzstan has an agreement with other members of the Commonwealth of Independent States (CIS) to ease emigration. This agreement allows for Kyrgyz citizens to move to any member of the CIS without having to go through the above mentioned process with OVIR. These citizens may simply move to another CIS country, then check in with the local OVIR office of that country and the Kyrgyz Embassy. The citizen will be expected to renounce his/her citizenship upon establishing residence in another country.

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. The charge for Tajikistan citizens to obtain an international passport is around U.S. \$15, and an exit visa for the purpose of emigration costs around U.S. \$100.

Over 90 percent of Tajikistan's 20,000-strong Jewish community are estimated to 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: The Turkmen Constitution of 1994 guarantees the right of citizens of Turkmenistan to emigrate, and Turkmen citizens are permitted to emigrate without undue restriction. Many Turkmen citizens have already emigrated to other countries, including other former Soviet Republics and Israel.

Turkmen citizens who wish to emigrate must obtain permission from the Ministry of Foreign Affairs. Required documents are an application, invitation from the country of intended travel, evidence of freedom from debts and financial obligations, and either written consent from parents or consent specified in parents' death certificates. If the applicant is divorced, and either taking or leaving a child, an affidavit from the former spouse consenting to emigration is also required. Those with military obligations must de-register with the Ministry of Defense.

The Ministry of Foreign Affairs is legally mandated to process the application and documents for emigration within three months. The fees for Turkmen passports and exit visas are reasonable and denials for permission to emigrate have been rare. Prior to emigration, Turkmen citizens must submit their internal passports to the Ministry of Internal Affairs. Russia and Turkmenistan have a bilateral agreement giving favorable treatment to citizens emigrating to the other country. For example, exit visas are waived, they have the right to sell their property privately, and customs taxes are reduced.

Uzbekistan: The constitution of Uzbekistan guarantees citizens free movement across the country's borders, and this right is generally respected in practice. Passports are generally available to all citizens and are not limited by country of destination. Exit permission is required, but the process has been vastly simplified, and permission is valid for multiple exits within two years. Potential emigrants who can find a host country willing to accept them are able to leave the country. Since independence, several hundred thousand people (chiefly ethnic Russians, but also Jews, Tatars, and Germans) have emigrated. Although possession of state secrets technically is still a ground for refusal of exit permission under the law, embassies of major western emigration destinations (United States, Israel, Germany) report no instances of applicants being denied permission to emigrate. Fees associated with emigration are not excessive.

I have concluded that continuing waivers under Section 402 of the Act in effect for Albania, Belarus, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan will help preserve the gains already achieved on freedom of emigration and encourage further progress.

Presidential Determination No. 97-28

THE WHITE HOUSE,
Washington, June 3, 1997.

Memorandum for the Secretary of State

Subject: Presidential 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, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, 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.

○