

DETERMINATION OF A WAIVER UNDER THE TRADE
ACT OF 1974 WITH RESPECT TO TURKMENISTAN

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION THAT A WAIVER FOR
TURKMENISTAN WILL SUBSTANTIALLY PROMOTE THE OBJEC-
TIVES OF SECTION 402, OF THE TRADE ACT OF 1974, PURSUANT
TO 19 U.S.C. 2432(c)(2) AND (d).



JULY 10, 2007.—Referred to the Committee on Ways and Means and
ordered to be printed

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THE WHITE HOUSE,
Washington, June 28, 2007.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: I hereby transmit the document referred to in subsection 402(c)(2) of the Trade Act of 1974, as amended, with respect to a waiver of the application of subsections 402(a) and (b) of that Act to Turkmenistan.

I report in that document my determination that such a waiver will substantially promote the objectives of section 402. I have instructed the Secretary of State to provide a copy of that determination to the Speaker of the House of Representatives and the President of the Senate. The report also indicates that I have received assurances with respect to the emigration practices of Turkmenistan required by section 402(c)(2)(B) of the Act.

Sincerely,

GEORGE W. BUSH.

REPORT TO THE CONGRESS CONCERNING A WAIVER OF SUBSECTIONS
402 (a) AND (b) OF THE TRADE ACT OF 1974—TURKMENISTAN

Pursuant to subsection 402(c)(2) of the Trade Act of 1974, as amended (the “Act”), I have issued an Executive Order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to Turkmenistan. I also have made the determination required by subsection 402(c)(2)(A) of the Act and received assurances as required by section 402(c)(2)(B) of the Act.

Exercise of the waiver authority conferred by Section 402 of the Act has permitted the United States to conclude bilateral commercial agreements with countries subject to title IV of the Act and has encouraged freedom of emigration in these countries. The reciprocal normal trade relations trade treatment and other provisions of the commercial agreement with Turkmenistan enhance the ability of U.S. companies to compete in the Turkmen market.

From 1997 to 2003, Turkmenistan was determined to be in compliance with the freedom of emigration requirements of section 402 of the Act. In 2003, however, in response to an armed attack on former President Niyazov’s motorcade in November 2002, the government of Turkmenistan tightened control over movement outside of the country by imposing an exit visa requirement, which included restrictions on emigration. Since 2003, Turkmenistan has been the recipient of annual waivers under section 402(c) of the Act.

The government of Turkmenistan has made some progress with regard to freedom of emigration. In January 2004, the government officially removed the exit visa regime, restoring some freedom of movement, including freedom of emigration. Although the exit visa regime was officially lifted, the government continued to impede travel out of the country, including emigration for selected individuals, particularly regime opponents and their family members who were placed on a “blacklist.” Family members who wanted to emigrate to join dissident relatives who were convicted in absentia and received asylum abroad were not allowed to do so. People on this blacklist who tried to leave the country were turned away at the airport, visited by security services, and told not to try to leave, or had their passports confiscated.

In December 2005, the government of Turkmenistan passed a law on migration that may be used to limit the ability of Turkmenistanis, especially those who have run afoul of the regime, from leaving the country. The law contains several vague articles that could be used by the government as another means to prevent people from traveling. According to Article 32 of the law, those with access to state secrets, those considered a risk of becoming a victim of trafficking, or those whose departure threatens Turkmenistan’s national security can be prevented from traveling. Article 38 stipulates that those who head government-run enterprises, educational

institutions, and “have access to [undefined] information” may also be prevented from leaving the country. We will continue to monitor the implementation of this law.

In recent communications, however, the government of Turkmenistan has provided assurances that it is abolishing its most restrictive practices, which would promote the objectives of section 402. In addition, we have seen indications that exit restrictions are being eliminated with respect to several individuals of ongoing concern to the United States. Following the death of President Niyazov in December 2006, the government has taken modest steps toward greater openness and engaged more constructively with the United States on a range of issues, including on emigration. As a result, we see potential for further positive steps in the near future.

The section 402 waiver has been an important tool for the United States to encourage the government of Turkmenistan to ease its emigration restrictions. Consequently, I have determined that issuance of a waiver under section 402 of the Act will help preserve the gains already achieved on freedom of emigration and encourage further progress. The United States will continue to use the leverage afforded by the waiver to press the government of Turkmenistan to further ease emigration restrictions.

EXECUTIVE ORDER

WAIVER UNDER THE TRADE ACT OF 1974 WITH RESPECT TO
TURKMENISTAN

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 402(c)(2) and (d) of the Trade Act of 1974, as amended (the "Act") (19 U.S.C. 2432(c)(2) and (d)), and having made the report to the Congress set forth in section 402(c)(2), I hereby waive the application of subsections (a) and (b) of section 402 of the Act with respect to Turkmenistan.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2007*.

