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CONTINUATION OF WAIVER UNDER THE TRADE ACT OF 1974 WITH RESPECT TO THE REPUBLIC OF BELARUS

COMMUNICATION

FROM

THE ACTING ASSISTANT SECRETARY, LEGISLATIVE AFFAIRS, THE DEPARTMENT OF STATE

TRANSMITTING

NOTIFICATION OF THE DETERMINATION THAT A CONTINUATION OF A WAIVER CURRENTLY IN EFFECT FOR THE REPUBLIC OF BELARUS WILL SUBSTANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402, OF THE TRADE ACT OF 1974, PURSUANT TO 19 U.S.C. 2432(c) AND (d)



JUNE 21, 2011.—Referred to the Committee on Foreign Affairs and ordered to be printed

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DEPARTMENT OF STATE,
Washington, DC, June 1, 2011.

Hon. JOHN A. BOEHNER,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: On behalf of the Secretary of State, we are transmitting to you the Presidential determination and Report to the Congress, referred to in Subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of application of Subsections (a) and (b) of Section 402 of the Act for Belarus.

This document constitutes the Secretary's recommendation to continue this waiver for a further 12-month period and includes her determination that continuation of the waiver currently in effect for Belarus will substantially promote the objectives of Section 402 of the Act, and the reasons for such determination.

We hope this information will be helpful to you and other Members of Congress. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

JOSEPH E. MACMANUS,
Acting Assistant Secretary,
Legislative Affairs.

Enclosure: As stated.

DETERMINATION UNDER SUBSECTION 402(d)(1) OF THE TRADE ACT OF 1974, AS AMENDED—CONTINUATION OF WAIVER AUTHORITY

Pursuant to the authority vested in the President under the Trade Act of 1974, as amended, Public Law 93–618, 88 Stat. 1978 (hereinafter "the Act"), and assigned to the Secretary of State by virtue of Section 1(a) of Executive Order 13346 of July 8, 2004, I determine, pursuant to Section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by Section 402 of the Act will substantially promote the objectives of Section 402 of the Act. I further determine that continuation of the waiver applicable to Belarus will substantially promote the objectives of Section 402 of the Act.

This determination shall be published in the *Federal Register*.

HILLARY RODHAM CLINTON,
Secretary of State.

REPORT TO THE CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR BELARUS

Pursuant to Subsection 402(d)(1) of the Trade Act of 1974, as amended ("the Act"), and the authority assigned to me by the President in Executive Order 13346 concerning Delegation of Certain Waiver, Determination, Certification, and Reporting Functions, dated July 8, 2004, I hereby recommend a further extension for 12 months of the waiver granted by Subsection 402(c) of the Act.

I have determined that such an extension will substantially promote the objectives of Section 402 of the Act, and that a continuation of the waiver currently applicable to Belarus will also substantially promote the objectives of Section 402 of the Act.

Exercise of the waiver authority conferred by Section 402 of the Act has permitted the United States to conclude and maintain in force a bilateral trade agreement with Belarus. (Exercise of the waiver authority with respect to Belarus would also allow the U.S. government to engage in credit and investment activities in Belarus, but some of those programs have been suspended in Belarus due to strong concerns over the Belarusian authorities' repressive economic and human rights policies.)

FREEDOM OF EMIGRATION SITUATION IN BELARUS

The Belarusian Constitution of November 1996, although adopted illegitimately, specifically grants citizens the right to leave and return as they wish. Soviet-era restrictions on emigration in Belarus have largely been dismantled, and existing restrictions are applied in a manner generally allowing free emigration. None of the human rights or religious minority organizations—including Jewish organizations—report discriminatory restrictions limiting the ability of citizens to emigrate on the basis of ethnic or religious identity in 2010 or the first part of 2011. Soviet-era legislation restricting emigration by those with access to "state secrets" does remain in force in Belarus. There are also exit restrictions on those who are involved in criminal investigations, convicted of crimes, attempting to evade military service, or have outstanding debts to a court, such as fines or child support obligations. Individuals charged or convicted for serious offenses related to participation in December 19 protests following the presidential election in Belarus face restrictions on temporary foreign travel. The United States considers these charges to be politically motivated.

The procedure for administering these exit restrictions was changed with Presidential Decree No. 643 of December 17, 2007, which took effect on January 1, 2008. The decree abolished a system of passport exit stamps that had been used previously to grant permission for travel abroad. Under the new procedures, individuals presenting a passport to a border enforcement official at most

border points are checked against a database of persons ineligible for exit. The Belarusian Committee for State Security (BKGB) and the Ministries of Justice, Internal Affairs, and Defense provide names of such persons to the Citizenship and Migration Office of the Ministry of Internal Affairs, which maintains the database. We have not received any reports this procedure is affecting freedom of emigration.

The Belarusian authorities have engaged the Governments of Latvia, Lithuania, and Poland on agreements to allow visa-free, temporary cross-border travel for their citizens residing within 50 kilometers of the border. Discussions between the Governments of Belarus, Latvia, and Poland are complete, and the agreements have been signed and ratified, although Belarus has yet to implement them. By contrast, the Lithuanian Parliament has not ratified the country's agreement with Belarus. We believe these agreements will substantially improve opportunities for Belarusian citizens who reside along the border with these countries to travel abroad temporarily.

Extending the waiver will substantially promote the objectives of Section 402 of this Act, by permitting normal trade, contingent on any other U.S. government restrictions. We will continue to raise our concerns with the Government of Belarus about any emigration-related policies that may arise, noting that efforts to restrict emigration may result in revocation of the waiver and normal trade relations.

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