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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON THE

EXTENSION OF UNCONDITIONAL NORMAL TRADE RELATIONS TO THE KYRGYZ REPUBLIC

NOVEMBER 4, 1999

Printed for the use of the Committee on Ways and Means by its staff

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ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
May 12, 1999
No. TR–10

CONTACT: (202) 225–6649

Crane Announces Request for Written Comments on the Extension of Unconditional Normal Trade Relations to the Kyrgyz Republic

Congressman Philip M. Crane (R–IL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee is requesting written public comments for the record from all parties interested on the extension of unconditional normal trade relations (NTR) to the Kyrgyz Republic.

BACKGROUND:

At present, the trade status of the Kyrgyz Republic is subject to the Jackson-Vanik amendment to Title IV of the Trade Act of 1974 (P.L. 93–618), the provision of law governing the extension of NTR to nonmarket economy countries ineligible for such status as of the enactment of the Trade Act. A country subject to this provision may gain conditional NTR, including NTR tariff treatment, only by complying with the freedom-of-emigration criteria under the Trade Act and by concluding a bilateral commercial agreement with the United States providing for reciprocal nondiscriminatory treatment. The extension of NTR is also subject to Congressional approval. The Trade Act authorizes the President to waive the requirements for full compliance with respect to a particular country if he determines that such a waiver will substantially promote the freedom-of-emigration provisions and if he has received assurance that the emigration practices of the country will lead substantially to the achievement of those objectives.

On April 13, 1992, the President determined that a waiver for the Kyrgyz Republic from the Jackson-Vanik freedom-of-emigration criteria would substantially promote the emigration objectives of the Trade Act. This determination was followed on April 16, 1992, by Executive Order 12802, under which the President's waiver determination entered into force. NTR, then most-favored-nation (MFN) treatment, was first extended to the Kyrgyz Republic effective August 21, 1992, following the country's ratification of the provisions in the bilateral trade agreement concluded on May 18, 1992, between the United States and the Kyrgyz Republic. Previously, Congress had approved the United States-Soviet Union agreement in a joint resolution signed into law on December 9, 1991 (P.L. 102–197). No further Congressional action was required to approve the extension of NTR to the Kyrgyz Republic because the agreement ratified by that country in 1992 reflected only technical changes in the previously approved original agreement with the Soviet Union.

NTR with the Kyrgyz Republic continued in effect under Presidential waivers in subsequent years. On December 5, 1997, the President determined that the Kyrgyz Republic was in full compliance with the Jackson-Vanik freedom-of-emigration criteria.

Pursuant to section 122 of the Uruguay Round Agreements Act (P.L. 103–465) requiring Congressional consultation prior to country accessions to the World Trade Organization (WTO), the United States Trade Representative transmitted detailed materials to the Committee on Ways and Means on September 24, 1998, on the pending accession of the Kyrgyz Republic to the WTO. On November 20, 1998, the Kyrgyz Republic filed its instruments of ratification with the Director General of the WTO, and on December 20, 1998, it formally became a member of the WTO. Because the United States has not extended unconditional NTR status to the Kyrgyz Republic as a result of the application of the Jackson-Vanik amendment to that country, the United States has invoked the non-application clause of the WTO (Article XXXV), meaning that the United States does not apply the WTO Agreements to the Kyrgyz Republic.

On March 25, 1999, Rep. Jennifer Dunn (R–WA) introduced H.R. 1318, legislation authorizing the President to determine that the Jackson-Vanik amendment should no longer apply to the Kyrgyz Republic. If the bill were to become law, the United States would be able to extend unconditional NTR to the Kyrgyz Republic, and all rights and obligations under the WTO agreed to by the two countries would apply.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record should submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect 5.1 format, with their name, address, and comments date noted on label, by the close of business, Friday, June 11, 1999, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette in WordPerfect 5.1 format, typed in single space and may not exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS MEANS/'.

UNITED STATES SENATE
WASHINGTON, DC 20510
June 11, 1999

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Crane:

In response to the request for comments from the Ways and Means Trade Subcommittee, I am pleased to submit this written statement and express my support of normal trade relations with Kyrgyzstan. As a member of the Senate Foreign Relations Committee I have followed the progress of Kyrgyzstan closely and I fully support H.R. 1318 which would remove Kyrgyzstan from the Jackson-Vanik amendment to Title IV of the 1974 Trade Act. Earlier this year I introduced S. 332 in the Senate to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan.

Kyrgyzstan has been a leader in economic and political reform in Central Asia. Since its independence from the Soviet Union in 1991, Kyrgyzstan has made great strides towards democratic rule and towards creating a free-market economy system. Further, Kyrgyzstan has been found to be in full compliance with the freedom of emigration requirements under Title IV of the Trade Act of 1974. While their efforts at reform are not yet complete, their many successes ought to be acknowledged through normal trade relations treatment with the United States as an affirmative expression of support for the significant progress that has been made.

Kyrgyzstan has demonstrated a strong desire to build a friendly and cooperative relationship with the United States and in 1994 concluded a bilateral investment treaty. Despite strong pressure from less reformist states, Kyrgyzstan gained accession to the World Trade Organization ("WTO") in 1998. Becoming the first nation of the Commonwealth of Independent States to become a member of the WTO has made Kyrgyzstan a model for other countries in the region.

The extension of unconditional normal trade relations treatment to the products of Kyrgyzstan will enable the United States to avail itself of all rights under the WTO with respect to Kyrgyzstan, assist Kyrgyzstan in its efforts to continue to advance political and economic reform, and provide strong incentive to their neighbors in Central Asia to follow the example of Kyrgyzstan's reform programs.

Sincerely,

SAM BROWNBACK
United States Senator

CENTRAL ASIA-CAUCASUS INSTITUTE
WASHINGTON, DC 20036
May 25, 1999

Congressman Philip M. Crane
Chairman, Subcommittee on Trade
Committee on Ways and Means
US House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Representative Crane:

I would like to convey my strong support for a waiver for Kyrgyzstan as regards the Jackson-Vanik amendment to the Trade Act of 1974. Granting Kyrgyzstan a waiver is fully in line with the growing relationship between our two countries. Kyrgyzstan is an oasis of openness in the increasingly authoritarian environment of Central Asia. Authoritarian tendencies, and understandable reactions to the disastrous economic situation, are found in Kyrgyzstan as well; I know from my own

experience that the major opposing force is Kyrgyz awareness, even among former Communist officials, that the West values and rewards democracy.

I have supported the Jackson-Vanik amendment since its inception, and I can assure you that exempting Kyrgyzstan from Jackson-Vanik will serve its original purposes. The situation of human rights and the right to emigrate in Kyrgyzstan is what it should be elsewhere in the former Soviet space.

Kyrgyzstan has been operating with MFN status under a presidential waiver since August, 1992. In December 1998, Kyrgyz Republic became the first CIS country to be admitted a member of the World Trade Organization (WTO).

At present, Kyrgyzstan continues the reform process from an economy dominated by more than 70 years of Soviet ways. The Kyrgyz know they must suffer through many changes in the old Soviet economy while going to a market economy with its freedoms and opportunities. The people are stoically attempting to do so. I cannot speak for the Institute or SAIS, but in my personal opinion, the granting of unconditional status would give the current Kyrgyz attempts a signal that we are concerned, and that we appreciate the many strides they have taken toward true freedom.

Sincerely,

CHARLES H. FAIRBANKS, JR.
Director, Central Asia-Caucasus Institute

bcc: Ambassador Baktybek Abdrissaev, Kyrgyz Embassy
Nurbek Jeenbayev, Kyrgyz Embassy

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA
June 11, 1999

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

As the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region, the U.S. Chamber of Commerce is writing to express our strong support for the extension of unconditional normal trade relations to the Kyrgyz Republic.

Since its independence, the Kyrgyz Republic has been consistently working to become part of the global marketplace through a very liberal and transparent foreign trade policy. The World Bank accurately describes the Kyrgyz Republic as one the most rapidly reforming countries in the former Soviet Union (FSU). The Kyrgyz Republic has striven to eliminate central economic controls, restructure and privatize the economy, and attract investors.

In July 1997, the U.S. Chamber of Commerce recognized the seriousness of purpose in the Kyrgyz government and business community when it signed the Cooperative Agreement with the Kyrgyz Chamber of Commerce and Industry. In 1998, the Kyrgyz Republic became the first former Soviet republic to join the World Trade Organization and make a firm commitment to international trade discipline. The Kyrgyz government persevered with its WTO bid despite strong pressure from several of its major regional trading partners who themselves lacked the requisite commitment and political will to liberalize foreign trade. At a recent meeting between our members and the President of the European Bank for Reconstruction and Development (EBRD), we welcomed the EBRD decision to select the Kyrgyz Republic as a "pilot" market for private sector development in the region.

Based on our experience and analysis of the developments in the Kyrgyz Republic, we believe that it meets the statutory requirements for unconditional NTR treatment and that the extension of such treatment is in the economic interests of both the Kyrgyz Republic and the United States. American companies are keenly interested in the growth of the Eurasian market for U.S. goods and services. The application of all rights and obligations under the WTO to Kyrgyz goods and services will be crucial for sustaining the transformation of this small export-dependent economy and ensuring its balanced orientation in the global marketplace.

The U.S. Chamber of Commerce looks forward to working with you and the Administration to ensure the extension of unconditional NTR treatment to Kyrgyz goods and services.

Sincerely,

R. BRUCE JOSTEN
Executive Vice President, Government Affairs

DOUGLAS HAMMONDS ACCOUNTANCY CORPORATION
CHATSWORTH, CA 91311
June 7, 1999

A.L. Singleton, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Mr. Singleton:

Over the past few years through the honorary consul in the western United States, Mr. S. "Chic" Wolk, I have become aware of the Kyrgyz Republic. I believe these people to be hard working, self reliant and well on the way to be a democracy with whom the United States could have a long and mutually beneficial relationship. It is countries like the Kyrgyz Republic which the United States should be promoting and encouraging. I would like to see H.R. 1318 passed which authorizes that the Jackson-Vanik amendment should no longer apply to the Kyrgyz Republic. Thank you for your consideration.

Respectfully submitted,

DOUGLAS HAMMONDS
Certified Public Accountant

Enclosures: 3.5 Disk

Statement of Hon. Bill Frenzel, Brookings Institution

I have never set foot in the Kyrgyz Republic, but I am familiar with the governments and the economies of the NIS in Central Asia.

In December of 1997 President Clinton determined that the Kyrgyz Republic was in full compliance with the Jackson-Vanik freedom of emigration requirements. A year later the Kyrgyz Republic became a member of the World Trade Organization (WTO). The U.S. has been obliged to invoke Article XXXV, the non-application clause of the WTO to the Kyrgyz Republic.

Without Normal Trade Relations (NTR), the U.S. is in the embarrassing position of not being able to extend to the Kyrgyz Republic the rights which both countries agreed to under the WTO.

HR 1318 would solve the problem. It ought to be promptly passed, and enacted.

The U.S. does not engage in a lot of trade with the Kyrgyz Republic. It is a small, remote country which is may never be a major trading partner. But, it has qualified for WTO membership, and it has, in the opinion of the President, met the qualifications for NTR under Jackson-Vanik.

Enactment of HR 1318 is not a prize, or a give-a-way. It has been earned, and it is a matter of simple justice. Passing it on a preference Calendar ought to be a matter of simple routine.

I am delighted that the Committee plans action on the bill, and I congratulate the author, Ms. Dunn, the Chairman of the Subcommittee, Mr. Crane, and the Chairman of the Committee, Mr. Archer.

JBC INTERNATIONAL
WASHINGTON, DC 20006
June 4, 1999

A.L. Singleton, Chief of Staff
Committee on Ways and Means,
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Singleton,

Pursuant to the request of Congressman Phillip M. Crane, Chairman on the Subcommittee on Trade of the Committee on Ways and Means, JBC International submits comments in support of the extension of unconditional normal trade relations (NTR) to the Kyrgyz Republic.

JBC International is a trade-consulting and lobbying firm that provides government relations services to businesses worldwide. We extend representation and advocacy services to businesses and governments throughout the world. JBC International builds industry and government coalitions to leverage trade negotiations. Most importantly, we promote the removal of trade barriers and the opening of foreign markets.

Extending normal trade relations to the Kyrgyz Republic could only be beneficial for the US. Kyrgyz imports approximately $106 million annually in oil, gas, pharmaceuticals, and grain resources for agricultural production. The Kyrgyz Republic has several investment opportunities in transportation, tourism, manufacturing, food, and retailing. Currently, US businesses are involved in developing industries to more effectively harvest the energy deposits throughout the Kyrgyz Republic.

The Kyrgyz Republic borders with several former members of the Soviet Union as well as China. Extending normal trade relations to Kyrgyzstan would increase US trade stability and indirectly improve opportunities for trade to neighboring countries. It is also the first step in establishing diplomatic relations in the region. Therefore, US business relations are not the only benefit of extending normal trade relations with the Kyrgyz Republic.

We thank you for the opportunity to express our comments in support of the extension of normal trade relations to the Kyrgyz Republic. Extending NTR is one more important step to becoming a global free market economy.

Yours Truly,

JAMES B. CLAWSON
Chairman and CEO

Statement of National Conference on Soviet Jewry

INTRODUCTION

The National Conference on Soviet Jewry ("NCSJ") appreciates the opportunity to share its written comments on the extension of Normal Trade Relations ("NTR") to the Kyrgyz Republic. NCSJ is confident of the commitment by the U.S. Congress and, in particular, Members of the Ways and Means Subcommittee on Trade, to the protection of minority rights that has been the hallmark of the Jackson-Vanik Amendment during the past 25 years.

NCSJ has supported, within the legal framework of the Jackson-Vanik Amendment, Presidential decisions to extend Most-Favored-Nation ("MFN") status to certain former Soviet Republics through the exercise of waivers and determinations of compliance. It is not the position of NCSJ that the terms of Jackson-Vanik should apply in perpetuity to the former republics of the Soviet Union. Rather, an ongoing process within these newly independent countries of developing the legal structure for guaranteeing basic human rights for their Jewish citizens—and thereby for other citizens as well—should lead to eventual graduation. NCSJ is currently assessing whether the Kyrgyz Republic should be thus graduated, by an act of Congress, from the Jackson-Vanik framework.

TERMS OF REFERENCE

Although the Jackson-Vanik Amendment to Title IV of the Trade Act of 1974 (P.L. 93–618) focused originally on free emigration, its application over the years has come to encompass the observance of internationally recognized human rights including—but not limited to—the right of emigration. We believe Congress recognizes that Jackson-Vanik has become an instrument of U.S. policy for assessing certain countries' observance of basic human rights. Therefore, the issue before the Committee is not whether it should approve unconditional NTR (i.e., MFN) because a country seeks membership in the World Trade Organization ("WTO"). Rather, the question before the Committee should be whether the country seeking graduation has provided the necessary assurances, and developed the political and legal guarantees, that warrant its graduation and, thereby, full acceptance into the international community.

Recognition by former Soviet republics of these basic human rights, which are fundamental to the existence of Jewish communities, is the baseline for determining whether NCSJ can support the extension of unconditional NTR with the Kyrgyz Republic. This framework applies also for any other former Soviet republic seeking such status.

Consideration of graduating the Kyrgyz Republic from the terms of Jackson-Vanik can be a constructive process beyond the immediate consequences for U.S.-Kyrgyz bilateral trade relations. While the enactment of legislation to graduate the Kyrgyz Republic should be based upon specific criteria, the mechanism for arriving at this determination for the Kyrgyz Republic should neither be more stringent nor less rigorous than the standard to be applied to other former republics of the Soviet Union.

The proposed Congressional legislation, introduced as H.R. 1318, refers to Kyrgyz accession to the WTO. NCSJ believes that any legislation to graduate the Kyrgyz Republic from Jackson-Vanik should acknowledge assurances from the Kyrgyz government with respect to freedom of emigration and other issues which NCSJ looks forward to reviewing with the Ways and Means Committee.

The Congressional oversight envisioned by Jackson-Vanik for the past quarter-century would be undermined if support for graduation were based primarily upon support for the accession of the Kyrgyz Republic to the WTO. Rather, graduation of the Kyrgyz Republic—and for that matter any of the former Soviet republics—should be based upon specific emigration policies as reflected in a country's legal framework and actual implementation, and other national policies that affect the status of their minority communities including the Jewish community. This has been and continues to be the foundation of the Jackson-Vanik Amendment to which—with rare exception—virtually every Member of Congress has subscribed, reflecting the longstanding bipartisan support for its purposes and objectives. Therefore, graduation must be conditioned upon Congressional consideration of the following principles:

- Emigration, minority rights, and freedom of religion;
- Prospects for the incorporation of human rights standards (including freedom of emigration and religion) into the country's constitutional and legal structure, into the laws of the republic, and their protection by the judiciary;
- Participation in bilateral and multilateral mechanisms related to the observance of religious freedom and basic human rights.

HUMAN RIGHTS AND RELIGIOUS CONCERNS IN THE KYRGYZ REPUBLIC

Despite periodic difficulties, the Kyrgyz Jewish community is relatively well treated and maintains a good working relationship with the government. NCSJ views the Kyrgyz Republic as having been in compliance with the freedom of emigration requirements of Jackson-Vanik. However, NCSJ remains concerned about the possible consequences of discrimination against non-Kyrgyz ethnic groups and restraints on religious freedom.

A proposed new religion law has already passed its first reading in the Kyrgyz legislature. This proposed statute contains vague terminology and refers to unspecified criminal and administrative penalties. The vagueness of the law potentially makes subject to governmental registration and approval a broad range of religious activity that simply, in a free society, should not be subject to the prior governmental review and/or approval.

NCSJ recommends strongly that the Ways and Means Committee revise and expand the scope of the proposed legislation so that it clearly expresses the continued long-term commitment of the United States to free emigration, minority rights, and freedom of religion. In this regard, NCSJ will be contacting both Members of the Committee and the Committee staff to present its detailed views on these issues.

NORTH AMERICAN-KYRGYZ BUSINESS COUNCIL
FALLS CHURCH, VA 22042
24 May 1999

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Crane:

The North American-Kyrgyz Business Council strongly recommends providing a waiver to the Kyrgyz Republic under the Jackson-Vanik amendment to the Trade Act of 1974. Kyrgyzstan has been operating with MFN status under a Presidential waiver since August of 1992. In October of 1998 the Republic became a member of The World Trade Organization.

The Kyrgyz Republic has made great strides toward democracy and needs aid and encouragement to continue on this road. Waiving the Jackson-Vanik amendment for Kyrgyzstan would give the country an additional sense of progress as they seek to move forward toward economic independence and freedom. The Kyrgyz are now going through the multiple changes required to move from a totalitarian to a free and free-market way of life.

The granting of unconditional status would give the Kyrgyz a sign of our support, concern and appreciation of their progress to date.

Most sincerely,

ANNE B. PENDLETON
Executive Director

Statement of Hon. Christopher H. Smith, a Representative in Congress from the State of New Jersey; Chairman, Subcommittee on International Operations and Human Rights; and Chairman, Commission on Security and Cooperation in Europe

Mr. Chairman, thank you for this opportunity to address the subcommittee on the issue of extending unconditional normal trade relations (NTR) to the Kyrghyz Republic. I urge that this step not be taken at this time.

Mr. Chairman, I understand that the Kyrghyz Republic has made significant steps in the area of human rights, and that, as the State Department reported in its latest Country Reports on Human Right Practices, "In general, government policy allows free travel within and outside the country."

However, we note that the same Country Report stated "the government generally respected the human rights of its citizens in many aspects but serious problems remained. Therefore, we wish to call your attention to several other areas of human rights practice and democratic institutions that we believe need to be considered before extending NTR unconditionally.

For instance, the Country Report reports that a referendum held in 1996 to substantially strengthen the Presidency was "marred by serious irregularities," and, "although Parliament has become increasingly active, it still does not check the power of the President effectively. The judiciary is dominated by the executive branch."

Another difficulty with the judiciary branch is that criminal proceedings are under the control of the procurator, i.e., the prosecuting attorney, instead of an impartial judge. The Country Report notes, "Thus the courts are widely perceived as a rubber stamp for the procurator and for high-ranking government officials and not as the protectors of citizens rights. In addition, very low judges' salaries have led to a well-grounded view among lawyers and citizens that all but a very few scrupulously honest judges are open to bribes."

In the area of free speech and press, there are laws on the books that theoretically protect these rights, but the government at times infringes on these rights. One of the greatest problems is the amount of taxation to which the independent print media is subject. There are at least six forms of taxes, in some cases amounting to

over 50% of revenue. As John Marshall wrote so correctly, "the power to tax is the power to destroy." High taxes reduce the viability of the independent press and force it to subsidize the government press that receives state subsidies.

Although criminal libel statutes have been removed from the books, several journalists have been charged under civil law for injuring the "honor and dignity" of parliamentarians and other public figures.

Finally, regarding religious liberty issues, the Kyrghyz Republic has a less than an exemplary record. Although better than some of its counterparts in Central Asia, Kyrgyzstan requires all religious groups to register with government authorities. Likewise, as recently as May 1999 in the city of Kyzyl Kiya, ten people were detained and fined a month's salary by authorities for holding religious gatherings. Reports such as these raise serious concerns about the Kyrghyz commitment to religious freedom.

Mr. Chairman, in light of these human rights concerns, unconditional NTR status is not warranted at this time.

Sincerely,

CHRISTOPHER H. SMITH, M.C.

UNION OF COUNCILS FOR SOVIET JEWS
WASHINGTON, DC 20006
June 11, 1999

Mr. A. L. Singleton
Chief-of-Staff
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, DC 20515

Dear Mr. Singleton:

As an organization that has worked on human rights issues in the former Soviet Union (FSU), with a specialty in freedom of movement, for nearly 30 years, the Union of Councils for Soviet Jews (UCSJ) has been a strong supporter of the Jackson-Vanik Amendment since the legislation's inception. In our view, the Jackson-Vanik Amendment is one of the most important statements of the United States' commitment to human rights and is fundamentally responsible for the great strides taken to protect emigration rights across the FSU.

In recent years, UCSJ has recognized these improvements and has not objected to the annual waiver of the Jackson-Vanik Amendment. Through the waiver process, most favored nation (MFN) status has been granted to the countries of the FSU making them equal with other U.S. trading partners. UCSJ has maintained that the waiver process serves as a continued reminder to these countries that they must make protection of human rights a top priority.

In the case of Kyrgyzstan, UCSJ and its Bishkek-based Kyrgyz-American Bureau on Human Rights and Rule of Law have supported the annual waiver of the Jackson-Vanik Amendment despite the continued existence of human rights violations. Our policy remains to support MFN for Kyrgyzstan.

We are writing here to raise several serious concerns with the proposed legislation H.R.1318's provisions that permanently remove Kyrgyzstan from the Jackson-Vanik regime and grant permanent and unconditional "normal trade relations treatment" (NTR) as MFN is known today.

While there are no significant direct obstacles to emigration in Kyrgyzstan, UCSJ and its Kyrgyz-American Bureau strongly oppose the continued existence of exit visas in that country. The requirement to renew this visa annually places an improper burden of time and money on applicants, as well as a constant dependence on the authorities to exercise this fundamental human right. The United States should insist that Kyrgyzstan end the practice of requiring exit visas.

A second reason for concern is the current decline in overall protection of human rights in Kyrgyzstan. The Kyrgyz-American Bureau, an organization that monitors human rights across the country, reports that instead of undertaking policies aimed at creating dialog between Kyrgyzstan's civil society and government the authorities are turning towards authoritarian methods to control its increasingly discontented and impoverished population. Simply put, progress in human rights and democracy has ceased and Kyrgyzstan is now regressing in these areas.

Five important areas of human rights deficiency identified by the Kyrgyz-American Bureau are freedom of religion, NGO regulation, freedom of assembly, freedom of the mass media and persecution of opposition political figures.

The Kyrgyzstan Parliament recently adopted, at first reading, a new draft law on religion that limits the rights of unregistered religious groups. Unregistered groups would be banned from missionary activity or even from preaching in private homes. The U.S. State Department reports that some Christian congregations face special barriers in the registration process including so-called non-traditional confessions (eg. Baptists and other evangelical Christians, Jehova's Witnesses, and Catholics). Some Muslim groups would be restricted as well.

One significant example of conflict between the authorities and a religious body is the deep hostility of the State Commission for Religious Affairs towards a parish owing allegiance to the Russian Orthodox Church Abroad (ROCA). On October 23, 1998, the church belonging to the ROCA was forcibly removed from the control of local parish priest Father Vladimir Klippenshtein and presented to representatives of the local branch of the Moscow Patriarchate, an action fully supported by the State Commission for Religious Affairs.

The parliament similarly adopted a draft law on NGOs that would require all NGOs to report to the Ministry of Justice every three months and to reregister with the authorities after final passage of the law. This law threatens to place all NGOs in a position where they would not be able to participate in any public activities—most importantly in monitoring of the upcoming municipal, parliamentary and presidential elections—because of their lack of legal status. Additionally, the law fails to address tax questions, which are vital to the survival of local NGOs, and leave these critical institutions vulnerable to official harassment over taxation issues.

The recent withdrawal of registration of the Kyrgyz Committee for Human Rights (KCHR) by the Kyrgyz Ministry of Justice demonstrates that the previous benevolent attitude towards human rights monitors is no longer the policy of the government of Kyrgyzstan. According to Amnesty International, the KCHR had its registration revoked in September 1998, just before a referendum which expanded the powers of President Akaev vis a vis the Parliament was scheduled to take place. Human rights advocates in Kyrgyzstan are concerned that the revocation of registration was motivated by the government's desire to prevent the KCHR from monitoring voting on the referendum.

Also passed at first reading is a draft law on freedom of assembly that sharply limits the right to demonstrate (e.g. near government buildings). Among the current violations of freedom of assembly was the arrest in September 1998 of three peaceful protesters in Jalal-Abad who were sentenced to 15 days of administrative detention. With the economic situation quickly deteriorating and nation-wide elections forthcoming, vulnerable and dispossessed groups in Kyrgyzstan are expected to become more active in peaceful protests and elections rallies. The draft law would allow the police to suppress this legitimate political activity.

According to the International Helsinki Federation, the draft laws on "Non-governmental Organizations" and on "Organizing and Holding Meetings, Rallies, Street Movements, and Demonstrations" are restrictive and would violate Paragraphs 10.1–10.4 and 9.2–9.3 of the Copenhagen Document of the OSCE if they are adopted.

It is important to note that, while at this time all of the above pieces of draft legislation are on hold, they remain as possible legislative weapons of the authorities and so are threats to Kyrgyzstan's future as a democratic, human rights defending nation.

Additionally, freedom of the mass media has been limited because of actions of the National Agency of Communication (NAC) that has created technical obstacles to the functioning of the electronic mass media. Throughout 1998 the difficult process of obtaining license agreements was undertaken between the NAC and the non-state electronic media. The NAC has produced subtle censorship by making the licensing process extremely costly, thereby restricting access to the airwaves. Furthermore, the NAC insist on their exclusive right to make all final decisions regarding non-state electronic media with no right of review or appeal.

The print media in Kyrgyzstan has also suffered repression in recent years. The newspaper Vecherny Bishkek was warned twice (in March and April 1998) by the Bishkek City Prosecutor for publishing unverified information.

In recent years libel has been a weapon of government officials against the media. To this day, libel is still a criminal, not a civil, charge. At the end of 1997, the parliament rejected a bill submitted by the president to change libel into a civil charge. Several journalists were sued for libel by MPs and other government officials. For example, the U.S. Department of State reports that Yrysbek Omursakov, a journalist for Res Publica, who had been sentenced in 1996 for libeling President Akayev,

was sentenced for libel again in May 1997, after writing a series of articles on privatization. He was released on bail in June 1997, but the charges remained in force. He was sentenced in September 1997 to 6 months in a prison colony; he appealed the verdict but was found guilty in November 1997. He was then released under a presidential amnesty. The Supreme Court found him guilty on January 20, according to the Civil Code, not the Criminal Code and sentenced him to pay a fine equal to 100 times the minimum monthly salary (about $600), but the provision of amnesty exempted him from having to pay. Omursakov returned to work at Res Publica during the year.

"Unlike the previous year (1997), the Government did not use libel laws against the press (in 1998); however, the Government on occasion apparently used tax laws and registration requirements to intimidate the opposition press or to suspend newspapers,"reported the State Department's country report on human rights in Kyrgyzstan for 1998. For example, in August 1998, the newspaper Asaba was evicted with only one month's notice from the building that it had occupied for 32 years. The Ministry of the Interior now occupies Asaba's old space. A new space has been found, but Asaba continues to have tax problems that have not been resolved.

Finally, political opposition figures have been persecuted in Kyrgyzstan. Kubanchibek Apas, a political opposition figure who had been living in Russia to avoid harassment by the Kyrgyz government, was arrested upon arriving in Kyrgyzstan to visit his family in January 1998. He was detained under outstanding charges of libel and insulting the president, but was soon released under the terms of the 1997 amnesty.

A second disturbing case was that of Topchubek Turgunaliev, a political opposition figure who was named a Prisoner of Conscience by Amnesty International, who was sentenced to 10 years in prison in January 1997 for abuse of authority and "defaming the President of the Kyrgyz Republic." He was release on probation in 1998, but under the conditions of his probation, he is not allowed to run for office in the 1999 parliamentary elections and may be prohibited from running in the 2000 presidential elections as well.

CONCLUSION

UCSJ's conclusion that Kyrgyzstan has regressed in the human rights field is echoed by the Human Rights Watch World Report for 1998 that concludes: "In 1998, under the leadership of President Askar Akaev, Kyrgyzstan moved ever further from its popular image as a model new democracy and leader in rights reform. Police abuse, religious persecution, trafficking of women, and violations of the right to free expression made a mockery of Kyrgyzstan's international reputation."

The International Helsinki Federation for Human Rights (IHF) also noted serious concerns, during a visit to Kyrgyzstan in April 1999, over the decline in human rights including the freedom of association and protection of the rights of human rights defenders. And Freedom House rated Kyrgyzstan as only partly free in 1998, lower than Russia, Ukraine and Turkey, countries with widespread human rights problems.

The above discussion demonstrates that many human rights problems remain in Kyrgyzstan, and that unfortunately the authorities are reversing earlier progress in this area. The United States government should insist in its negotiations with the government of Kyrgyzstan that these problems be addressed prior to obtaining further trade concessions.

Thus UCSJ recommends that the Committee on Ways and Means reject H.R. 1318 at this time, while continuing to support granting Kyrgyzstan NTR through the annual waiver process. This result will offer Kyrgyzstan all of the economic benefits of NTR, but will not provide them with the public relations victory of graduation from the Jackson-Vanik regime at a time when the country's human rights record is worsening.

Thank you for your consideration of UCSJ's view on this important legislation.

Sincerely,

YOSEF I. ABRAMOWITZ
President
MICAH H. NAFTALIN
National Director

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