

REPORT TO THE CONGRESS CONCERNING THE EX-
TENSION OF WAIVER AUTHORITY FOR
TURKMENISTAN

COMMUNICATION

FROM

THE ASSISTANT SECRETARY LEGISLATIVE
AFFAIRS, THE DEPARTMENT OF STATE

TRANSMITTING

A REPORT CONCERNING THE EXTENSION OF WAIVER AUTHORITY
FOR TURKMENISTAN, PURSUANT TO PUB. L. 93-618, SUB-
SECTION 402(d)(1) and 409



JUNE 15, 2009.—Referred to the Committee on Ways and Means and
ordered to be printed

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DEPARTMENT OF STATE
Washington, DC, June 3, 2009.

Hon. NANCY PELOSI,
Speaker of the House of Representatives

DEAR MADAM SPEAKER: Pursuant to subsection 402(d)(1) and 409 of the Trade Act of 1974 (JacksonVanik Amendment), P.L. 93-618, the President's Delegation of Authority E.O. 13346 (July 8, 2004), and Department of State Delegation of Authority No. 245-1 (February 13, 2009), the Deputy Secretary of State for Management and Resources has exercised the waiver authority provided by the Act on behalf of the Secretary of State and has issued the required determination.

A copy of the Deputy Secretary's Determination and the accompanying Report to Congress concerning the extension of waiver authority for Turkmenistan are enclosed.

We hope you find this information useful. Please do not hesitate to contact us if we may be of assistance on this or any other issue.

Sincerely,

RICHARD R. VERMA,
*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, as well as the authority delegated to the Deputy Secretary of State for Management and Resources by Delegation of Authority 245-1 of February 13, 2009, 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.

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

Date



Jacob J. Lew
Deputy Secretary of State for
Management and Resources

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

This report is submitted pursuant to subsection 402(d)(1) of the Trade Act of 1974, as amended ("the Act").

Freedom of Emigration Determination

Turkmenistan was found compliant with Jackson-Vanik every year until 2003 when, in response to an armed attack on former President Niyazov's motorcade in November 2002, the government tightened control over movement outside of the country by imposing an exit-visa requirement, which included restrictions on emigration. The government officially removed the exit-visa regime in January 2004, partially restoring freedom of emigration.

While the exit-visa regime was officially lifted, the government continued to impede travel out of the country, including emigration, for selected individuals, particularly former regime opponents and their family members. Those who wanted to emigrate to join dissident relatives who were convicted *in absentia* and received asylum abroad were not allowed to do so. People in this category 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 (GOT) passed a law on migration that was used to limit the ability of Turkmenistanis, especially those who had run afoul of Niyazov's regime, to leave the country. The law contains several vague articles that have been used by the GOT as a means to prevent people from traveling abroad. According to Article 32 of the law, those with access to state secrets, those considered a risk of becoming a victim of trafficking, and 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 urge the GOT to revise this law to be in compliance with its international commitments and obligations.

Following President Niyazov's death in December 2006, President Berdimuhamedov and his government expressed commitment to righting the abuses of the past and undertook a review of cases of those who were still denied, for apparent political reasons, permission to leave the country freely. At least four citizens who were previously barred from leaving the country have been allowed to

depart, either after petitioning the government to review their cases or when the international community, including the U.S. Embassy, brought specific cases to the government's attention. However, the criteria for permitting travel remain unclear and the government still occasionally bars citizens from departing the country. In at least two cases in late 2007 the GOT informed citizens they would be allowed to leave the country and then turned them away at the airport. In late 2008 the U.S. Embassy received a report of the continued travel ban on the family of an opposition activist. The GOT must take further steps to meet the requirements of the Jackson-Vanik amendment, including amending the restrictive 2005 law to meet its international commitments and obligations

An international organization that follows migration issues reports that at least 234 Turkmen citizens who acquired refugee status in other countries were able to leave the country between 2004 and 2009. Anecdotal reporting indicates that emigration has become generally easier over the last few years. Citizens of Turkmenistan have emigrated to Turkey, Israel, the United Arab Emirates, Russia, Germany, the United Kingdom, Kazakhstan, and Uzbekistan in the last few years. Official statistics, however, are difficult to obtain. An unofficial source reported that in 2008, the GOT permitted the migration of 34 Jews from the country and has allowed the migration of eight Jews so far in 2009. Members of parliament have told the U.S. Embassy that they hope to undertake additional reform of legislation concerning emigration in the coming year.

The Jackson-Vanik waiver has been an important tool for the United States to encourage the GOT to ease its emigration restrictions. The United States continues to use the promise of the Jackson-Vanik waiver as leverage to provide an incentive for the GOT to ease emigration restrictions. Turkmenistan must show concrete, definitive progress on freedom of emigration issues. The GOT has been responsive to some of our suggestions concerning reform. Over the next twelve months, we expect our efforts to yield additional results towards the GOT's further easing of restrictive emigration practices.