

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 3, 2008.—Referred to the Committee on Ways and Means and
ordered to be printed

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DEPARTMENT OF STATE,
Washington, DC, May 8, 2008.

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 (Jackson-Vanik Amendment), P.L. 93-618, the President's Delegation of Authority E.O. 13346 (July 8, 2004), and Delegation of Authority No. 245, the Deputy Secretary of State 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,

JEFFREY T. BERGNER,
*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

MAY 6, 2008.

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 by Delegation of Authority 245 of April 23, 2001, 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 Turkmenistan will substantially promote the objectives of Section 402 of the Act.

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

JOHN D. NEGROPONTE,
Deputy Secretary of State.

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

Pursuant to subsection 402(d)(1) of the Trade Act of 1974, as amended (“the Act”), and the authority assigned to the Secretary of State by the President in Executive Order 13346 dated July 8, 2004, as well as the authority delegated to me, the Deputy Secretary of State, by Delegation of Authority 245 of April 23, 2001, I hereby recommend a further extension for twelve months of the waiver authority granted by subsection 402(c) of the Act. I have determined that such extension will substantially promote the objectives of section 402 of the Act, and that a continuation of the waiver currently applicable to Turkmenistan 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 maintain in force a bilateral trade agreement with Turkmenistan.

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 of Turkmenistan (GOT) tightened control over movement outside of the country by imposing an exit-visa requirement, which included restrictions on emigration. The GOT officially removed the exit-visa regime in January 2004, 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 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 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 the GOT has used 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 comply with international standards.

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 U.S. Embassy Ashgabat, brought specific cases to the GOT's attention. The criteria for permitting travel remain unclear, however, and the GOT still occasionally bars citizens from departing the country. In at least two cases in late 2007, the GOT informed citizens that they would be allowed to leave the country and then turned them away at the airport. While many of these developments are encouraging, the GOT must take further steps to meet the requirements of the Jackson-Vanik Amendment, including amending the restrictive 2005 law to meet international standards.

The Jackson-Vanik waiver has been and continues to serve as an important incentive for the United States to encourage the GOT to ease emigration restrictions. The GOT has been responsive to some of our suggestions concerning reform, and Turkmenistan must continue to show concrete, definitive progress on freedom of emigration issues. Over the next 12 months, we expect our efforts to yield additional results towards the GOT's further easing of restrictive emigration practices.

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