

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

COMMUNICATION

FROM

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

TRANSMITTING

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



JUNE 13, 2011.—Referred to the Committee on Ways and Means and
ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

DEPARTMENT OF STATE,
Washington, DC, May 17, 2011.

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

DEAR MR. 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. 245-1 (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,

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

Enclosures: As stated.

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, restoring some freedom of movement, including freedom of emigration.

While the exit visa regime was officially lifted, the government has continued to impede travel out of the country, including emigration for selected individuals, particularly those suspected of opposing or being disloyal to the government and their family members. Some family members of officials imprisoned in 2002 who have wanted to emigrate to join relatives abroad have not been allowed to do so. People subject to a travel ban who have tried to leave the country have been turned away at the airport, visited by security services and told not to try to leave, or had their passports confiscated.

Further, in December 2005, the Government of Turkmenistan passed a law on migration that was used to limit the ability of Turkmen, especially those who had run afoul of Niyazov’s regime, to leave the country. The law contains several restrictions on travel abroad. According to Article 32 of the law, those with access to state secrets, those considered a risk of becoming victim of trafficking, and those whose departure threatens Turkmenistan’s national security can be prevented from traveling.

In recent years, there are indications of an easing of the emigration restrictions. Since the death in December 2006 of President Niyazov, the Government of Turkmenistan has expressed a commitment to righting the abuses of the past and has undertaken a review of cases of those who were denied permission to leave the country freely for apparent political reasons. At least four citizens who were previously barred from leaving the country have been allowed to depart. Nonetheless, many such restrictions remain in effect.

Migration statistics indicate that emigration is possible for most Turkmen citizens. 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. An additional 17 citizens left between January and April 2010. Citizens of Turkmenistan have emi-

grated to Turkey, Israel, the United Arab Emirates, Russia, Germany, the United Kingdom, Kazakhstan, the United States, and Uzbekistan. Official statistics, however, are difficult to obtain. An unofficial source reported that in 2008 the Government of Turkmenistan permitted the migration of 34 Jewish citizens and allowed 53 Jewish citizens to emigrate to Israel in 2009.

However, there continue to be numerous accounts of individuals barred from leaving the country. In fall 2009, students who planned to study at the American University in Central Asia were not allowed to depart to Bishkek and were temporarily banned from foreign travel. In April 2011, a group of health professionals who were supposed to take part in a U.S. government-sponsored exchange program in the United States were stopped at the airport by State Migration Service officials and denied exit. Those seven people were then placed on a list of persons banned from leaving the country. Government policy requires personnel offices of government agencies to hold the passports of all government employees. Government employees must first obtain permission to travel abroad in order to retrieve their passports.

For Turkmen citizens possessing a second citizenship, exit from Turkmenistan can be problematic. The Turkmen Constitution does not permit dual citizenship, and there have been occasions when State Migration Service officials refused to allow dual citizens to exit the country, despite possession of a valid travel document showing the person's other citizenship. The State Migration Service has not provided clear instructions on how dual citizens can leave the country, nor a clear procedure for a person to renounce Turkmen citizenship.

The Jackson-Vanik waiver has been an important tool for the United States to encourage the Government of Turkmenistan to ease its emigration restrictions, in combination with ongoing engagement involving instances such as the travel ban against students at the American University in Central Asia. The Government of Turkmenistan seeks to avoid criticism from the international community on issues such as respect for freedom of movement. Avoiding such criticism, which would be explicit if Jackson-Vanik sanctions were imposed, is a strong incentive for the Government of Turkmenistan to continue to ease such restrictions. Renewing the waiver at this time will provide better conditions for bilateral dialogue on freedom of emigration and movement and will substantially promote the objectives of Section 402 of the Jackson-Vanik Act.

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. 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*.

THOMAS R. NIDES,
*Deputy Secretary of State for
Management and Resources.*

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