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Original OA/ID Number: 1659				
Document ID: 9708527				
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UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9708527
RECEIVED: 19 DEC 97 08

TO: PRESIDENT

FROM: BERGER
HILLEY, J
SPERLING, G

DOC DATE: 31 DEC 97
SOURCE REF:

KEYWORDS: RUSSIA
CONGRESSIONAL
AZERBAIJAN

LEGAL ISSUES
ARMENIA
GEORGIA

PERSONS:

SUBJECT: RPT ON COMPLIANCE W/ JACKSON-VANIK AMENDMENT

ACTION: PRESIDENT SGD PER WH EXEC CLERK

DUE DATE: 25 DEC 97 STATUS: C

STAFF OFFICER: FOOKS

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO
FICKLIN
NSC CHRON

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSGP

CLOSED BY: NSDRS

DOC 3 OF 3

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ACTION DATA SUMMARY REPORT

RECORD ID: 9708527

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 COURTNEY	Z 97121908 PREPARE MEMO FOR BERGER
002 BERGER	Z 97122714 FWD TO PRESIDENT FOR SIGNATURE
002 TARULLO	Z 97122714 FOR SIGNATURE
002 SPERLING, G	Z 97122714 FOR SIGNATURE
002 HILLEY, J	Z 97123014 FOR SIGNATURE
003 PRESIDENT	Z 97123114 FOR SIGNATURE
003	X 97123115 PRESIDENT SGD PER WH EXEC CLERK

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

003 971231	VICE PRESIDENT
003 971231	WH CHIEF OF STAFF

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NSC/RMO PROFILE

RECORD ID: 9708527
RECEIVED: 19 DEC 97 08

TO: DAVIES

FROM: BURNS, W

DOC DATE: 18 DEC 97
SOURCE REF: 9722618

KEYWORDS: RUSSIA
CONGRESSIONAL

LEGAL ISSUES

PERSONS:

SUBJECT: RPT TO CONGRESSON CONTINUED COMPLIANCE W/ PROVISION OF JACKSON-VANIK
AMENDMENT FOR NEW INDEPENDENT STATES EXCEPT BELARUS

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 25 DEC 97 STATUS: S

STAFF OFFICER: COURTNEY

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
COURTNEY

CP

FOR CONCURRENCE

BAKER
FORT
MATERA
RUDMAN

FOR INFO

ANDREASEN
BEERS
BELL
BOUCHARD
JONES, K
PASCUAL
SCHWARTZ

COMMENTS:

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OPENED BY: NSGP

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DOC 1 OF 1

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**National Security Council
The White House**

PROOFED BY: _____ LOG # 8527
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Rice			
Davies			
Kerrick	<u>2</u>	<u>Duboy</u>	
Steinberg		<u>copy</u> ✓	
Berger		<u>copy</u>	
Situation Room			
West Wing Desk	<u>3</u>	<u>12/24</u>	<u>RETURN</u>
Records Mgt.			

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc:

COMMENTS:

'97 DEC 24 AM 10:00

WEST WING

This package needs to go to the Hill by Dec. 31. Dan Tarullo has already signed. All the other remaining signatories are in the West Wing. This is a routine certification and need not be seen by the President. Carlos Pascual

*FD WAS NOT
ACTED ON...*

*TRANSMITTED
TO HILL
on 1/5*

THE WHITE HOUSE

WASHINGTON

December 31, 1997

ACTIONPresident sgd per WH
Executive Clerk 12/31

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER ✓
JOHN HILLEY See memo 1/2/98
GENE SPERLING RTH
DAN TARULLO DTSUBJECT: Report on Compliance with the Jackson-Vanik
AmendmentPurpose

Transmit to Congress by December 31 a report indicating compliance by Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Turkmenistan, Tajikistan, Ukraine and Uzbekistan with U.S. and international standards on emigration.

Background

You previously determined that all the above countries are in "full compliance" with the criteria of the Jackson-Vanik amendment, thereby obviating the need for an annual waiver of the its provisions for these countries. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan were determined in "full compliance" on December 8, 1997; Armenia, Azerbaijan, Georgia, Moldova and Ukraine were determined in "full compliance" on June 3, 1997; and Russia was determined in "full compliance" on September 21, 1994.

Once a country is in "full compliance," however, the amendment requires that you submit a semiannual report to Congress on meeting the law's freedom of emigration provisions. You submitted the most recent report for Russia on June 30, 1997. You submitted the most recent report for Armenia, Azerbaijan, Georgia, Moldova and Ukraine in August. This is the first

report submitted for Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

All of the aforementioned countries continue to make progress in developing policies and practices that enable their citizens to travel abroad and emigrate. These policies and practices are largely in conformity with internationally recognized human rights norms. We believe that these states continue to satisfy the criteria set forth in the Jackson-Vanik Amendment.

RECOMMENDATION

1. That you sign the transmittal messages at Tab A.
2. That you sign the Presidential Determination at Tab B.

Attachments

- Tab A Transmittal Messages to Congress
- Tab B Presidential Determination on Compliance
- Tab C Report to Congress Concerning Emigration Laws and Practices of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan
- Tab D Incoming State Memorandum with Recommendation

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation was in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. On June 3, 1997, I determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova and Ukraine were in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. On December 8, 1997, I determined and reported to the Congress that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan were in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. These actions allowed for the continuation of most-favored-nation (MFN) status and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated Report to the Congress concerning the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. You will find that the report indicates continued compliance with U.S. and international standards in the area of emigration for these countries.

Sincerely,

The Honorable Newt Gingrich
Speaker of the
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

Dear Mr. President:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation was in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. On June 3, 1997, I determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova and Ukraine were in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. On December 8, 1997, I determined and reported to the Congress that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan were in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. These actions allowed for the continuation of most-favored-nation (MFN) status and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated Report to the Congress concerning the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. You will find that the report indicates continued compliance with U.S. and international standards in the area of emigration for these countries.

Sincerely,

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Presidential Determination Under Subsections
402(a) and 409(a) of the Trade Act of 1974, as
Amended -- Emigration Policies of Armenia,
Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan,
Moldova, the Russian Federation, Tajikistan,
Turkmenistan, Ukraine and Uzbekistan

Pursuant to the authority vested in me by subsections 402(a) and 409(a) of the Trade Act of 1974 (19 U.S.C. 2432(a) and 2439(a) (the "Act")), I determine that Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan are not in violation of paragraph (1), (2), or (3) of subsection 409(a) of the Act.

You are authorized and directed to publish this determination in the Federal Register.

REPORT TO CONGRESS CONCERNING EMIGRATION LAWS
AND POLICIES OF ARMENIA, AZERBAIJAN, GEORGIA, KAZAKHSTAN,
KYRGYZSTAN, MOLDOVA, THE RUSSIAN FEDERATION, TAJIKISTAN,
TURKMENISTAN, UKRAINE AND UZBEKISTAN

This report is submitted pursuant to sections 402 and 409 of the Trade Act of 1974, as amended ("the Act"), following Presidential Determination Number 94-51 of September 21, 1994, and the accompanying report to Congress, that the Russian Federation is not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act; Presidential Determination Number 97-27 of June 3, 1997, and the accompanying report to Congress, that Armenia, Azerbaijan, Georgia, Moldova and Ukraine are not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act; and Presidential Determination Number 97-7 of December 5, 1997, and the accompanying report to Congress, that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act.

All current information indicates that the emigration laws and practices of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan continue to satisfy the criteria set forth in sections 402(a) and 409(a) of the Act in respect of all matters covered in those subsections.

ARMENIA

The Armenian constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The emigration regime was further relaxed in 1997 by the discontinuation of a requirement for exit visas. No one was denied the right to emigrate in 1996 and 1997. Up to one-third of the population has temporarily or permanently emigrated during the last seven years. Armenians wishing to emigrate still face a requirement to "de-register," a process which can deny exit permission to those possessing state secrets, to those subject to military service, and to those whose relatives have made financial claims against them. Travel passports can also be denied to persons in these categories. In general, failure to "de-register" is not a barrier to emigrating, but may cause problems for those attempting to re-enter Armenia. Under Armenia's liberal policies, over

700,000 Armenians have emigrated since independence in 1991, of which about 350,000 reside in Russia, and over 300,000 live in the United States.

AZERBAIJAN

The Government of Azerbaijan officially recognizes freedom of emigration; a law passed in June 1994 guarantees that right. This right may only be limited in cases involving military draft liability, criminal record or pending criminal charges, or previous access to state secrets (the latter limitation does not pertain to emigration to other NIS countries). The new Azerbaijani constitution, adopted in 1995, provides for the right of all citizens to travel abroad. Active Jewish emigration to Israel continued in 1996 and early 1997. Germany was the second-largest destination of Azerbaijani emigrants. According to official statistics, in 1996 there were 2,431 emigrants from Azerbaijan. The remaining Armenian population in Azerbaijan is 10,000-20,000, mostly people of mixed descent or in mixed marriages. While official government policy is that Armenians are free to travel, low-level officials seeking bribes have harassed Armenians wishing to emigrate.

GEORGIA

The Government of Georgia maintains a policy of unrestricted emigration. The 1993 law on emigration remains the legal basis for emigration. In addition, the constitution, adopted in 1995, guarantees all Georgian citizens unrestricted freedom of movement. In 1996 and 1997, there were no recorded cases in which an individual was refused permission to emigrate. The Government of Georgia has adopted and maintained a cooperative attitude toward Jewish emigration. A large percentage of the Jewish population of Georgia has emigrated without incident.

KAZAKHSTAN

The Kazakhstani constitution provides for the right to emigrate. The right is respected in practice. An exit visa is required for all Kazakhstanis, including intending emigrants, who wish to travel abroad. Exit visas are routinely issued after a number of bureaucratic requirements have been met, such as provision of evidence that the intending emigrant has left behind no outstanding financial obligations. Refusals are rare.

KYRGYZSTAN

Kyrgyzstan has allowed most citizens to emigrate without undue delays and restrictions. Kyrgyzstan does not yet have a law on emigration and is following procedures as outlined in a draft law on emigration, which the parliament is expected to pass soon. Citizens who wish to emigrate must present an application to the Office of Visas and Registration (OVIR). This application is filed on behalf of the intending emigrant by his/her parents or spouse and states that the person has the permission of the next-of-kin to emigrate. The applicant also must present legal documents concerning marital status, outstanding debts and other facts. The applicant should have an invitation from abroad. Total cost is approximately \$40. A Soviet-era law prohibits emigration within 5 years of working with "state secrets", but no one is believed to have been banned from emigration under this statute in 1997. Reports from OVIR indicate that less than 10 percent of those who applied for emigration in 1996 were refused. Those refusals were based on the fact that the applicant or the inviting party had illegally emigrated or significantly over-stayed a tourist visa. Emigrants are not prevented from returning to Kyrgyzstan.

Kyrgyzstan has an agreement with other members of the CIS to ease emigration which allows Kyrgyz citizens to move to any member state of the CIS without having to go through the above process with OVIR. These citizens may simply move to another CIS country, then check in with the local OVIR office of that country and the Kyrgyz Embassy.

MOLDOVA

The Moldovan constitution guarantees the right of citizens to emigrate at will. Before emigrating, outstanding financial and judicial obligations must be satisfied. In 1996 and the first half of 1997, there were no recorded cases in which an individual was denied permission to emigrate. The Government of Moldova has adopted and maintained a cooperative attitude toward Jewish emigration. A large percentage of the Jewish population of Moldova has emigrated without incident.

RUSSIA

In recent years, the Russian Federation has made steady progress in establishing and implementing legal guarantees of the right to emigrate. This right, enshrined in Russia's 1993 constitution, was strengthened in 1996 with the law on "Procedures for Departing and Entering the Russian Federation". This law reaffirms Russia's policy of allowing its citizens to exercise freely the right to travel abroad and to emigrate.

The law details the procedures for obtaining travel documents and provides clarification of some controversial policies. The law gives the Russian government the right to deny permission to travel abroad for five years to Russian nationals who had access to classified material. An additional five years may be imposed in cases in which an individual had access to especially sensitive material.

The law provides a measure of transparency by requiring that any denial of exit on secrecy grounds specify reasons for and duration of the restriction and indicate the full name and legal address of the organization which requested the restriction. The law also formalized the status of an interagency commission, the "Ivanov Commission," which hears appeals of Russian nationals refused permission to travel based on secrecy grounds. Since its inception in 1993, the commission has met more than 55 times and has heard more than 1,000 cases. Of these, approximately 95 percent have received favorable rulings.

The entry and exit law also grants the state the right to refuse travel abroad to individuals who are the subject of legal proceedings or convicts who have not served their sentences. In addition, it allows the state to deny travel abroad "temporarily" if an individual has evaded financial obligations imposed by a court, such as alimony payments. This rule has allowed relatives or former spouses to delay or even veto emigration plans of some Russian nationals. The number of cases classified as "refuseniks" (the bulk of whom have been denied on secrecy grounds) maintained by American Jewish organizations has decreased from over 1,000 in the late 1980s to less than 100 in 1997.

Although more than one year has elapsed since passage of the entry and exit law, implementation is incomplete. Some onerous bureaucratic procedures not included in the new law continue, notably one procedure that requires Russian citizens to obtain a special stamp in addition to a passport before they emigrate.

The time for processing travel applications for Russian nationals without a passport who wish to travel abroad averages three months, and the time for processing travel applications for Russian nationals with passports is approximately one month. As a result of this progress, tens of thousands of Russian citizens emigrate annually. In FY 1997, approximately 7,600 Russians emigrated to the United States and approximately 17,000 emigrated to Israel. Russia has the third-largest Jewish population in the world. Approximately one million Jews lived in Russia in the early 1990s and during the past seven years approximately 200,000 have emigrated.

In sum, the Russian government continues to develop policies and practices that provide its citizens with rights to foreign travel and emigration that conform with internationally recognized human rights norms.

TAJIKISTAN

The 1994 Tajikistani constitution guarantees the right to emigrate. However, because no new legislation has been adopted on emigration since independence, the 1991 Soviet law remains in effect. In practice, the Government does not raise any significant obstacles to emigration, and a large number of individuals have left the republic since its independence. Persons who wish to emigrate to other NIS countries must simply alert the Ministry of Internal Affairs to their departure. Persons wishing to emigrate elsewhere must receive the approval of the relevant country's embassy prior to the issuance of an international passport. The charge for Tajikistan citizens to obtain an international passport is around \$15, and an exit visa for the purpose of emigration costs around \$100.

Over 90 percent of Tajikistan's 20,000-strong Jewish community are estimated to have emigrated since 1990, mostly to Israel. The government cooperated with Israeli authorities in making arrangements for special flights to assist Jewish emigration during the peak of civil war violence in 1992-93. As a result of conflict, instability and a depressed economy, an estimated 150,000 ethnic Russians or Russian-speakers and 9,000 ethnic Germans left Tajikistan in 1992 and 1993.

TURKMENISTAN

The Turkmenistani constitution of 1994 guarantees the right of citizens to emigrate. In recent years, many Turkmen citizens, including ethnic Russians and Jewish citizens, have emigrated to other countries. While most citizens are permitted to emigrate without undue restriction, some government opponents have been denied the opportunity to emigrate.

Turkmen citizens who wish to emigrate must obtain permission from the Ministry of Foreign Affairs. Required documents are an application, invitation from the country of intended travel, evidence of freedom from debts and financial obligations, and written consent from family members. If the applicant is divorced and either taking or leaving a child, an affidavit from the former spouse consenting to emigration is also required. Those with military obligations must de-register with the Ministry of Defense. The Ministry of Foreign Affairs is legally mandated to process the application and documents for emigration within three months. The fees for Turkmen passports and exit visas are reasonable, and denials for permission to emigrate have been rare. Prior to emigration, Turkmen citizens must submit their internal passports to the Ministry of Internal Affairs. Russia and Turkmenistan have a bilateral agreement giving favorable treatment to citizens emigrating to the other country. For example, exit visas are waived, emigrants have the right to sell their property privately, and customs taxes are reduced.

UKRAINE

Ukrainian law and the 1996 constitution guarantee all Ukrainian citizens the right to emigrate. In 1993, Ukraine dropped requirements for exit permission and made all citizens eligible for passports that permit free travel abroad. The Government of Ukraine still requires emigrants to obtain an exit visa from the local Office of Visas and Registration (OVIR). This is essentially an administrative requirement. While intending emigrants may evade this requirement by using a tourist passport good for international travel, without the exit visa to emigrate they then may face difficulty if attempting to return to Ukraine for a visit. Effective January 1, 1997, all Ukrainians, including those emigrating, must have passports issued by the Government of Ukraine, because the old Soviet passports will become invalid. The processing of passport applications takes less than two months. Cases involving applicants who had or

have access to secret information usually take longer, but secrecy has not been used routinely as grounds for denying permission to emigrate; there have been no known cases since 1996.

Ukraine does not impose taxes or fees on those who exercise their right to emigrate. Tens of thousands of Ukrainian citizens emigrate annually, including over 35,000 to the United States in 1996. Some applicants have encountered difficulties assembling the documents required for exit visas. Reports of local bureaucrats assessing bribes for routine passport and exit visa issuance are rife. However, human rights groups report that persons need only appeal to national-level authorities to resolve their status and establish their right to emigrate. There is no standard procedure for this appeal.

Some draft-age men have been refused the right to emigrate until their status with the military is clarified. Ukrainian and international human rights groups, leaders of Jewish communities in Ukraine, and officials of third governments confirm that freedom to emigrate has been established in Ukraine.

UZBEKISTAN

The Uzbekistani constitution provides for free movement within the country and across its borders, and the government has generally respected this right. The government has largely completed the process of issuing new passports to citizens in place of the old Soviet ones.

As a result of a reform of regulations in 1995, exit visas are in principle easy to obtain, are valid for a period of two years, and no longer require an invitation from abroad. However, local authorities sometimes withhold or delay issuance of passports or visas for political and administrative reasons to prevent persons from making short-term trips abroad, including some individuals selected to participate in official exchange programs. The exit visa for one human rights activist was granted only after several months. Others allegedly received their passports or exit visas only after paying bribes. Those who leave without an exit visa may be subject to severe penalties upon return.

Most barriers to emigration were lifted before the breakup of the Soviet Union. Although in some instances emigrants are delayed by long waits for passports and exit visas, potential

emigrants who can find a host country willing to accept them are able to leave the country. Since independence, a significant number of ethnic Russians, Jews, ethnic Ukrainians, and others have emigrated from the country without incident, although no exact figures are available.

United States Department of State

Washington, D.C. 20520

December 18, 1997

8527

SENSITIVE BUT UNCLASSIFIEDMEMORANDUM FOR GLYN DAVIES
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

Subject: Report to Congress on Continued Compliance with the Provisions of the Jackson-Vanik Amendment for the New Independent States (except Belarus)

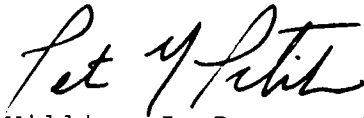
As of December 5, 1997, eleven of the New Independent States (NIS) have been determined to be in "full compliance" with the criteria of the Jackson-Vanik amendment, thereby obviating the need for annual renewal of a waiver of the Jackson-Vanik provisions for these countries. Sections 402 and 409 of the 1974 Trade Act, as amended, require that the President submit semiannually a report to Congress on continued compliance with the Act's freedom of emigration provisions. Russia was determined to be in "full compliance" on September 21, 1994; Armenia, Azerbaijan, Georgia, Moldova and Ukraine were determined to be in "full compliance" on June 3, 1997; and Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan were determined to be in "full compliance" on December 5, 1997.

In general, the Russian Federation continues to make steady progress in developing policies and practices that enable its citizens to travel abroad and to emigrate. These policies and practices are largely in conformity with internationally recognized human rights norms. The attached report details these findings.

Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan continue to make progress in developing policies and practices that enable their citizens to travel abroad and to emigrate. These policies and practices are largely in conformity with internationally recognized human rights norms. The attached report details these findings.

SENSITIVE BUT UNCLASSIFIED

We recommend the President sign the attached transmittal letter to Congress covering the semiannual compliance report.

A handwritten signature in black ink, appearing to read "Pet 4 Petition".

William J. Burns *on*
Executive Secretary

Attachments:

- Tab 1 - Transmittal Message to the Congress
- Tab 2 - Report to the Congress Concerning Continued Compliance of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan
- Tab 3 - Presidential Determinations of Full Compliance with Jackson-Vanik Amendment Criteria for Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan

SENSITIVE BUT UNCLASSIFIED
TO THE CONGRESS OF THE UNITED STATES:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation was in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. On June 3, 1997, I determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova and Ukraine were in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. On December 5, 1997, I determined and reported to the Congress that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan were in "full compliance" with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. These actions allowed for the continuation of most-favored-nation (MFN) status for these countries and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated Report to the Congress concerning the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The report indicates continued compliance of these countries with international standards concerning freedom of emigration.

The White House,

REPORT TO CONGRESS CONCERNING EMIGRATION LAWS
AND POLICIES OF ARMENIA, AZERBAIJAN, GEORGIA, KAZAKHSTAN,
KYRGYZSTAN, MOLDOVA, THE RUSSIAN FEDERATION, TAJIKISTAN,
TURKMENISTAN, UKRAINE AND UZBEKISTAN

This report is submitted pursuant to sections 402 and 409 of the Trade Act of 1974, as amended ("the Act"), following Presidential Determination Number 94-51 of September 21, 1994, and the accompanying report to Congress, that the Russian Federation is not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act; Presidential Determination Number 97-27 of June 3, 1997, and the accompanying report to Congress, that Armenia, Azerbaijan, Georgia, Moldova and Ukraine are not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act; and Presidential Determination Number 98-7 of December 5, 1997, and the accompanying report to Congress, that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act.

All current information indicates that the emigration laws and practices of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan continue to satisfy the criteria set forth in sections 402(a) and 409(a) of the Act in respect of all matters covered in those subsections.

ARMENIA

The Armenian constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The emigration regime was further relaxed in 1997 by the discontinuation of a requirement for exit visas. No one was denied the right to emigrate in 1996 and 1997. Up to one-third of the population has temporarily or permanently emigrated during the last seven years. Armenians wishing to emigrate still face a requirement to "de-register," a process which can deny exit permission to those possessing state secrets, to those subject to military service, and to those whose relatives have made financial claims against them. Travel passports can also be denied to persons in these categories. In general, failure to "de-register" is not a barrier to emigrating, but may cause problems for those attempting to re-enter Armenia. Under Armenia's liberal policies, over 700,000 Armenians have emigrated since independence in 1991, of which about 350,000 reside in Russia, and over 300,000 live in the United States.

AZERBAIJAN

The Government of Azerbaijan officially recognizes freedom of emigration; a law passed in June 1994 guarantees that right. This right may only be limited in cases involving military draft liability, criminal record or pending criminal charges, or previous access to state secrets (the latter limitation does not pertain to emigration to other NIS countries). The new Azerbaijan constitution, adopted in 1995, provides for the right of all citizens to travel abroad. Active Jewish emigration to Israel

continued in 1996 and early 1997. Germany was the second-largest destination of Azerbaijani emigrants. According to official statistics, in 1996 there were 2,431 emigrants from Azerbaijan. The remaining Armenian population in Azerbaijan is 10,000-20,000, mostly people of mixed descent or in mixed marriages. While official government policy is that Armenians are free to travel, low-level officials seeking bribes have harassed Armenians wishing to emigrate.

GEORGIA

The Government of Georgia maintains a policy of unrestricted emigration. The 1993 law on emigration remains the legal basis for emigration. In addition, the constitution, adopted in 1995, guarantees all Georgian citizens unrestricted freedom of movement. In 1996 and 1997, there were no recorded cases in which an individual was refused permission to emigrate. The Government of Georgia has adopted and maintained a cooperative attitude toward Jewish emigration. A large percentage of the Jewish population of Georgia has emigrated without incident.

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The Kazakhstan constitution provides for the right to emigrate. The right is respected in practice. An exit visa is required for all Kazakhstanis, including intending emigrants, who wish to travel abroad. Exit visas are routinely issued after a number of bureaucratic requirements have been met, such as provision of evidence that the intending emigrant has left behind no outstanding financial obligations. Refusals are rare.

KYRGYZSTAN

Kyrgyzstan has allowed most citizens to emigrate without undue delays and restrictions. Kyrgyzstan does not yet have a law on emigration and is following procedures as outlined in a draft law on emigration, which the parliament is expected to pass soon. Citizens who wish to emigrate must present an application to the Office of Visas and Registration (OVIR). This application is filed on behalf of the intending emigrant by his/her parents or spouse and states that the person has the permission of next-of-kin to emigrate. The applicant also must present legal documents concerning marital status, outstanding debts and other facts. The applicant should have an invitation from abroad. Total cost is approximately \$40. A Soviet-era law prohibits emigration within five years of working with "state secrets," but no one is believed to have been banned from emigration under this statute in 1997. Reports from OVIR indicate that less than 10 percent of those who applied for emigration in 1996 were refused. Those refusals were based on the fact that the applicant or the inviting party had illegally emigrated or significantly over-stayed a tourist visa. Emigrants are not prevented from returning to Kyrgyzstan.

Kyrgyzstan has an agreement with other members of the CIS to ease emigration which allows Kyrgyz citizens to move to any member of the CIS without having to go through the above process with OVIR. These citizens may simply move to another CIS country, then check

in with the local OVIR office of that country and the Kyrgyz Embassy.

MOLDOVA

The Moldova constitution guarantees the right of citizens to emigrate at will. Before emigrating, outstanding financial and judicial obligations must be satisfied. In 1996 and the first half of 1997, there were no recorded cases in which an individual was denied permission to emigrate. The Government of Moldova has adopted and maintained a cooperative attitude toward Jewish emigration. A large percentage of the Jewish population of Moldova has emigrated without incident.

RUSSIA

In recent years, the Russian Federation has made steady progress in establishing and implementing legal guarantees of the right to emigrate. This right, enshrined in Russia's 1993 constitution, was strengthened in 1996 with the law on "Procedures for Departing and Entering the Russian Federation." This law reaffirms Russia's policy of allowing its citizens to exercise freely the right to travel abroad and to emigrate.

The law details the procedures for obtaining travel documents and provides clarification of some controversial policies. The law gives the Russian government the right to deny permission to travel abroad for five years to Russian nationals who had access to classified material. An additional five years may be imposed in cases in which an individual had access to especially sensitive material.

The law provides a measure of transparency by requiring that any denial of exit on secrecy grounds specify reasons for and duration of the restriction and indicate the full name and legal address of the organization which requested the restriction. The law also formalized the status of an interagency commission, the "Ivanov Commission," which hears appeals of Russian nationals refused permission to travel based on secrecy grounds. Since its inception in 1993, the commission has met more than 55 times and has heard more than 1,000 cases. Of these, approximately 95% have received favorable rulings.

The entry and exit law also grants the state the right to refuse travel abroad to individuals who are the subject of legal proceedings or convicts who have not served their sentences. In addition, it allows the state to deny travel abroad "temporarily" if an individual has evaded financial obligations imposed by a court, such as alimony payments. This rule has allowed relatives or former spouses to delay or even veto emigration plans of some Russian nationals. The number of cases classified as "refuseniks" (the bulk of whom have been denied on secrecy grounds) maintained by American Jewish organizations has decreased from over 1,000 in the late 1980s to less than 100 in 1997.

Although more than one year has elapsed since passage of the entry and exit law, implementation is incomplete. Some onerous bureaucratic procedures not included in the new law continue, notably one procedure that requires Russian citizens to obtain a

special stamp in addition to a passport before they emigrate. The time for processing travel applications for Russian nationals without a passport who wish to travel abroad averages three months, and the time for processing travel applications for Russian nationals with passports is approximately one month. As a result of this progress, tens of thousands of Russian citizens emigrate annually. In FY 1997, approximately 7,600 Russians emigrated to the United States and approximately 17,000 emigrated to Israel. Russia has the third-largest Jewish population in the world. Approximately one million Jews lived in Russia in the early 1990s, and during the past seven years approximately 200,000 have emigrated.

In sum, the Russian government continues to develop policies and practices that provide its citizens with rights to foreign travel and emigration that conform with internationally recognized human rights norms.

TAJIKISTAN

The 1994 Tajikistan constitution guarantees the right to emigrate. However, because no new legislation has been adopted on emigration since independence, the 1991 Soviet law remains in effect. In practice, the government does not raise any significant obstacles to emigration, and a large number of individuals have left the republic since its independence. Persons who wish to emigrate to other NIS countries must simply alert the Ministry of Internal Affairs to their departure. Persons wishing to emigrate elsewhere must receive the approval of the relevant country's embassy prior to the issuance of an international passport. The charge for Tajikistan citizens to obtain an international passport is about \$15, and an exit visa for the purpose of emigration costs about \$100.

Over 90 percent of Tajikistan's 20,000-strong Jewish community are estimated to have emigrated since 1990, mostly to Israel. The government cooperated with Israeli authorities in making arrangements for special flights to assist Jewish emigration during the peak of civil war violence in 1992-93. As a result of conflict, instability and a depressed economy, an estimated 150,000 ethnic Russians or Russian-speakers and 9,000 ethnic Germans left Tajikistan in 1992 and 1993.

TURKMENISTAN

The Turkmenistan constitution of 1994 guarantees the right of citizens to emigrate. In recent years, many Turkmen citizens, including ethnic Russians and Jewish citizens, have emigrated to other countries. While most citizens are permitted to emigrate without undue restriction, some government opponents have been denied the opportunity to emigrate.

Turkmen citizens who wish to emigrate must obtain permission from the Ministry of Foreign Affairs. Required documents are an application, invitation from the country of intended travel, evidence of freedom from debts and financial obligations, and written consent from family members. If the applicant is divorced

and either taking or leaving a child, an affidavit from the former spouse consenting to emigration is also required. Those with military obligations must de-register with the Ministry of Defense. The Ministry of Foreign Affairs is legally mandated to process the application and documents for emigration within three months. The fees for Turkmen passports and exit visas are reasonable, and denials for permission to emigrate have been rare. Prior to emigration, Turkmen citizens must submit their internal passports to the Ministry of Internal Affairs. Russia and Turkmenistan have a bilateral agreement giving favorable treatment to citizens emigrating to the other country. For example, exit visas are waived, emigrants have the right to sell their property privately, and customs taxes are reduced.

UKRAINE

Ukrainian law and the 1996 constitution guarantee all Ukrainian citizens the right to emigrate. In 1993, Ukraine dropped requirements for exit permission and made all citizens eligible for passports that permit free travel abroad. The Government of Ukraine still requires emigrants to obtain an exit visa from the local Office of Visas and Registration (OVIR). This is essentially an administrative requirement. While intending emigrants may evade this requirement by using a tourist passport good for international travel, without the exit visa to emigrate they then may face difficulty if attempting to return to Ukraine for a visit. Effective January 1, 1997, all Ukrainians, including those emigrating, must have passports issued by the Government of Ukraine, because the old Soviet passports will become invalid. The processing of passport applications takes less than two months. Cases involving applicants who had or have access to secret information usually take longer, but secrecy has not been used routinely as grounds for denying permission to emigrate; there have been no known cases since 1996.

Ukraine does not impose taxes or fees on those who exercise their right to emigrate. Tens of thousands of Ukrainian citizens emigrate annually, including over 35,000 to the United States in 1996. Some applicants have encountered difficulties assembling the documents required for exit visas. Reports of local bureaucrats assessing bribes for routine passport and exit visa issuance are rife. However, human rights groups report that persons need only appeal to national-level authorities to resolve their status and establish their right to emigrate. There is no standard procedure for this appeal.

Some draft-age men have been refused the right to emigrate until their status with the military is clarified. Ukrainian and international human rights groups, leaders of Jewish communities in Ukraine, and officials of third governments confirm that freedom to emigrate has been established in Ukraine.

UZBEKISTAN

The Uzbekistan constitution provides for free movement within the country and across its borders, and the government has generally respected this right. The government has largely completed the

process of issuing new passports to citizens in place of the old Soviet ones.

As a result of a reform of regulations in 1995, exit visas are in principle easy to obtain, are valid for a period of two years, and no longer require an invitation from abroad. However, local authorities sometimes withhold or delay issuance of passports or visas for political and administrative reasons to prevent persons from making short-term trips abroad, including some individuals selected to participate in official exchange programs. The exit visa for one human rights activist was granted only after several months. Others allegedly received their passports or exit visas only after paying bribes. Those who leave without an exit visa may be subject to severe penalties upon return.

Most barriers to emigration were lifted before the breakup of the Soviet Union. Although in some instances emigrants are delayed by long waits for passports and exit visas, potential emigrants who can find a host country willing to accept them are able to leave the country. Since independence, a significant number of ethnic Russians, Jews, ethnic Ukrainians, and others have emigrated from the country without incident, although no exact figures are available.

THE WHITE HOUSE

WASHINGTON

September 21, 1994

Presidential Determination
No. 94-51

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Presidential Determination Under Subsections
402(a) and 409(a) of the Trade Act of 1974, as
Amended -- Emigration Policies of the Russian
Federation

Pursuant to the authority vested in me by sections 402(a) and 409(a) of the Trade Act of 1974 (19 U.S.C. 2432(a) and 2439(a) (the "Act")), I determine the Russian Federation is not in violation of paragraph (1), (2), or (3) of subsection 402(a) of the Act, or paragraph (1), (2), or (3) of subsection 409(a) of the Act.

You are authorized and directed to publish this determination in the Federal Register.

William J. Clinton

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

December 23, 1997

ACTION

MEMORANDUM FOR SAMUEL R. BERGER *(2) RM*
GENE SPERLING
DAN TARULLO

THROUGH: WILLIAM H. COURTNEY *WF*

FROM: MICHAEL FOOKS *MF*

SUBJECT: Report to Congress on NIS Compliance with the
Jackson-Vanik Amendment

The memorandum for the President at Tab I recommends that he sign a transmittal message to Congress for a report on compliance with the Jackson-Vanik Amendment by Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. The submission of this semiannual report is mandated by law as a consequence of the President's prior determinations finding these states in full compliance with Jackson-Vanik.

Concurrences by: Ki Fort, Michael Matera, Scott Busby, Newell } *WF*
Highsmith, Gordy Bendick, Carlos Pascual, } *MF*
Sherman Boone

RECOMMENDATION

That you sign the memorandum for the President at Tab I.

Attachments

Tab I Memorandum for the President
Tab A Transmittal Messages to Congress
Tab B Presidential Determination on Compliance
Tab C Report to Congress Concerning Emigration Laws and
Practices of the NIS
Tab D Incoming State Memorandum with Recommendation

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
JOHN HILLEY
GENE SPERLING
DAN TARULLO *DT*

SUBJECT: Report on ~~NIS~~ Compliance with the Jackson-Vanik
Amendment

Purpose

its ~~To~~ transmit to Congress by December 31 a report indicating compliance by Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Turkmenistan, Tajikistan, Ukraine and Uzbekistan with U.S. and international standards on emigration.

Background

its You ~~have~~ previously determined that all the above countries are in "full compliance" with the criteria of the Jackson-Vanik amendment, thereby obviating the need for an annual waiver of the ~~Jackson-Vanik~~ provisions for these countries. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan were determined in "full compliance" on December 8, 1997; Armenia, Azerbaijan, Georgia, Moldova and Ukraine were determined in "full compliance" on June 3, 1997; and Russia was determined in "full compliance" on September 21, 1994.

Once a country is in "full compliance," however, the ~~Jackson-Vanik~~ amendment requires that you submit a semiannual report to Congress on meeting the law's freedom of emigration provisions. You submitted the most recent report for Russia on June 30, 1997. You submitted the most recent report for Armenia, Azerbaijan, Georgia, Moldova and Ukraine in August.

This is the first report submitted for Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

All of the aforementioned countries continue to make progress in developing policies and practices that enable their citizens to travel abroad and emigrate. These policies and practices are largely in conformity with internationally recognized human rights norms. We believe that these states continue to satisfy the criteria set forth in the Jackson-Vanik Amendment.

RECOMMENDATION

1. That you sign the transmittal messages ~~to Congress~~ at Tab A. —
2. That you sign the Presidential Determination ~~on compliance~~ at Tab B. —

Attachments

- Tab A Transmittal Messages to Congress
- Tab B Presidential Determination on Compliance
- Tab C Report to Congress Concerning Emigration Laws and Practices of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan
- Tab D Incoming State Memorandum with Recommendation