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EMIGRATION LAWS AND POLICIES OF ARMENIA, AZER-
BAIJAN, GEORGIA, KAZAKHSTAN, KYRGYZSTAN,
MOLDOVA, THE RUSSIAN FEDERATION, TAJIKISTAN,
TURKMENISTAN, UKRAINE, AND UZBEKISTAN

COMMUNICATION

FROM

**THE PRESIDENT OF THE UNITED
STATES**

TRANSMITTING

AN UPDATED REPORT CONCERNING THE EMIGRATION LAWS AND
POLICIES OF ARMENIA, AZERBAIJAN, GEORGIA, KAZAKHSTAN,
KYRGYZSTAN, MOLDOVA, THE RUSSIAN FEDERATION,
TAJIKISTAN, TURKMENISTAN, UKRAINE, AND UZBEKISTAN, PUR-
SUANT TO 19 U.S.C. 2432(b)



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THE WHITE HOUSE,
Washington, July 9, 1998.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

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 these same criteria, and I made an identical determination on December 5, 1997, with respect to Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. 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.

Sincerely,

WILLIAM J. CLINTON.

REPORT TO THE 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 the 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 the 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 the 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 (which has changed little since the last report) 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. In 1997 the government eliminated the requirement for exit visas. There have been no reports of individuals being denied the right to emigrate in 1997 and so far in 1998. 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 that 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 subsequently to re-enter Armenia.

AZERBAIJAN

The government of Azerbaijan officially recognizes freedom of emigration, and a law passed in June 1994 guarantees that right. This right may be limited only 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 1995 Azerbaijan constitution provides for the right of all citizens to travel abroad. Active Jewish emigration to Israel continues. Germany was the second most common destination of Azerbaijani emigrants. The remaining Armenian population in Azerbaijan is ten to twenty thousand, mostly people of mixed nationality 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 1995 constitution guarantees all Georgian citizens unrestricted freedom of movement. In 1997 and so far in 1998 there have been 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 Kazakhstan constitution provides for the right to emigrate. This 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 outlined in a draft law on emigration that is under consideration by the

parliament. 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. Applicants need 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 and so far in 1998. Emigrants are not prevented from returning to Kyrgyzstan.

Kyrgyzstan has an agreement with other members of the Commonwealth of Independent States (CIS) that allows Kyrgyz citizens to move to any member of the CIS without having to go through the above-mentioned process with OVIR.

MOLDOVA

The Moldovan constitution guarantees the right of citizens to emigrate at will. Before emigrating, outstanding financial and judicial obligations must be satisfied. In 1997 and so far in 1998 there have been 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. However, 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 permission on secrecy grounds must specify reasons for and duration of the restriction, and indicate the full name and legal address of the organization that 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 60 times and has heard more than 1,400 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 human rights organizations has decreased from over 1,000 in the late 1980s to less than 100 to date in 1998.

Although nearly two years have 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 general, the Russian government continues to develop policies and practices that provide its citizens with rights to foreign travel and emigration that largely conform with internationally recognized human rights norms.

TAJIKISTAN

Article 24 of Tajikistan's 1994 constitution provides for the right of every citizen to emigrate from and return to Tajikistan. The government generally respects these rights. Tajikistan does not yet have a law on emigration. As a result, the 1991 Soviet law remains in effect. The government does not raise any significant obstacles to emigration, and a large number of individuals have left since its independence in 1991. Persons who wish to emigrate to other NIS countries must simply alert the Ministry of Interior of their departure. Persons wishing to emigrate elsewhere must receive approval from the relevant country's embassy prior to the issuance of an international passport.

Over 90 percent of Tajikistan's 20,000-strong Jewish community is 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. The rate of emigration has slowed down as Tajikistan has stabilized since the peak of the civil war. Refugees who fled to Afghanistan during the fighting have since returned to Tajikistan. Persons who settle abroad are required to inform the Tajikistan embassy or an Interests Section at the nearest Russian embassy or consulate. Persons who wish to return to Tajikistan after having emigrated may do so by submitting their applications to the Tajikistan embassy or an Interests Section at the nearest Russian embassy or consulate. The government adjudicates requests on a case-by-case basis.

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.

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). 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, 1998, old tourist passports became invalid, and all Ukrainians, including those emigrating, must have passports issued by the government of Ukraine. 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.

Ukraine does not impose taxes or fees on those who exercise their right to emigrate. Tens of thousands of Ukrainian citizens emigrate annually. 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 common. 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 from Uzbekistan 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 exact figures are not available.