

WAIVER UNDER THE TRADE ACT OF 1974 WITH
RESPECT TO THE REPUBLIC OF BELARUS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION TO CONTINUE TO WAIVE
THE APPLICATION OF SUBSECTIONS (a) AND (b) OF SECTION 402
OF THE TRADE ACT OF 1974 WITH RESPECT TO THE REPUBLIC
OF BELARUS, PURSUANT TO 19 U.S.C. 2432(c)(2) AND (d)



JULY 7, 2009.—Message and accompanying papers referred to the
Committee on Ways and Means and ordered to be printed

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THE WHITE HOUSE,
Washington, July 1, 2009.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: I wish to report to the Congress that I have made the determination required by subsection 402(c)(2)(A) of the Trade Act of 1974, as amended (the "Act"), and received the assurances as required by section 402(c)(2)(B) of the Act with respect to Belarus. I also transmit the document referred to in subsection 402(c)(2) of the Act.

Sincerely,

BARACK OBAMA.

EXECUTIVE ORDER

WAIVER UNDER THE TRADE ACT OF 1974 WITH RESPECT TO THE
REPUBLIC OF BELARUS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including subsection 402(c)(2) of the Trade Act of 1974, as amended (the "Act") (19 U.S.C. 2432(c)(2)), which continues to apply to the Republic of Belarus pursuant to subsection 402(d) of the Act (19 U.S.C. 2432(d)), and having made the report to the Congress set forth in subsection 402(c)(2), I hereby waive the application of subsections (a) and (b) of section 402 of the Act with respect to the Republic of Belarus.

BARACK OBAMA.

THE WHITE HOUSE, *July 1, 2009*.

REPORT TO THE CONGRESS CONCERNING A WAIVER OF SUBSECTIONS
402(a) AND (b) OF THE TRADE ACT OF 1974—THE REPUBLIC OF
BELARUS

Pursuant to subsection 402(c)(2) of the Trade Act of 1974, as amended (the “Act”), which continues to apply to the Republic of Belarus pursuant to subsection 402(d) of the Act, I shall issue today an Executive Order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to the Republic of Belarus (Belarus).

Exercise of the waiver authority conferred by section 402 of the Act would continue to permit the United States to maintain Normal Trade Relations tariff rates for products of Belarus, and to conclude and maintain in force a bilateral trade relations agreement with Belarus. Exercise of the waiver authority with respect to Belarus would also allow the U.S. Government to engage in credit and investment activities in Belarus, but those programs have been suspended in Belarus due to concerns over the Belarusian authorities’ economic and human rights policies.

FREEDOM OF EMIGRATION SITUATION

The November 1996 Constitution of the Republic of Belarus, although adopted illegitimately, specifically grants citizens the right to leave and return as they wish. Soviet-era restrictions on emigration in Belarus have largely, but not entirely, been dismantled, and existing restrictions are applied in a manner that generally allows free emigration. None of the human rights or religious minority organizations, including Jewish organizations, in Belarus report discriminatory restrictions limiting the ability of citizens to emigrate on the basis of ethnic identity. However, Soviet-era legislation restricting emigration by those with access to “state secrets” does remain in force in Belarus. There are also exit restrictions on those who are involved in criminal investigations, convicted of crimes, attempting to evade military service, or have outstanding debts imposed by a court, such as a fine or child support obligations. These exit restrictions on Belarusian citizens apply equally whether they are exiting for the purpose of temporary travel or for emigration. We believe these restrictions have arbitrarily targeted the temporary travel of opposition activists and may impact their freedom of emigration.

The procedure for administering these exit restrictions has recently been changed. Presidential Decree No. 643 of December 17, 2007, which took effect on January 1, 2008, abolished a system of passport exit stamps that had been used previously to grant permission for travel abroad. Under the new procedures, individuals presenting a passport to a border enforcement official at most border points are checked against a database of persons ineligible for exit. The Belarusian Committee for State Security (BKGB) and the

Ministries of Justice and Defense provide names to the Citizenship and Migration Office of the Ministry of Internal Affairs, which maintains the database.

CO Since January 1, 2008, we have had no reports that the new procedure is adversely affecting freedom of emigration. However, we are concerned that the new procedures are less transparent, more subject to manipulation than the old system, and can be used to restrict temporary travel abroad. Opposition politicians and civil society activists who had previously been able to exit Belarus for temporary travel were denied permission to exit when they appeared at a border crossing after the new decree came into force on January 1, 2008. In some cases, the persons denied permission to exit were not given any legal basis for denial of their right to exit.

Other existing restrictions that impede the ability of Belarusians to exit the country remained in place during 2008 and the first half of 2009. These restrictions included a presidential decree signed in March 2005 on measures to combat trafficking in persons, which required, among other provisions, that any organization responsible for facilitating student exchanges must first receive approval for its program from the Ministry of Education. Nongovernmental organizations have expressed concern that the Belarusian authorities may be using this law to prevent Belarusians from traveling abroad for legitimate purposes. A presidential decree from November 2005, which required students to get permission from the Ministry before even brief study, work, sports, cultural, or other events abroad during the school year, also remained in effect.

We have repeatedly expressed our concerns to the Government of Belarus about the manner in which restrictions on exit from Belarus are applied, either for the purpose of emigration or for temporary travel. In an October 2008 meeting, the Government of Belarus provided assurances it will address these restrictions on temporary travel. Issuing a new waiver will allow us to continue to promote progress by the Government of Belarus, while preserving our leverage to prevent any rollback. We will continue to raise our concerns with the Government of Belarus about emigration-related policies, noting that efforts to restrict emigration may result in revocation of the waiver and Normal Trade Relations.