

HISTORICAL BACKGROUND

I. SPEECH ON THE SENATE FLOOR, SEPTEMBER 27, 1972 THE JACKSON AMENDMENT ON FREEDOM OF EMIGRATION

Henry M. Jackson

Mr. President, I will be offering on behalf of a bipartisan group of my colleagues an amendment to the East-West Trade Relations Act of 1971, S. 2620.* It is a simple amendment. It arises out of and is rooted in our traditional commitment to the cause of individual liberty. It is a simple plea for simple justice. But unlike other such pleadings, it has some teeth in it.

Our amendment would add a new section 10 to the bill, consisting of nine parts, that would extend most-favored-nation treatment to Communist countries. It would establish a direct legislative link between that status and other trade and credit concessions, on the one hand, and the freedom to emigrate without the payment of prohibitive taxes amounting to ransom, on the other. Under this amendment no country would be eligible to receive most-favored-nation treatment or to participate in U.S. credit and investment guarantee programs unless that country permits its citizens the opportunity to emigrate to the country of their choice. Moreover, the amendment would require the President to judge and report in detail upon the compliance with this condition of any country wishing to obtain most-favored-nation status or U.S. credits. Such a report, updated at regular intervals, would make available our best information as to the nature, content, application, implementation, and effects of the emigration laws and conditions in the countries concerned.

Mr. President, the Nobel lecture of the great Russian writer Alexander Solzhenitsyn was recently published in the West. It is more than an eloquent defense of truth and justice. It is more than a sharp condemnation of tyranny. It contains the

* The East-West Trade Relations Act of 1971, the Jackson amendment to it, and a similar amendment introduced in the House of Representatives by Congressman Charles Vanik failed to become law by the close of the 92d Congress. Jackson therefore reintroduced the amendment in the first session of the 93d Congress, attaching it to the Trade Reform Act of 1973.

profound message that “mankind’s sole salvation lies in everyone making everything his business, in the people in the East being vitally concerned with what is thought in the West, the people of the West vitally concerned with what goes on in the East.” Mr. President, the “thought in the West” is contained in our amendment. I propose that this great Senate concern itself with what goes on in the East.

We have received numerous reports of late about the intensification of state repression in the Soviet Union. Intellectuals and other dissidents have been arrested and sent to labor camps, hospitals, and mental institutions. In Lithuania demonstrations by Roman Catholics demanding religious and cultural freedom have been brutally put down. And the Soviet regime has stepped up its campaign against Jews seeking to emigrate to Israel.

The most dramatic violation of basic human rights is the recent decision of the Politburo to demand a ransom from Jews wishing to leave the Soviet Union. The reaction to this decision in the West has been one of outrage and revulsion. It violates our most deeply held convictions about human freedom and dignity. It recalls to us a dark age when human beings were enslaved and traded as chattel. In our own land it took a civil war to blot out that disgrace and vindicate the principles of our Constitution.

Mr. President, those of us who lived during the time of the Third Reich remember when Himmler sold exit permits for Jews. As the great British historian Robert Conquest has pointed out, the Soviet leaders may be unaware of this unflattering parallel since none of the Western literature on the Holocaust has been published in Russia. But we are aware of the Holocaust. We see the parallel. And that is why we must do whatever we can to prevent a repetition of that horrible catastrophe.

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I will not here catalog the continuing record of oppression suffered by the Soviet Jews and by other minorities and dissidents in the Soviet Union. But I must express my fear that the current ransom program, wicked in itself, carries with it the potential to exacerbate anti-Semitism in the Soviet Union to an extent and a depth that we hoped had perished for all time with the collapse of the Third Reich. For in the effort to justify this barbaric trade in human beings the Soviets have appealed to the basest instincts. The reports reaching us affirming the

popularity of the ransom policy are the most painful of all. They portend the unleashing of bitter forces that even a totalitarian regime as adept at regimenting its people as the Soviet state cannot always control. Nor is it certain that control is what the leaders in the Kremlin desire.

Now, the Soviet leaders have explained that the exorbitant emigration taxes, amounting to thousands of dollars, are in reality a tax on education incurred by the student as a consequence of his state-supported studies. The more audacious Soviet spokesmen have gone so far as to compare these taxes to the obligation incurred by the graduates of our military academies who undertake to spend a specified period of time following graduation in the armed services. In principle there is nothing wrong with the making of an agreement between student and institution of learning—or, for that matter, between the student and the state—in which the student undertakes certain obligations in return for his tuition. But that is not what is involved in the Soviet case and it is a lie to suggest otherwise. For one thing the emigration taxes have been retroactively imposed on all citizens. They do not arise out of any agreement or understanding or voluntary obligation. For another, the Soviet student is denied recourse to private educational institutions so that even if the obligations were placed on a voluntary basis, which they are not, there would be no way to avoid them. One would be forced either to accept the state's terms or go without any education. Moreover, the taxes imposed on emigration, unlike agreements sometimes made in Western countries to serve after graduation in a prearranged capacity, are prohibitive and intended to be so. Soviet citizens are simply not permitted to earn or amass the sums necessary to purchase their freedom. To attempt to borrow the huge amounts involved opens one to persecution for economic crimes, and no one earns the sort of income that would enable him to pay the visa tax for an advanced education without borrowing. So the funds cannot be generated internally.

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The fact is, Mr. President, that a decision to pay the ransom demand would be to submit to blackmail of the most ominous sort. Where would it stop? Would it spread to other countries as aerial hijacking did when first attempted and then emulated? Would the remnant of scattered minorities, Jews and others, become the new medium of international exchange? Would we organize the agencies, arrange for the planes and ships, transfer the foreign exchange, negotiate the prices—in short, would we institutionalize the sale of a whole people? I say no and I ask the Senate to join with me in saying no.

There will be those who will say, even as Mr. Brezhnev must surely have said to the President in Moscow, that the action we are proposing is an intrusion in the internal affairs of the Soviet Union. To this I would quote Solzhenitsyn: "There are no internal affairs left on our crowded Earth."

The fact is, of course, that the ransom—were it to be paid—would be paid out of funds raised primarily in the United States. That surely gives us the right as a government, quite apart from the dedication to our own high principles, to be "vitaly concerned with what goes on in the East."

Mr. President, we Americans are fortunate to have at our service the greatest economy the world has ever known. It can do more than enrich our lives. It can be pressed into service as an instrument of our commitment to individual liberty. We can deny our vast markets to the Soviet Union. We can reserve participation in our credit and investment programs—our "internal" matters—to those countries who accord their citizens the fundamental human right to emigrate. We can, and we must, keep the faith of our own highest traditions.

We must not now, as we did once, acquiesce to tyranny while there are those, at greater risk than ourselves, who dare to resist.

II. JACKSON-VANIK AMENDMENT SECTION 402 (19 USC 2423)
TRADE ACT OF 1974

(a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after the date of the enactment of this Act products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly

or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country-

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice, and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) After the date of the enactment of this Act, (A) products of nonmarket economy country may be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (C) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment is received, such credits or guarantees are extended, or such agreement is in effect.

(c)(1) During the 18-month period beginning on the date of the enactment of this Act, the President is authorized to waive by Executive order the application of subsections (a) and (b) with respect to any country, if he reports to the Congress that-

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.