

operation and partnership between the United States and Russia. The Congress affirms its support for the principles contained in the Vancouver Declaration.

“(2) The Vancouver Declaration underscored that—

“(A) a dynamic and effective partnership between the United States and Russia is vital to the success of Russia’s historic transformation;

“(B) the rapid integration of Russia into the community of democratic nations and the world economy is important to the national interest of the United States; and

“(C) cooperation between the United States and Russia is essential to the peaceful resolution of international conflicts and the promotion of democratic values, the protection of human rights, and the solution of global problems such as environmental pollution, terrorism, and narcotics trafficking.

“(3) The Congress enacted the FREEDOM Support Act (Public Law 102-511) [see Short Title note above], as well as other legislation such as the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) [22 U.S.C. 2551 note] and the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484) [22 U.S.C. 5901 et seq.], to help meet the historic opportunities and challenges presented by the transformation that has taken place, and is continuing to take place, in what once was the Soviet Union.

“(4) The process of reform in Russia, Ukraine, and the other independent states of the former Soviet Union is ongoing. The holding of a referendum in Russia on April 25, 1993, that was free and fair, and that reflected the support of the Russian people for the process of continued and strengthened democratic and economic reform, represents an important and encouraging hallmark in this ongoing process.

“(5) There remain in force many United States laws that are relics of the Cold War, and repeals or revisions of these provisions can play an important role in efforts to foster and strengthen the bonds of trust and friendship, as well as mutually beneficial trade and economic relations, between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union.

“SEC. 103. STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION.

“(a) IN GENERAL.—There are numerous statutory provisions that were enacted in the context of United States relations with a country, the Soviet Union, that are fundamentally different from the relations that now exist between the United States and Russia, between the United States and Ukraine, and between the United States and the other independent states of the former Soviet Union.

“(b) EXTENT OF SUCH PROVISIONS.—Many of the provisions referred to in subsection (a) imposed limitations specifically with respect to the Soviet Union, and its constituent republics, or utilized language that reflected the tension that existed between the United States and the Soviet Union at the time of their enactment. Other such provisions did not refer specifically to the Soviet Union, but nonetheless were directed (or may be construed as having been directed) against the Soviet Union on the basis of the relations that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

“(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

“(1) section 216 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316),

“(2) sections 136 [22 U.S.C. 3943 note] and 804 [99 Stat. 449] of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93),

“(3) section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1411 [1414]),

“(4) the Multilateral Export Control Enhancement Amendments Act [see Short Title of 1988 Amendment note set out under section 2410 of Title 50, App., War and National Defense] (50 [App.] U.S.C. 2410 note, et seq.),

“(5) the joint resolution providing for the designation of ‘Captive Nations Week’ (Public Law 86-90) [73 Stat. 212],

“(6) the Communist Control Act of 1954 (Public Law 83-637) [see Short Title note set out under section 781 of Title 50],

“(7) provisions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including sections 101(a)(40), 101(e)(3), and 313(a)(3) [8 U.S.C. 1101(a)(40), (e)(3), 1424(a)(3)],

“(8) section 2 of the joint resolution entitled ‘A joint resolution to promote peace and stability in the Middle East’, approved March 9, 1957 (Public Law 85-7) [22 U.S.C. 1961 et seq.], and

“(9) section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa),

should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.”

DEFINITIONS FOR PUB. L. 103-199

Pub. L. 103-199, § 3, Dec. 17, 1993, 107 Stat. 2318, provided that: “As used in this Act [see Short Title of 1993 Amendment note above] (including the amendments made by this Act), the terms ‘independent states of the former Soviet Union’ and ‘independent states’ have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5801).”

SUBCHAPTER I—GENERAL PROVISIONS

§ 5811. Findings

The Congress finds that—

(1) recent developments in Russia and the other independent states of the former Soviet Union present an historic opportunity for a transition to a peaceful and stable international order and the integration of the independent states of the former Soviet Union into the community of democratic nations;

(2) the entire international community has a vital interest in the success of this transition, and the dimension of the problems now faced in the independent states of the former Soviet Union makes it imperative for donor countries and institutions to provide the expertise and support necessary to ensure continued progress on economic and political reforms;

(3) the United States is especially well-positioned because of its heritage and traditions to make a substantial contribution to this transition by building on current technical cooperation, medical, and food assistance programs, by assisting in the development of democratic institutions, and by fostering conditions that will encourage the United States business community to engage in trade and investment;

(4) failure to meet the opportunities presented by these developments could threaten United States national security interests and jeopardize substantial savings in United States defense that these developments have made possible;

(5) the independent states of the former Soviet Union face unprecedented environmental

problems that jeopardize the quality of life and the very existence of not only their own peoples but also the peoples of other countries, and it is incumbent on the international community to assist the independent states in addressing these problems and in promoting sustainable use of resources and development;

(6) the success of United States assistance for the independent states of the former Soviet Union depends on—

(A) effective coordination of United States efforts with similar activities of friendly and allied donor countries and of international financial institutions, and

(B) reciprocal commitments by the governments of the independent states to work toward the creation of democratic institutions and an environment hospitable to foreign investment based upon the rule of law, including negotiation of bilateral and multilateral agreements on open trade and investment, adoption of commercial codes, establishment of transparency in regulatory and other governmental decision making, and timely payment of obligations carried over from previous governmental entities; and

(7) trade and investment opportunities in the independent states of the former Soviet Union will generate employment and other economic benefits for the United States as the economies of the independent states of the former Soviet Union begin to realize their enormous potential as both customers and suppliers.

(Pub. L. 102-511, title I, § 101, Oct. 24, 1992, 106 Stat. 3321.)

SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY

Pub. L. 112-208, title IV, Dec. 14, 2012, 126 Stat. 1502, provided that:

“SEC. 401. SHORT TITLE.

“This title may be cited as the ‘Sergei Magnitsky Rule of Law Accountability Act of 2012’.

“SEC. 402. FINDINGS; SENSE OF CONGRESS.

“(a) FINDINGS.—Congress finds the following:

“(1) The United States aspires to a mutually beneficial relationship with the Russian Federation based on respect for human rights and the rule of law, and supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

“(2) The Russian Federation—

“(A) is a member of the United Nations, the Organization for Security and Co-operation in Europe, the Council of Europe, and the International Monetary Fund;

“(B) has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the United Nations Convention against Corruption; and

“(C) is bound by the legal obligations set forth in the European Convention on Human Rights.

“(3) States voluntarily commit themselves to respect obligations and responsibilities through the adoption of international agreements and treaties, which must be observed in good faith in order to maintain the stability of the international order. Human rights are an integral part of international law, and lie at the foundation of the international order. The protection of human rights, therefore, particularly in the case of a country that has incurred

obligations to protect human rights under an international agreement to which it is a party, is not left exclusively to the internal affairs of that country.

“(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

“(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

“(6) The Russian nongovernmental organization INDEM has estimated that bribes by individuals and businesses in the Russian Federation amount to hundreds of billions of dollars a year, an increasing share of the country’s gross domestic product.

“(7) Sergei Leonidovich Magnitsky died on November 16, 2009, at the age of 37, in Matrosskaya Tishina Prison in Moscow, Russia, and is survived by a mother, a wife, and 2 sons.

“(8) On July 6, 2011, Russian President Dmitry Medvedev’s Human Rights Council announced the results of its independent investigation into the death of Sergei Magnitsky. The Human Rights Council concluded that Sergei Magnitsky’s arrest and detention was illegal; he was denied access to justice by the courts and prosecutors of the Russian Federation; he was investigated by the same law enforcement officers whom he had accused of stealing Hermitage Fund companies and illegally obtaining a fraudulent \$230,000,000 tax refund; he was denied necessary medical care in custody; he was beaten by 8 guards with rubber batons on the last day of his life; and the ambulance crew that was called to treat him as he was dying was deliberately kept outside of his cell for one hour and 18 minutes until he was dead. The report of the Human Rights Council also states the officials falsified their accounts of what happened to Sergei Magnitsky and, 18 months after his death, no officials had been brought to trial for his false arrest or the crime he uncovered. The impunity continued in April 2012, when Russian authorities dropped criminal charges against Larisa Litvinova, the head doctor at the prison where Magnitsky died.

“(9) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage Capital Management, reflects how deeply the protection of human rights is affected by corruption.

“(10) The politically motivated nature of the persecution of Mr. Magnitsky is demonstrated by—

“(A) the denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention; and

“(B) the impunity since his death of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution.

“(11) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by Russian law to independently monitor prison conditions, concluded on December 29, 2009, ‘A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been ex-

perienching both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.’.

“(12) Sergei Magnitsky’s experience, while particularly illustrative of the negative effects of official corruption on the rights of an individual citizen, appears to be emblematic of a broader pattern of disregard for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms.

“(13) The second trial, verdict, and sentence against former Yukos executives Mikhail Khodorkovsky and Platon Lebedev evoke serious concerns about the right to a fair trial and the independence of the judiciary in the Russian Federation. The lack of credible charges, intimidation of witnesses, violations of due process and procedural norms, falsification or withholding of documents, denial of attorney-client privilege, and illegal detention in the Yukos case are highly troubling. The Council of Europe, Freedom House, and Amnesty International, among others, have concluded that they were charged and imprisoned in a process that did not follow the rule of law and was politically influenced. Furthermore, senior officials of the Government of the Russian Federation, including First Deputy Prime Minister Igor Shuvalov, have acknowledged that the arrest and imprisonment of Khodorkovsky were politically motivated.

“(14) According to Freedom House’s 2011 report entitled ‘The Perpetual Battle: Corruption in the Former Soviet Union and the New EU Members’, ‘[t]he highly publicized cases of Sergei Magnitsky, a 37-year-old lawyer who died in pretrial detention in November 2009 after exposing a multimillion-dollar fraud against the Russian taxpayer, and Mikhail Khodorkovsky, the jailed business magnate and regime critic who was sentenced at the end of 2010 to remain in prison through 2017, put an international spotlight on the Russian state’s contempt for the rule of law * * *. By silencing influential and accomplished figures such as Khodorkovsky and Magnitsky, the Russian authorities have made it abundantly clear that anyone in Russia can be silenced.’.

“(15) The tragic and unresolved murders of Nustap Abdurakhmanov, Maksharip Aushev, Natalya Estemirova, Akhmed Hadjimamedov, Umar Israilov, Paul Klebnikov, Anna Politkovskaya, Saihadji Saihadjiev, and Magomed Y. Yevloyev, the death in custody of Vera Trifonova, the disappearances of Mokhmadalakh Masaev and Said-Saleh Ibragimov, the torture of Ali Israilov and Islam Umarpashaev, the near-fatal beatings of Mikhail Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail Vinyukov, and the harsh and ongoing imprisonment of Mikhail Khodorkovsky, Alexei Kozlov, Platon Lebedev, and Fyodor Mikheev further illustrate the grave danger of exposing the wrongdoing of officials of the Government of the Russian Federation, including Chechen leader Ramzan Kadyrov, or of seeking to obtain, exercise, defend, or promote internationally recognized human rights and freedoms.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should continue to strongly support, and provide assistance to, the efforts of the Russian people to establish a vibrant democratic political system that respects individual liberties and human rights, including by enhancing the provision of objective information through all relevant media, such as Radio Liberty and the internet. The Russian Government’s suppression of dissent and political opposition, the limitations it has imposed on civil society and independent media, and the deterioration of economic and political freedom inside Russia are of profound concern to the United States Government and to the American people.

“SEC. 403. DEFINITIONS.

“In this title:

“(1) ADMITTED; ALIEN.—The terms ‘admitted’ and ‘alien’ have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

“(B) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

“(3) FINANCIAL INSTITUTION.—The term ‘financial institution’ has the meaning given that term in section 5312 of title 31, United States Code.

“(4) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

“(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

“SEC. 404. IDENTIFICATION OF PERSONS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY AND OTHER GROSS VIOLATIONS OF HUMAN RIGHTS.

“(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 14, 2012], the President shall submit to the appropriate congressional committees a list of each person who the President determines, based on credible information—

“(1) is responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or was involved in the criminal conspiracy uncovered by Sergei Magnitsky;

“(2) is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking—

“(A) to expose illegal activity carried out by officials of the Government of the Russian Federation; or

“(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

“(3) acted as an agent of or on behalf of a person in a matter relating to an activity described in paragraph (1) or (2).

“(b) UPDATES.—The President shall submit to the appropriate congressional committees an update of the list required by subsection (a) as new information becomes available.

“(c) FORM.—

“(1) IN GENERAL.—The list required by subsection (a) shall be submitted in unclassified form.

“(2) EXCEPTION.—The name of a person to be included in the list required by subsection (a) may be submitted in a classified annex only if the President—

“(A) determines that it is vital for the national security interests of the United States to do so;

“(B) uses the annex in such a manner consistent with congressional intent and the purposes of this Act; and

“(C) 15 days prior to submitting the name in a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including or continuing to include each person

in the classified annex despite any publicly available credible information indicating that the person engaged in an activity described in paragraph (1), (2), or (3) of subsection (a).

“(3) CONSIDERATION OF DATA FROM OTHER COUNTRIES AND NONGOVERNMENTAL ORGANIZATIONS.—In preparing the list required by subsection (a), the President shall consider information provided by the chairperson and ranking member of each of the appropriate congressional committees and credible data obtained by other countries and nongovernmental organizations, including organizations inside Russia, that monitor the human rights abuses of the Government of the Russian Federation.

“(4) PUBLIC AVAILABILITY.—The unclassified portion of the list required by subsection (a) shall be made available to the public and published in the Federal Register.

“(d) REMOVAL FROM LIST.—A person may be removed from the list required by subsection (a) if the President determines and reports to the appropriate congressional committees not less than 15 days prior to the removal of the person from the list that—

“(1) credible information exists that the person did not engage in the activity for which the person was added to the list;

“(2) the person has been prosecuted appropriately for the activity in which the person engaged; or

“(3) the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activities in which the person engaged, and has credibly committed to not engage in the types of activities specified in paragraphs (1) through (3) of subsection (a).

“(e) REQUESTS BY CHAIRPERSON AND RANKING MEMBER OF APPROPRIATE CONGRESSIONAL COMMITTEES.—

“(1) IN GENERAL.—Not later than 120 days after receiving a written request from the chairperson and ranking member of one of the appropriate congressional committees with respect to whether a person meets the criteria for being added to the list required by subsection (a), the President shall submit a response to the chairperson and ranking member of the committee which made the request with respect to the status of the person.

“(2) FORM.—The President may submit a response required by paragraph (1) in classified form if the President determines that it is necessary for the national security interests of the United States to do so.

“(3) REMOVAL.—If the President removes from the list required by subsection (a) a person who has been placed on the list at the request of the chairperson and ranking member of one of the appropriate congressional committees, the President shall provide the chairperson and ranking member with any information that contributed to the removal decision. The President may submit such information in classified form if the President determines that such is necessary for the national security interests of the United States.

“(f) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The President shall publish the list required by subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

“SEC. 405. INADMISSIBILITY OF CERTAIN ALIENS.

“(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien is on the list required by section 404(a).

“(b) CURRENT VISAS REVOKED.—The Secretary of State shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a) of this section.

“(c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

“(1) IN GENERAL.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if—

“(A) the Secretary determines that such a waiver—

“(i) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations of the United States; or

“(ii) is in the national security interests of the United States; and

“(B) prior to granting such a waiver, the Secretary provides to the appropriate congressional committees notice of, and a justification for, the waiver.

“(2) TIMING FOR CERTAIN WAIVERS.—Notification under subparagraph (B) of paragraph (1) shall be made not later than 15 days prior to granting a waiver under such paragraph if the Secretary grants such waiver in the national security interests of the United States in accordance with subparagraph (A)(ii) of such paragraph.

“(d) REGULATORY AUTHORITY.—The Secretary of State shall prescribe such regulations as are necessary to carry out this section.

“SEC. 406. FINANCIAL MEASURES.

“(a) FREEZING OF ASSETS.—

“(1) IN GENERAL.—The President shall exercise all powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to freeze and prohibit all transactions in all property and interests in property of a person who is on the list required by section 404(a) of this Act if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

“(2) EXCEPTION.—Paragraph (1) shall not apply to persons included on the classified annex under section 404(c)(2) if the President determines that such an exception is vital for the national security interests of the United States.

“(b) WAIVER FOR NATIONAL SECURITY INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) if the Secretary determines that such a waiver is in the national security interests of the United States. Not less than 15 days prior to granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

“(c) ENFORCEMENT.—

“(1) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

“(2) REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—Not later than 120 days after the date of the enactment of this Act [Dec. 14, 2012], the Secretary of the Treasury shall prescribe or amend regulations as needed to require each financial institution that is a United States person and has within its possession or control assets that are property or interests in property of a person who is on the list required by section 404(a) if such property and interests in property are in the United States to certify to the Secretary that, to the best of the knowledge of the financial institution, the financial institution has frozen all assets within the possession or control of the financial insti-

tution that are required to be frozen pursuant to subsection (a).

“(d) REGULATORY AUTHORITY.—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

“SEC. 407. REPORT TO CONGRESS.

“Not later than one year after the date of the enactment of this Act [Dec. 14, 2012] and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

“(1) the actions taken to carry out this title, including—

“(A) the number of persons added to or removed from the list required by section 404(a) during the year preceding the report, the dates on which such persons have been added or removed, and the reasons for adding or removing them; and

“(B) if few or no such persons have been added to that list during that year, the reasons for not adding more such persons to the list; and

“(2) efforts by the executive branch to encourage the governments of other countries to impose sanctions that are similar to the sanctions imposed under this title.”

[Memorandum of President of the United States, Apr. 5, 2013, 78 F.R. 22763, delegated the functions conferred upon the President by sections 404(a), 404(b), and 404(d), with respect to the determinations provided for therein; 404(c)(3); 404(c)(4), consistent with section 404(f); and 406(a)(1) of Pub. L. 112-208, set out above, to the Secretary of the Treasury, in consultation with the Secretary of State, and delegated the functions and authorities in sections 404(a), 404(b), and 404(d), with respect to the submission of the list, updates, and reports described in those respective sections, 404(c)(2), 404(e), and 406(a)(2) of Pub. L. 112-208 to the Secretary of State, in consultation with the Secretary of the Treasury.]

BELARUS DEMOCRACY

Pub. L. 108-347, Oct. 20, 2004, 118 Stat. 1383, as amended by Pub. L. 109-480, §§ 2-4(c)(1), 5-8, Jan. 12, 2007, 120 Stat. 3666-3672; Pub. L. 112-82, §§ 2-6, Jan. 3, 2012, 125 Stat. 1863-1867, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Belarus Democracy Act of 2004’.

“SEC. 2. FINDINGS.

“Congress finds the following:

“(1) The Government of Belarus has engaged in a pattern of clear and uncorrected violations of human rights and fundamental freedoms.

“(2) The Government of Belarus has engaged in a pattern of clear and uncorrected violations of basic principles of democratic governance, including through a series of fundamentally flawed presidential and parliamentary elections undermining the legitimacy of executive and legislative authority in that country.

“(3) The Government of Belarus has subjected thousands of pro-democratic political activists to harassment, beatings, and jailings, particularly as a result of their attempts to peacefully exercise their right to freedom of assembly and association.

“(4) The Government of Belarus has attempted to maintain a monopoly over the country’s information space, targeting independent media, including independent journalists, for systematic reprisals and elimination, while suppressing the right to freedom of speech and expression of those dissenting from the dictatorship of Aleksandr Lukashenka, and adopted laws restricting the media, including the Internet, in a manner inconsistent with international human rights agreements.

“(5) The Government of Belarus continues a systematic campaign of harassment, repression, and closure of nongovernmental organizations, including

independent trade unions and entrepreneurs, and this crackdown has created a climate of fear that inhibits the development of civil society and social solidarity.

“(6) The Government of Belarus has subjected leaders and members of select ethnic and religious minorities to harassment, including the imposition of heavy fines and denying permission to meet for religious services, sometimes by selective enforcement of the 2002 Belarus religion law.

“(7) The Government of Belarus has attempted to silence dissent by persecuting human rights and pro-democracy activists with threats, firings, expulsions, beatings and other forms of intimidation, and restrictions on freedom of movement and prohibition of international travel.

“(8) The dictator of Belarus, Aleksandr Lukashenka, established himself in power by orchestrating an illegal and unconstitutional referendum that enabled him to impose a new constitution, abolishing the duly elected parliament, the 13th Supreme Soviet, installing a largely powerless National Assembly, extending his term in office, and removing applicable term limits.

“(9) The Government of Belarus has failed to make a convincing effort to solve the cases of disappeared opposition figures Yuri Zakharenka, Viktor Gonchar, and Anatoly Krasovsky and journalist Dmitry Zavadsky, even though credible allegations and evidence links top officials of the Government to these disappearance[s].

“(10) The Government of Belarus has restricted freedom of expression on the Internet by requiring Internet Service Providers to maintain data on Internet users and the sites they view and to provide such data to officials upon request, and by creating a government body with the authority to require Internet Service Providers to block Web sites.

“(11) On December 19, 2010, the Government of Belarus conducted a presidential election that failed to meet the standards of the Organization for Security and Cooperation in Europe (OSCE) for democratic elections.

“(12) After the December 19, 2010, presidential election the Government of Belarus responded to opposition protests by beating scores of protestors and detaining more than 600 peaceful protestors.

“(13) After the December 19, 2010, presidential election the Government of Belarus jailed seven of the nine opposition presidential candidates and abused the process of criminal prosecution to persecute them.

“(14) After the December 19, 2010, presidential election, the Government of Belarus disrupted independent broadcast and Internet media, and engaged in repressive actions against independent journalists.

“(15) After the December 19, 2010, presidential election, Belarusian security services and police conducted raids targeting civil society groups, individual pro-democracy activists, and independent media.

“(16) After the December 19, 2010, presidential election, Belarusian officials refused to extend the mandate of the OSCE Office in Minsk.

“(17) After the December 19, 2010, presidential election, opposition candidates and activists have been persecuted and detainees have been physically mistreated, and denied access to family, defense counsel, medical treatment, and open legal proceedings.

“(18) After the December 19, 2010, presidential election, lawyers representing those facing criminal charges related to the post-election protest have been subjected to the revocation of licenses, disbarment, and other forms of pressure.

“(19) After the December 19, 2010, presidential election, the Government of Belarus has convicted political detainees to harsh prison sentences.

“(20) After the December 19, 2010, presidential election, the United States expanded its visa ban list, imposed additional financial sanctions on certain state-owned enterprises, and initiated preparations to freeze the assets of several individuals in Belarus.

The European Union imposed targeted travel and financial sanctions on an expanded list of officials of the Government of Belarus.

“(21) After the December 19, 2010, presidential election, the United States fully restored sanctions against Belarus’s largest state-owned petroleum and chemical conglomerate and all of its subsidiaries.

“(22) After the December 19, 2010, presidential election, the United States has engaged in assistance efforts to provide legal and humanitarian assistance to those facing repression and preserving access to independent information, and has pledged resources to support human rights advocates, trade unions, youth and environmental groups, business associations, think-tanks, democratic political parties and movements, independent journalists, newspapers and electronic media operating both inside Belarus and broadcasting from its neighbors, and to support access of Belarusian students to independent higher education and expand exchange programs for business and civil society leaders.

“(23) The Department of State, the Department of the Treasury, and other executive branch agencies have heretofore made effective use of this Act to promote the purposes of this Act, as stated in section 3 of this Act.

“SEC. 3. STATEMENT OF POLICY.

“It is the policy of the United States to—

“(1) condemn the conduct of the December 19, 2010, presidential election and crackdown on opposition candidates, political leaders, and activists, civil society representatives, and journalists;

“(2) continue to call for the immediate release without preconditions of all political prisoners in Belarus, including all those individuals detained in connection with the December 19, 2010, presidential election;

“(3) continue to support the aspirations of the people of Belarus for democracy, human rights, and the rule of law;

“(4) continue to support the aspirations of the people of Belarus to preserve the independence and sovereignty of their country;

“(5) continue to support the growth of democratic movements and institutions in Belarus, which empower the people of Belarus to end tyranny in their country;

“(6) continue to refuse to accept the results of the fundamentally flawed December 19, 2010, presidential election held in Belarus, and to support calls for new presidential and parliamentary elections, conducted in a manner that is free and fair according to OSCE standards;

“(7) continue to call for the fulfillment by the Belarusian government of Belarus’s freely undertaken obligations as an OSCE participating state;

“(8) continue to call for a full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are in any way responsible for the disappearance of those opposition leaders and journalists;

“(9) continue to work closely with the European Union and other countries and international organizations, to promote the conditions necessary for the integration of Belarus into the European family of democracies;

“(10) call on the International Ice Hockey Federation to suspend its plan to hold the 2014 International World Ice Hockey championship in Minsk until the Government of Belarus releases all political prisoners; and

“(11) remain open to reevaluating United States policy toward Belarus as warranted by demonstrable progress made by the Government of Belarus consistent with the aims of this Act as stated in this section.

“SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN BELARUS.

“(a) PURPOSES OF ASSISTANCE.—The assistance under this section shall be available for the following purposes:

“(1) To assist the people of the Republic of Belarus in their pursuit of freedom, democracy, and human rights and in their aspiration to join the European community of democracies.

“(2) To encourage free, fair, and transparent presidential, parliamentary, and local elections in Belarus, conducted in a manner consistent with internationally accepted standards and under the supervision of internationally recognized observers and independent domestic observers.

“(3) To assist in the development of a democratic political culture and civil society in Belarus.

“(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purposes of subsection (a), the President is authorized to furnish assistance and other support for the activities described in subsection (c), to be provided primarily for indigenous Belarusian groups that are committed to the support of democratic processes.

“(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include—

“(1) expanding independent radio and television broadcasting to and within Belarus;

“(2) facilitating the development of independent broadcast, print, and Internet media working within Belarus and from locations outside the country and supported by nonstate-controlled printing facilities;

“(3) aiding the development of civil society through assistance to nongovernmental organizations promoting democracy and supporting human rights, including youth groups, entrepreneurs, and independent trade unions;

“(4) supporting the work of human rights defenders;

“(5) enhancing the development of democratic political parties;

“(6) assisting the promotion of free, fair, and transparent electoral processes;

“(7) enhancing international exchanges and advanced professional training programs for leaders and members of the democratic forces in skill areas central to the development of civil society; and

“(8) other activities consistent with the purposes of this Act.

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2007 and 2008.

“(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

“SEC. 5. RADIO, TELEVISION, AND INTERNET BROADCASTING TO BELARUS.

“It is the sense of Congress that the President should support radio, television, and Internet broadcasting to the people of Belarus in languages spoken in Belarus, by Radio Free Europe/Radio Liberty, the Voice of America, European Radio for Belarus, and Belsat.

“SEC. 6. SANCTIONS AGAINST THE GOVERNMENT OF BELARUS.

“(a) APPLICATION OF SANCTIONS.—The sanctions described in subsections (c) through (f) should apply with respect to the Republic of Belarus until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b).

“(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

“(1) The release of individuals in Belarus who have been jailed based on political or religious beliefs or expression, including those individuals jailed based on political beliefs or expression in connection with

repression that attended the presidential election of December 19, 2010.

“(2) The withdrawal of politically motivated legal charges against all opposition activists and independent journalists in Belarus, including politically motivated legal charges made in connection with repression that attended the presidential election of December 19, 2010.

“(3) A full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are in any way responsible for their disappearances.

“(4) The cessation of all forms of harassment and repression against the independent media, independent trade unions, nongovernmental organizations, youth groups, religious organizations (including their leadership and members), and the political opposition in Belarus.

“(5) The prosecution of senior leadership of the Government of Belarus responsible for the administration of fraudulent elections and violations of human rights, including violations of human rights committed in connection with the presidential election of December 19, 2010.

“(6) A full accounting of the embezzlement of state assets by senior leadership of the Government of Belarus, their family members, and other associates.

“(7) The holding of free, fair and transparent presidential and parliamentary elections in Belarus consistent with OSCE standards and under the supervision of OSCE observers and independent domestic observers.

“(c) DENIAL OF ENTRY INTO THE UNITED STATES OF SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—Notwithstanding any other provision of law, the President may exercise the authority under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)) to deny the entry into the United States of any alien who—

“(1) holds a position in the senior leadership of the Government of Belarus;

“(2) is an immediate family member of a person inadmissible under paragraph (1);

“(3) through his or her business dealings with senior leadership of the Government of Belarus derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus;

“(4) is a member of any branch of the security or law enforcement services of Belarus and has participated in the violent crackdown on opposition leaders, journalists, and peaceful protestors that occurred in connection with the presidential election of December 19, 2010; or

“(5) is a member of any branch of the security or law enforcement services of Belarus and has participated in the persecution or harassment of religious groups, human rights defenders, democratic opposition groups, or independent media or journalists.

“(d) PROHIBITION ON LOANS AND INVESTMENT.—

“(1) UNITED STATES GOVERNMENT FINANCING.—It is the sense of Congress that no loan, credit guarantee, insurance, financing, or other similar financial assistance should be extended by any agency of the Government of the United States (including the Export-Import Bank of the United States and the Overseas Private Investment Corporation) to the Government of Belarus, except with respect to the provision of humanitarian goods and agricultural or medical products.

“(2) TRADE AND DEVELOPMENT AGENCY.—It is the sense of Congress that no funds available to the Trade and Development Agency should be available for activities of the Agency in or for Belarus.

“(e) MULTILATERAL FINANCIAL ASSISTANCE.—The Secretary of the Treasury should instruct the United

States Executive Director at each international financial institution of which the United States is a member to use the voice and vote of the United States to oppose any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Belarus, except for loans and assistance that serve humanitarian needs.

“(f) BLOCKING OF ASSETS AND OTHER PROHIBITED ACTIVITIES.—

“(1) BLOCKING OF ASSETS.—It is the sense of Congress that the President should block all property and interests in property, including all commercial, industrial, or public utility undertakings or entities, that, on or after the date of the enactment of the Belarus Democracy Reauthorization Act of 2006 [Jan. 12, 2007]—

“(A) are owned, in whole or in part, by the Government of Belarus, or by any member or family member closely linked to any member of the senior leadership of the Government of Belarus, or any person who through his or her business dealings with senior leadership of the Government of Belarus derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus; and

“(B) are in the United States, or in the possession or control of the Government of the United States or of any United States financial institution, including any branch or office of such financial institution that is located outside the United States.

“(2) PROHIBITED ACTIVITIES.—Activities prohibited by reason of the blocking of property and interests in property under paragraph (1) should include—

“(A) payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person, to the Government of Belarus, to any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by that government, or to any member of the senior leadership of the Government of Belarus;

“(B) the export or reexport to any entity owned, controlled, or operated by the Government of Belarus, directly or indirectly, of any goods, technology, or services, either—

“(i) by a United States person; or

“(ii) involving the use of any air carrier or a vessel documented under the laws of the United States; and

“(C) the performance by any United States person of any contract, including a contract providing a loan or other financing, in support of an industrial, commercial, or public utility operated, controlled, or owned by the Government of Belarus.

“(3) PAYMENT OF EXPENSES.—All expenses incident to the blocking and maintenance of property blocked under paragraph (1) should be charged to the owners or operators of such property. Such expenses may not be paid from blocked funds.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit any contract or other financial transaction with any private or nongovernmental organization or business in Belarus.

“(5) EXCEPTIONS.—Paragraphs (1) and (2) do not apply to—

“(A) assistance authorized under section 4 or 5 of this Act; or

“(B) medicine, medical equipment or supplies, food, as well as any other form of humanitarian assistance provided to Belarus as relief in response to a humanitarian crisis.

“(6) PENALTIES.—Any person who violates any prohibition or restriction imposed under this subsection should be subject to the penalties under section 6 [206] of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as for a violation under that Act [50 U.S.C. 1701 et seq.].

“(7) DEFINITIONS.—In this subsection:

“(A) AIR CARRIER.—The term ‘air carrier’ has the meaning given that term in section 40102 of title 49, United States Code.

“(B) UNITED STATES PERSON.—The term ‘United States person’ means—

“(i) any United States citizen or alien admitted for permanent residence to the United States;

“(ii) any entity organized under the laws of the United States; and

“(iii) any person in the United States.

“SEC. 7. MULTILATERAL COOPERATION.

“It is the sense of Congress that the President should continue to seek the support of other countries, particularly European countries, for a comprehensive, multilateral strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures with respect to the Republic of Belarus that are similar to measures described in this Act.

“SEC. 8. REPORT.

“(a) REPORT.—Not later than 90 days after the date of the enactment of the Belarus Democracy and Human Rights Act of 2011 [Pub. L. 112–82, approved Jan. 3, 2012], and not later than 1 year thereafter, the President shall transmit to the appropriate congressional committees a report that describes, with respect to the preceding 12-month period, and to the extent practicable the following:

“(1) The sale or delivery or provision of weapons or weapons-related technologies or weapons-related training from the Republic of Belarus to any country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism.

“(2) An identification of each country described in paragraph (1) and a detailed description of the weapons or weapons-related technologies or weapons-related training involved in the sale or delivery or provision.

“(3) An identification of the goods, services, credits, or other consideration received by Belarus in exchange for the weapons or weapons-related technologies or weapons-related training described in paragraph (1).

“(4) The personal assets and wealth of Aleksandr Lukashenka and other senior leadership of the Government of Belarus.

“(5) The cooperation of the Government of Belarus with any foreign government or organization for purposes related to the censorship or surveillance of the Internet, or the purchase or receipt by the Government of Belarus of any technology or training from any foreign government or organization for purposes related to the censorship or surveillance of the Internet.

“(b) FORM.—A report transmitted pursuant to subsection (a) shall be in unclassified form but may contain a classified annex.

“SEC. 9. DEFINITIONS.

“In this Act:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(2) OSCE.—The term ‘OSCE’ means the Organization for Security and Cooperation in Europe.

“(3) SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—The term ‘senior leadership of the Government of Belarus’ includes—

“(A) the President, Prime Minister, Deputy Prime Ministers, government ministers, Chairmen of State Committees, governors, heads of state enterprises, and members of the Presidential Administration of Belarus;

“(B) any official of the Government of Belarus who—

“(i) is personally and substantially involved in the suppression of freedom in Belarus, including judges, prosecutors, and heads of professional associations and educational institutions; or

“(ii) is otherwise engaged in public corruption in Belarus; and

“(C) any other individual determined by the Secretary of State (or the Secretary’s designee) to be personally and substantially involved in the formulation or execution of the policies of the Government of Belarus that are in contradiction of internationally recognized human rights standards.”

[Pub. L. 109–480, §4(c)(2), Jan. 12, 2007, 120 Stat. 3668, provided that: “The amendment made by paragraph (1) [amending section 4(d)(1) of Pub. L. 108–347, set out in the note above] shall not be construed to affect the availability of funds appropriated pursuant to the authorization of appropriations under section 4(d) of the Belarus Democracy Act of 2004 [Pub. L. 108–347] (as redesignated) before the date of the enactment of this Act [Jan. 12, 2007].”]

[Memorandum of President of the United States, Apr. 24, 2012, 77 F.R. 33945, delegated the reporting functions conferred upon the President by section 8 of Pub. L. 108–347, set out above, to the Secretary of State.]

PRESIDENTIAL REPORT ON FUNDING FOR NEW INDEPENDENT STATES OF FORMER SOVIET UNION

Pub. L. 103–306, title II, Aug. 23, 1994, 108 Stat. 1617, provided in part that: “(o) The report required by subsection (d) under the heading ‘Assistance for the New Independent States of the Former Soviet Union’, contained in Public Law 102–391 [set out below], shall be updated at least annually and shall also contain a listing of all grants and contracts issued from funds appropriated annually for the new independent states of the former Soviet Union, to include for each grant and contract (1) a description of its purpose, (2) its amount, and (3) the country where the grant or contract funds are to be expended.”

Pub. L. 102–391, title III, Oct. 6, 1992, 106 Stat. 1650, provided in part that: “(d) REPORTS.—The President shall submit a report to the Committees on Appropriations containing the amount of funds obligated and expended for each project and subproject funded from amounts appropriated under this heading for the new independent states of the former Soviet Union. The report required by this subsection shall be submitted to the Committees on Appropriations no later than January 1, 1993, and an update of this report shall be submitted by the President to those Committees no later than July 1, 1993.”

§ 5812. Program coordination, implementation, and oversight

(a) Coordination

The President shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall assistance and economic cooperation strategy for the independent states of the former Soviet Union;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act (including the amendments made by this Act and chapter 12 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2296 et seq.]);

(3) pursuing coordination with other countries and international organizations with respect to assistance to independent states;

(4) ensuring that United States assistance programs for the independent states are consistent with this Act (including the amendments made by this Act and chapter 12 of part