



**Legislative Bulletin.....November 15, 2012**

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**H.R. 6156 - Russia and Moldova Jackson-Vanik Repeal Act of 2012**

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**H.R. 6156 - Russia and Moldova Jackson-Vanik Repeal Act of 2012  
(Camp, R-MI)**

**Order of Business:** The House is scheduled to begin consideration of H.R. 6156 on November 15, 2012, under a closed rule, H.Res. 808.<sup>1</sup> The rule provides for the consideration of H.R. 6156 as reported by Rules Committee Print 112-33. The rule further provides for 90 minutes of debate, with 60 minutes divided by the chair and ranking minority member of the Committee on Ways and Means. The remaining 30 minutes will be divided by the chair and ranking minority member of the Committee on Foreign Affairs. The rule waives all points of order against provisions in the bill and provides for one motion to recommit with or without instructions.

The rule also allows for the Journal to be approved on any legislative day from November 19, 2012 through November 23, 2012. Additionally, the Chair may declare the House adjourned during this period pursuant to Article I, Section 5, Clause 4 of the Constitution,<sup>2</sup> which could place the House in pro-forma session. The Speaker is also allowed to appoint Members to perform the duties of Chair during this time.

**Summary:** This RSC Legislative Bulletin summarizes the text of H.R. 6156 as shown in Rules Committee Print 112-33, which includes text similar to H.R. 4405.<sup>3</sup>

**Titles I & III:**

**Establishing PNTR for the Russian Federation and Moldova:** The legislation terminates the application of Title IV of the Trade Act of 1974 (commonly referred to as the Jackson-Vanik amendment) with respect to products from the Russian Federation and Moldova, thus establishing permanent normal trade relations (PNTR) with the two countries.

**Title II:**

**Report on Implementation:** Within a year after enactment, and annually thereafter, the legislation requires the U.S. Trade Representative (USTR) to submit a report to Congress that details the extent that Russia is implementing the World Trade Organization's (WTO) agreement. This report must also have a specific analysis on Russia's implementation of the WTO's Sanitary and Phytosanitary (SPS)

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<sup>1</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-112hres808rh/pdf/BILLS-112hres808rh.pdf>

<sup>2</sup> Article I, Section 5, Clause 4 of the Constitution prevents either House, during a Session of Congress, from adjourning for more than three days without the consent of the other House.

<sup>3</sup> <http://docs.house.gov/billsthisweek/20121112/CPRT-112-HPRT-RU00-HR6156a.pdf>

agreement, Trade-Related Intellectual Property Rights (TRIPS) agreement, Information Technology agreement, and the Agreement on Government Procurement. If the USTR determines that Russia is not fully implementing those agreements, then the report shall include a description of the actions the USTR plans to take to encourage the Russian Federation to improve their implementation.

**Report on Enforcement:** Within 180 days after enactment, and annually thereafter, the legislation requires the USTR to submit a report to Congress that describes the enforcement actions taken by the USTR against the Russian Federation to ensure their full compliance with their obligations as a member of the WTO.

**Reports on Promotion of Rule of Law:** Within a year after enactment, and annually thereafter, the legislation requires the USTR and the Secretary of State to submit a report to Congress that details measures they have taken and the results achieved during the preceding year with respect to promoting the rule of law in the Russian Federation. This report shall also disclose the status of any pending petition for espousal filed with the Secretary by a U.S. investor operating within the Russian Federation.

**Anti-Bribery Reporting and Assistance:** The legislation directs the Secretary of Commerce to establish and maintain a phone hotline and a secure website for the purpose of allowing U.S. entities to report bribery, attempted bribery, and other forms of corruption within the Russian Federation. The phone hotline and website shall also allow U.S. entities to request the assistance of the U.S. with respect to issues relating to corruption in the Russian Federation.

Within a year after the U.S. establishes PNTR with Russia, and annually thereafter, the legislation requires the USTR and the Secretary of Commerce to submit a report to Congress that includes:

- The number of instances in which bribery, attempted bribery, or other forms of corruption have been reported using the hotline or website.
- A description of the regions in the Russian Federation in which those instances allegedly occurred.
- A summary of actions taken by the United States to provide assistance to U.S. entities.
- A description of the efforts taken by the Secretary to inform U.S. entities operating within the Russian Federation of the availability of assistance through the hotline and website.

#### **Title IV: Sergei Magnitsky Rule of Law Accountability Act of 2012**

**List of Identified Individuals:** Within 120 days of enactment, the Secretary of State shall publish in the Federal Register a list of each person the Secretary believes:

- Is responsible for the detention, abuse, or death of Sergei Magnitsky, financially benefited from the detention, abuse, or death of Sergei Magnitsky, or were involved in the criminal conspiracy uncovered by Sergei Magnitsky.
- Is responsible for extrajudicial killings, torture, or other gross violations of international recognized human rights that are committed against individuals seeking to expose illegal activity carried out by the Russian Federation. This will also pertain to human rights violations committed against individuals seeking to obtain, exercise, defend, or promote human rights and freedoms in Russia.

This list shall be updated as new information becomes available. If the individual demonstrates to the Secretary that they did not engage in the above described activities then they will be removed from the list.

The Chairman and Ranking Member of certain congressional committees will have the ability to request the Secretary determine whether an individual meets the qualifications to be added to the list.

**Visa Restrictions:** Anyone on the list will be ineligible to receive a visa to enter the United States, and ineligible to be admitted to the U.S. Additionally, anyone on the list who has a current visa to enter the United States will have that visa revoked. The Secretary may waive these visa restrictions if the Secretary determine that the waiver is in the national security interest of the United States, or that it is necessary to comply with the agreement between the United Nations (U.N.) and United States regarding the Headquarters of the U.N. Prior to granting the waiver, the Secretary must provide notice to Congress.

**Financial Measures:** Anyone on the list will have all their transactions in all property and interests in property frozen. The Secretary may waive these visa restrictions if the Secretary determines that the waiver is in the national security interest of the United States. Prior to granting the waiver, the Secretary must provide notice to Congress.

Anyone who violates, attempts to violate, conspires or causes a violation regarding these frozen assets shall be penalized according to subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705).<sup>4</sup>

Within 120 days after enactment, the Secretary of the Treasury shall issue regulations to require U.S. financial institutions to certify to the Secretary that they have frozen all assets within their possession or control of individuals listed by the Secretary of State.

**Report to Congress:** The legislation requires the Secretary of State and the Secretary of the Treasury to submit a report to Congress on actions taken to carry out this legislation. This report shall include the number of persons listed by the Secretary of State in the Federal Register during the preceding year, as well as those that have been removed and the reasons for their removal or addition. The report shall also include efforts by the executive branch to encourage the governments of other countries to impose sanctions that are similar to this legislation.

**Additional Information:** All WTO Members are required to provide every other member nation with “immediate and unconditional” most-favored-nation (MFN) nondiscriminatory status. This is referred to as PNTR in U.S. trade law. If one WTO member does not provide another member with PNTR, that member will not receive the benefits that come with WTO membership (these include reduced tariff rates, more open access to markets, enforcing intellectual property rights, dispute settlement measures, and many others).

On December 16, 2011, the WTO extended an invitation to the Russian Federal to join. On July 21, 2012, Russian President Putin signed legislation that would bring Russia’s trading laws into

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<sup>4</sup> These include civil penalties (fines up to \$250,000 or an amount up to twice the amount of the transaction) and criminal penalties (up to \$1,000,000 and/or imprisonment up to 20 years).  
[http://uscodebeta.house.gov/view.xhtml?req=\(title:50%20section:1705%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title50-section1705\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscodebeta.house.gov/view.xhtml?req=(title:50%20section:1705%20edition:prelim)%20OR%20(granuleid:USC-prelim-title50-section1705)&f=treesort&edition=prelim&num=0&jumpTo=true)

compliance with the international standards set by the WTO, which was one of Russia's necessary steps to joining.

On August 22, 2012, Russia became the 156<sup>th</sup> member of the WTO. U.S. businesses that operate in Russia, or who would like to, are now at a disadvantage to their foreign competitors who are now able to take advantage of Russia's WTO membership.

**The Jackson-Vanik Amendment:** The U.S. does not have PNTR with Russia or Moldova. U.S. trade with these nations is governed by Title IV of the Trade Act of 1974 (Jackson-Vanik)<sup>5</sup> which sets certain stipulations on U.S. trade with Russia, due to a former policy that levied "diploma taxes" on Jews that attempted to enter and exit the country<sup>6</sup>. The Jackson-Vanik amendment denies certain countries eligibility for "normal trade relations" (NTR) status. NTR trade status is used to designate nondiscriminatory treatment of a trading partner compared to that of other countries.

In order for Russia or Moldova to have NTR with the U.S., the President must determine, semiannually, that the country is in full compliance with the freedom-of-emigration conditions that are set forth in Jackson-Vanik. The Russian Federation has been found to be in full compliance with the freedom of emigration requirements since 1994. Moldova has been found to be in full compliance with the freedom of emigration requirements since 1997. Moldova acceded to the World Trade Organization on July 26, 2001. Thus, because of semiannual Presidential determinations, the U.S. has NTR with Russia and Moldova, but not *permanent* NTR (PNTR).

Because the U.S. does not have PNTR status with Russia or Moldova, U.S. companies are not be able to benefit from Russia and Moldova's ascension to the WTO. This leaves U.S. businesses that operate, or wish to operate, in Russia and Moldova's markets at a disadvantage compared to competitors throughout the world.

This legislation terminates Title IV of the Trade Act of 1974 with respect to Russia and Moldova, thus granting PNTR with the two countries, thus allowing U.S. companies to take advantage of their memberships in the WTO.

**Sergei Magnitsky:** Sergei Magnitsky was an attorney who exposed a \$230,000,000 tax fraud against the Russian taxpayers. He was jailed and investigated by the same law enforcement officers who he had accused. He was beaten by guards, denied access to medical care, and died while in custody on November 16, 2009, at the age of 37.

According to the findings of the legislation: Russian President Dimitry Medvedev's 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.

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<sup>5</sup> (Section 402, Title IV of the Trade Act of 1974, P.L. 93-618)

<sup>6</sup> <http://www.cfr.org/trade/jackson-vanik-amendment/p18844>

### **Support from Elected Officials:**

- On July 13, 2012, 73 House Freshmen, led by Rep. Billy Long (R-MO), sent a letter to President Obama in support of permanent normal trade relations with Russia.<sup>7</sup>
- On July 25, 2012, a group of 15 Governors sent a letter to President Obama and House and Senate Leaders expressing their support for permanent normal trade relations with Russia.<sup>8</sup>

**Support from Religious Organizations:** The following religious organizations [sent this letter](#) to on July 24, 2012, expressing their support for the graduation of the Russian Federation from the Jackson-Vanik Amendment:

- American Israel Public Affairs Committee
- American Jewish Committee
- Anti-Defamation League
- B'nai B'rith International
- Jewish Council for Public Affairs
- Jewish Federations of North America
- NCSJ: Advocates on Behalf of Jews in Russia, Ukraine, the Baltic States & Eurasia

**Outside Groups & Individuals:** The following outside groups have expressed support for PNTR with Russia:

- Business Roundtable
- Coalition for Intellectual Property Rights (CIPR)
- Coalition for U.S.-Russia Trade
  - *A broad-based group of approximately 150 entities, representing U .S. manufacturers, service providers and agricultural interests.*<sup>9</sup>
- National Association of Manufacturers
- U.S. Chamber of Commerce – *scoring as a key vote*
- U.S. Secretary of State Hillary Clinton<sup>10</sup>

**Committee Action:** H.R. 6156 was introduced on July 19, 2012, and was referred to the House Committee on Ways and Means. A full committee markup was held on July 26, 2012, and the legislation was approved, by voice vote, without amendment.

Title IV is similar to H.R. 4405: H.R. 4405 was introduced on April 19, 2012, and was referred to the House Foreign Affairs Committee, the House Financial Services Committee, and the House Judiciary Subcommittee on Immigration Policy and Enforcement. The House Foreign Affairs Committee held a markup on June 7, 2012, and the legislation was approved, as amended, by voice vote.

**Administration Position:** No Statement of Administration Policy is available.

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<sup>7</sup>[http://rsc.jordan.house.gov/uploadedfiles/final\\_letter\\_to\\_potus.pdf](http://rsc.jordan.house.gov/uploadedfiles/final_letter_to_potus.pdf)

<sup>8</sup>[http://waysandmeans.house.gov/UploadedFiles/Multi-Governor\\_Letter\\_PNTR\\_7-25-12.pdf](http://waysandmeans.house.gov/UploadedFiles/Multi-Governor_Letter_PNTR_7-25-12.pdf)

<sup>9</sup>[http://www.usrussiatrade.org/coalition\\_members.php](http://www.usrussiatrade.org/coalition_members.php)

<sup>10</sup><http://professional.wsj.com/article/SB10001424052702303836404577475061208876588.html?mg=reno64-wsj>

**Cost to Taxpayers:** CBO estimates that implementing H.R. 6156 would increase authorizations, subject to appropriation, by \$1 million over the 2013-2017 period.<sup>11</sup> CBO also estimates that establishing PNTR with Moldova and the Russian Federation could potentially increase tariff collections by lifting quotas on certain imported goods.

Title IV is similar to H.R. 4405: CBO estimates implementing H.R. 4405 would increase authorizations, subject to appropriation, by \$1 million over the 2013-2017 period, for increased administrative expenses at the agencies.<sup>12</sup>

This means that hypothetically the text of H.R. 6156 that will be considered by the House will increase authorizations, subject to appropriation, by \$2 million, over the 2013-2017 period.

**Does the Bill Expand the Size and Scope of the Federal Government?:** By repealing Jackson-Vanik's application to Russia and Moldova, this is arguably a reduction in the size and scope of the federal government and is a step towards greater economic freedom.

Title IV is similar to H.R. 4405: This title expands a reporting requirement by the Department of State.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

**Constitutional Authority:** Rep. Camp states "Congress has the power to enact this legislation pursuant to the following: Section 8 of Article I of the U.S. Constitution."<sup>13</sup>

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<sup>11</sup> <http://www.cbo.gov/publication/43496>

<sup>12</sup> <http://www.cbo.gov/publication/43375>

<sup>13</sup> <http://www.gpo.gov/fdsys/cas/getdocument.action?billnumber=6156&billtype=hr&congress=112&format=html>