

Calendar No. 461

112TH CONGRESS }
2d Session }

SENATE

{ REPORT
112-226

RUSSIA AND MOLDOVA JACKSON-VANIK REPEAL AND MAGNITSKY RULE OF LAW ACCOUNTABILITY ACT

SEPTEMBER 20, 2012.—Ordered to be printed

Mr. BAUCUS, from the Committee on Finance,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 3406]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, having considered an original bill (S. 3406) to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation and Moldova, to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization, and to impose sanctions on persons responsible for gross violations of human rights, and for other purposes, reports favorably thereon without amendment and recommends that the bill do pass.

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I. REPORT AND OTHER MATERIALS OF THE COMMITTEE

A. REPORT OF THE COMMITTEE ON FINANCE

The Committee on Finance, having considered an original bill (S. 3406) to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Russia and Moldova, to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization (WTO), and to impose sanctions on persons responsible for gross violations of human rights, and for other purposes, reports favorably thereon and recommends that the bill do pass.

B. SUMMARY OF COMMITTEE CONSIDERATION OF THE AGREEMENT

1. Background

THE JACKSON-VANIK AMENDMENT

Section 401 of Title IV of the Trade Act of 1974 requires the President to continue to deny nondiscriminatory treatment (normal trade relations treatment) to any country not receiving such treatment at the time of the law's enactment on January 3, 1975. Section 402 of Title IV, also referred to as the Jackson-Vanik amendment, provides that the President may extend normal trade relations treatment on a conditional basis to a country that is in full compliance with certain specified freedom-of-emigration conditions. Section 402 also authorizes the President to waive full compliance with the freedom-of-emigration requirements if the President determines that such a waiver would encourage freedom of emigration. Before the President may extend conditional normal trade relations to a country subject to Title IV, that country must first conclude a bilateral commercial agreement with the United States pursuant to section 405 of Title IV. The Russian Federation received conditional normal trade relations status in 1992 under a presidential waiver after concluding a bilateral commercial agreement. In 1994, the President determined that Russia was in full compliance with Title IV. That determination has been continuously confirmed in semiannual reviews since 1994. Likewise, Moldova received conditional normal trade relations status in 1992 under a presidential waiver after concluding a bilateral commercial agreement. In 1997, the President determined that Moldova was in full compliance with Title IV. That determination has been continuously confirmed in semiannual reviews since 1997. Moldova acceded to the WTO on July 26, 2001.

THE WTO AND NORMAL TRADE RELATIONS

WTO rules require that WTO member countries provide each other with unconditional or permanent normal trade relations. Because countries subject to the Jackson-Vanik provision are only provided annual normal trade relations, and only if they meet the conditions of Jackson-Vanik, the United States has had to pass legislation revoking the application of the Jackson-Vanik amendment and providing permanent normal trade relations (PNTR) status to countries subject to Jackson-Vanik when those countries joined the WTO.

The Russian Federation applied to join the WTO in June 1993, and the WTO Working Party on Russia's accession was established on January 16–17, 1993. On May 31, 2006, U.S. and Russian negotiators signed a bilateral agreement on the conditions for Russia's accession into the WTO. The Working Party agreed to Russia's accession package on November 10, 2011. The WTO Ministerial Conference invited Russia to join the WTO on December 16, 2011. Due to the application of Jackson-Vanik, the United States was unable to grant unconditional normal trade relations status to Russia. As a result, the United States invoked the “non-application” provision of Article XIII of the WTO Agreement. This means that, absent the extension of PNTR, when Russia joins the WTO on August 22, 2012, neither Russia nor the United States will be bound by the WTO Agreement with respect to each other. Therefore, Russia will not be required to extend to the United States the full benefits of its WTO accession commitments.

Moldova joined the WTO on July 26, 2001. Due to the application of Jackson-Vanik, the United States was unable to grant unconditional normal trade relations status to Moldova. As a result, the United States invoked the “non-application” provision of Article XIII of the WTO Agreement, meaning that to date, neither Moldova nor the United States have been bound by the WTO Agreement with respect to each other. Therefore, Moldova has not been required to extend to the United States the full benefits of its WTO accession commitments.

THE MAGNITSKY BILL

Senator Cardin introduced S. 1039, “The Sergei Magnitsky Rule of Law Accountability Act,” on May 19, 2011. The purpose of the bill is to impose sanctions on persons that were responsible for or benefited financially from the detention, abuse, or death of Sergei Magnitsky, were involved in the criminal conspiracy uncovered by Sergei Magnitsky, or were responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking to expose illegal activity carried out by officials of the Government of the Russian Federation or to obtain, exercise, defend or promote internationally recognized human rights and freedoms anywhere in the world. The Senate Committee on Foreign Relations approved the bill by voice vote on June 26, 2012. For further information on this bill, see Senate Report 112–191 of July 23, 2012.

2. Committee Consideration

Chairman Baucus convened two hearings of the Committee on Finance to consider PNTR with Russia. The first, with private sector and non-governmental organization representatives, was held on March 15, 2012. Testifying at the hearing were: Mr. Samuel Allen, Chairman and CEO of Deere & Company; Mr. Ronald Pollett, President and CEO of GE Russia; Mr. Watty Taylor, President of the Montana Stockgrowers Association; Mr. Paul Williams, President and Chairman of the Board of the American Society of Composers, Authors and Publishers; and Mr. Al Larson, Chairman of the Board of Transparency International USA.

The second Committee on Finance hearing, on June 21, 2012, was with senior Administration officials. Testifying at the hearing were: Ambassador Ron Kirk, U.S. Trade Representative; Tom Vilsack, Secretary of Agriculture; and Ambassador William J. Burns, Deputy Secretary of State.

The Finance Committee also received numerous statements for the record, all of which either supported PNTR with Russia or were neutral. For example, the Committee received statements of support for PNTR from Russian democracy activists such as the Moscow-based Helsinki Group, American and Russian Jewish groups such as NCSJ and the American Israel Public Affairs Group, six former U.S. Trade Representatives, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the American Farm Bureau Federation.

Senator Baucus, for himself and Senators Thune, Kerry, and McCain, introduced S. 3285 on June 12, 2012 to establish PNTR with the Russian Federation. Senator Lugar, for himself and Senators Kerry, McCain, Hagan, and Cardin, introduced S. 309 on February 8, 2011 to establish PNTR with Moldova. The Moldova bill was later cosponsored by Senators Burr, Crapo, Lieberman, and Shaheen.

On July 13, 2012, following consultation with Ranking Member Hatch, Chairman Baucus announced his mark of an original bill to establish PNTR with Russia and Moldova that combined elements of S. 3285 and S. 309, as well as additional elements proposed by Senator Hatch, in particular the enforcement, anti-corruption, rule of law, and investor protection requirements found in Title II of the bill. One such requirement is for USTR to report on Russia's implementation of its WTO commitments on sanitary and phytosanitary (SPS) issues. Members of the Committee understand that this report will, among other issues, cover Russia's treatment of the feed additive ractopamine.

On July 16, 2012, Senators Cardin, Kyl, Schumer, Snowe, Cantwell, Coburn, Menendez, Thune, Burr, Cornyn, and Grassley proposed an amendment to add the Sergei Magnitsky Rule of Law Accountability Act of 2011, as reported out of the Senate Committee on Foreign Relations on June 26, 2012. On July 17, 2012, following consultation with Ranking Member Hatch, Chairman Baucus announced a modification of his mark that added Senator Cardin's amendment. While numerous concerns were expressed regarding Russia's foreign policy, these were considered to fall outside of the scope of PNTR legislation, which has typically focused on trade and human rights concerns.

The Committee on Finance met in open executive session on July 18, 2012 to consider favorably reporting the Chairman's mark of the bill on Russia and Moldova PNTR, as modified. Five amendments were offered. The first amendment, by Senator Cornyn, sought to add Magnitsky sanctions for enablers of mass atrocities. It was withdrawn. The second amendment, by Senator Cornyn, would have delayed the effective date of PNTR until Russia ceased arms transfers to Syria. The amendment failed by a roll call vote of 8 ayes, 16 nays. Ayes: Grassley (proxy), Snowe (proxy), Kyl, Crapo, Roberts, Enzi, Cornyn, Coburn. Nays: Baucus, Rockefeller, Conrad, Bingaman (proxy), Kerry, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Hatch, Thune, Burr.

The third amendment, by Senator Schumer, was withdrawn. It would have required a new report on Russia's compliance with the WTO Information Technology Agreement. The fourth amendment, by Senator Menendez, to ensure effective enforcement of intellectual property rights in Russia, was withdrawn.

The fifth amendment, by Senator Kyl, sought to clarify that a report by the Secretary of Commerce on a corruption hotline and website will include reporting on outreach by Commerce on the availability of these resources. The amendment passed by voice vote.

The Committee then favorably reported the bill, as amended, by a roll call vote of 24 ayes and 0 nays. Ayes: Baucus, Rockefeller, Conrad, Bingaman (proxy), Kerry, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Hatch, Grassley (proxy), Snowe (proxy), Kyl, Crapo, Roberts (proxy), Enzi, Cornyn (proxy), Coburn (proxy), Thune, Burr. Chairman Baucus filed the reported bill, S. 3406, on behalf of the Finance Committee on July 19, 2012.

C. TRADE RELATIONS WITH RUSSIA

1. United States-Russia Economic Relations

Russia has the sixth largest gross domestic product (GDP) in the world at \$2.2 trillion (compared to \$14.6 trillion in the United States). Following the collapse of the Soviet Union, Russia implemented broad economic reforms in the 1990s that privatized most industry, with notable exceptions in the energy and defense-related sectors. Russia is the largest economy outside of the WTO.

Russia's economy has relied heavily on oil and gas exports, and these account for nearly three quarters of the \$33.6 billion of Russia's exports to the United States in 2011. The 2009 recession and the accompanying collapse in oil prices highlighted the problems with this approach, and Russian policy-makers have since been professing the importance of diversifying and creating an innovation-based economy.

U.S.-Russia trade grew at an annual rate of 35 percent in 2010 and 37.9 percent in 2011. Russia is currently our 20th largest goods trading partner with \$42.9 billion in total (two-way) goods trade during 2011. U.S. goods exports to Russia totaled \$8.3 billion, and goods imports from Russia totaled \$33.6 billion. The U.S. goods trade deficit with Russia was \$26.3 billion in 2011. The top U.S. exports to Russia in 2011 were machinery, vehicles, aircraft, meat (poultry and pork), and optic and medical instruments. The five

largest imports from Russia in 2011 were mineral fuel (oil), iron and steel, precious stones (platinum), inorganic chemical (enriched uranium), and fertilizers.

U.S. exports of agricultural products to Russia totaled \$1.2 billion in 2011, making Russia the 19th largest U.S. agricultural export market. Leading categories of U.S. agricultural exports to Russia include fresh/chilled/frozen beef and pork, and poultry meat. U.S. imports of agricultural products from Russia totaled \$34 million in 2011.

2. United States-Russia Trade Data

The following tables summarize the top U.S. merchandise exports to Russia and the top U.S. merchandise imports from Russia from 2010 through 2012.

TOP 10 U.S. DOMESTIC EXPORTS AT FAS VALUE TO RUSSIA—BY HARMONIZED TARIFF SCHEDULE (HTS) CHAPTERS, RANKED BY 2011 EXPORTS, YTD = YEAR TO DATE (JAN. TO MAY)

HTS Code—Product	2010 (\$ millions)	2011 (\$ millions)	2011 Per- cent of total	2011 YTD (\$ millions)	2012 YTD (\$ millions)
ALL CATEGORIES	5,968	8,285	100%	3,224	4,290
84.—NUCLEAR REACTORS, BOILERS, MACHINERY AND MECHANICAL APPLIANCES; PARTS THEREOF	1,651	2,168	26.17	904	1,040
87.—VEHICLES, OTHER THAN RAILWAY OR TRAMWAY ROLLING STOCK, AND PARTS AND ACCESSORIES THEREOF	484	1,111	13.41	476	709
88.—AIRCRAFT, SPACECRAFT, AND PARTS THEREOF	276	741	8.94	265	609
2.—MEAT AND EDIBLE MEAT OFFAL	649	697	8.41	197	366
90.—OPTICAL, PHOTOGRAPHIC, CINEMATOGRAPHIC, MEASURING, CHECKING, PRECISION, MEDICAL OR SURGICAL INSTRUMENTS AND APPARATUS; PARTS AND ACCESSORIES THEREOF	382	548	6.61	170	212
85.—ELECTRICAL MACHINERY AND EQUIPMENT AND PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION RECORDERS AND REPRODUCERS, PARTS AND ACCESSORIES	395	546	6.59	206	284
39.—PLASTICS AND ARTICLES THEREOF	285	369	4.45	172	143
28.—INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE ELEMENTS OR OF ISOTOPEs	143	180	2.17	48	61
38.—MISCELLANEOUS CHEMICAL PRODUCTS	120	136	1.64	39	56
8.—EDIBLE FRUIT AND NUTS; PEEL OF CITRUS FRUIT OR MELONS	120	132	1.59	58	60
ALL CATEGORIES	5,968	8,285	100	3,224	4,290

TOP 10 U.S. DOMESTIC IMPORTS AT FAS VALUE FROM RUSSIA—BY HARMONIZED TARIFF SCHEDULE (HTS) CHAPTERS, RANKED BY 2011 IMPORTS, YTD = YEAR TO DATE (JAN. TO MAY)

HTS Code—Product	2010 (\$ millions)	2011 (\$ millions)	2011 Per- cent of total	2011 YTD (\$ millions)	2012 YTD (\$ millions)
ALL CATEGORIES	25,199	33,610	100%	13,017	11,921
27: MINERAL FUELS, MINERAL OILS AND PRODUCTS OF THEIR DISTILLATION; BITUMINOUS SUBSTANCES; MINERAL WAXES	17,319	23,869	71.02	9,223	8,284
72: IRON AND STEEL	1,369	1,675	4.98	683	1,189
71: NATURAL OR CULTURED PEARLS, PRECIOUS OR SEMIPRECIOUS STONES, PRECIOUS METALS; PRECIOUS METAL CLAD METALS, ARTICLES THEREOF; IMITATION JEWELRY; COIN	710	1,404	4.18	509	303

TOP 10 U.S. DOMESTIC IMPORTS AT FAS VALUE FROM RUSSIA—BY HARMONIZED TARIFF SCHEDULE (HTS) CHAPTERS, RANKED BY 2011 IMPORTS, YTD = YEAR TO DATE (JAN. TO MAY)—Continued

HTS Code—Product	2010 (\$ millions)	2011 (\$ millions)	2011 Per- cent of total	2011 YTD (\$ millions)	2012 YTD (\$ millions)
28: INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE ELEMENTS OR OF ISOTOPES	1,279	1,380	4.11	285	225
31: FERTILIZERS	641	1,127	3.35	665	294
76: ALUMINUM AND ARTICLES THEREOF	523	636	1.89	273	381
29: ORGANIC CHEMICALS	609	584	1.74	284	170
75: NICKEL AND ARTICLES THEREOF	731	565	1.68	314	158
81: BASE METALS NESOI; CERMETS; ARTICLES THEREOF	336	275	0.82	124	130
3: FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES	267	268	0.80	124	100
ALL CATEGORIES	25,199	33,610	100	13,017	11,921

Sources: Data has been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

D. TRADE RELATIONS WITH MOLDOVA

1. United States-Moldova Economic Relations

Moldova is Europe's poorest country, according to the World Bank. Living standards are low for many Moldovans, particularly in rural areas. Remittances from Moldovans working abroad amounted to 22 percent of the country's GDP in 2010.

Moldova is currently negotiating an Association Agreement with the European Union, which provides for cooperation in a wide variety of spheres and holds out the possibility of an eventual free trade agreement and visa-free travel.

In 2011, services comprised most of Moldova's GDP, at 63.5 percent, while industry comprised 20.3 percent and agriculture comprised 16.2 percent. Major industries include sugar, vegetable oil, food processing, agricultural machinery, foundry equipment, refrigerators and freezers, washing machines, hosiery, shoes, and textiles.

Bilateral (two-way) goods trade with Moldova totaled \$46.5 million during 2011. U.S. goods exports to Moldova totaled \$31.4 million, and goods imports from Moldova totaled \$16.1 million. The U.S. goods trade surplus with Moldova was \$15.3 million in 2011. The top U.S. exports to Moldova in 2011 were meat and edible meat offal, machinery, electrical machinery and equipment, optic and medical instruments, and vehicles. The five largest imports from Moldova in 2011 were beverages and spirits, apparel, and footwear.

2. United States-Moldova Trade Data

The following tables summarize the top U.S. merchandise exports to Moldova and the top U.S. merchandise imports from Moldova from 2010 through 2012.

TOP 10 U.S. DOMESTIC EXPORTS AT FAS VALUE TO MOLDOVA—BY HARMONIZED TARIFF SCHEDULE (HTS) CHAPTERS, RANKED BY 2011 EXPORTS, YTD = YEAR TO DATE (JAN. TO MAY)

HTS Code—Product	2010 (\$ millions)	2011 (\$ millions)	2011 Per- cent of total	2011 YTD (\$ millions)	2012 YTD (\$ millions)
ALL CATEGORIES	34.5	31.4	100%	10.5	12.3
02.—MEAT AND EDIBLE MEAT OFFAL	13.3	13.1	41.72	4.3	6.1
84.—NUCLEAR REACTORS, BOILERS, MACHINERY AND MECHANICAL APPLIANCES; PARTS THEREOF	2	4.2	13.38	0.8	1.2
98.—SPECIAL CLASSIFICATION PROVISIONS, NESOI	5.4	4	12.74	1.1	0.8
85.—ELECTRICAL MACHINERY AND EQUIPMENT AND PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION RECORDERS AND REPRODUCERS, PARTS AND ACCESSORIES	0.8	2.8	8.92	0.7	0.6
90.—OPTICAL, PHOTOGRAPHIC, CINEMATOGRAPHIC, MEASURING, CHECKING, PRECISION, MEDICAL OR SURGICAL INSTRUMENTS AND APPARATUS; PARTS AND ACCESSORIES THEREOF	0.9	1.3	4.14	0.3	0.8
87.—VEHICLES, OTHER THAN RAILWAY OR TRAM- WAY ROLLING STOCK, AND PARTS AND ACCE- SORIES THEREOF	1.6	0.9	2.87	0.4	1.5
38.—MISCELLANEOUS CHEMICAL PRODUCTS	0.1	0.9	2.87	0.5	0.1
28.—INORGANIC CHEMICALS; ORGANIC OR INOR- GANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE ELE- MENTS OR OF ISOTOPEs	0	0.7	2.23	0.7	0
88.—AIRCRAFT, SPACECRAFT, AND PARTS THEREOF	0.4	0.7	2.23	0.4	0.2
73.—ARTICLES OF IRON OR STEEL	0	0.7	2.23	0.6	0.2
ALL CATEGORIES	34.5	31.4	100	10.5	12.3

TOP 10 U.S. IMPORTS FOR CONSUMPTION AT CUSTOMS VALUE FROM MOLDOVA—BY HARMONIZED TARIFF SCHEDULE (HTS) CHAPTERS, RANKED BY 2011 IMPORTS, YTD = YEAR TO DATE (JAN. TO MAY)

HTS Code—Product	2010 (\$ millions)	2011 (\$ millions)	2011 Per- cent of total	2011 YTD (\$ millions)	2012 YTD (\$ millions)
ALL CATEGORIES	12.3	16.1	100%	4.1	7.6
22.—BEVERAGES, SPIRITS AND VINEGAR	2.7	5.1	31.68	1.7	3.2
62.—ARTICLES OF APPAREL AND CLOTHING AC- CESSORIES, NOT KNITTED OR CROCHETED	3.2	4.3	26.71	0.6	1.1
63.—MADE-UP TEXTILE ARTICLES NESOI; NEEDLECRAFT SETS; WORN CLOTHING AND WORN TEXTILE ARTICLES; RAGS	1.3	1.2	7.45	0.3	0.5
61.—ARTICLES OF APPAREL AND CLOTHING AC- CESSORIES, KNITTED OR CROCHETED	1.3	1.1	6.83	0.3	0.4
64.—FOOTWEAR, GAITERS AND THE LIKE; PARTS OF SUCH ARTICLES	0.6	0.8	4.97	0.3	0.3
42.—ARTICLES OF LEATHER; SADDLERY AND HAR- NESS; TRAVEL GOODS, HANDBAGS AND SIMILAR CONTAINERS; ARTICLES OF GUT (OTHER THAN SILKWORM GUT)	1.3	0.7	4.35	0.3	0.2
19.—PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; BAKERS' WARES	0.4	0.6	3.73	0.1	0.3
95.—TOYS, GAMES AND SPORTS EQUIPMENT; PARTS AND ACCESSORIES THEREOF	0.4	0.5	3.11	0	0.1
39.—PLASTICS AND ARTICLES THEREOF	0.1	0.5	3.11	0	0.8
84.—NUCLEAR REACTORS, BOILERS, MACHINERY AND MECHANICAL APPLIANCES; PARTS THEREOF	0.1	0.4	2.48	0.1	0
ALL CATEGORIES	12.3	16.1	100	4.1	7.6

E. GENERAL DESCRIPTION OF THE BILL

Section 1. Short title; table of contents

This section provides that the short title of the act is the “Russia and Moldova Jackson-Vanik Repeal and Magnitsky Rule of Law Accountability Act of 2012” (the Act). Section 1 also provides the table of contents for the Act.

TITLE I—PERMANENT NORMAL TRADE RELATIONS FOR
THE RUSSIAN FEDERATION*Section 101. Findings*

Section 101 sets forth Congressional findings relating to the Russian Federation’s record in meeting the requirements of Title IV of the Trade Act of 1974 (Title IV) and to the Russian Federation’s imminent accession to the WTO.

Section 102. Termination of application of Title IV of the Trade Act of 1974 to products of the Russian Federation

Section 102 authorizes the President to determine that Title IV should no longer apply to the Russian Federation, and to proclaim the extension of normal trade relations treatment to the products of the Russian Federation. Section 102 terminates the application of Title IV to Russia on the effective date of the President’s proclamation, which shall be no sooner than the date the Russian Federation accedes to the WTO.

TITLE II—TRADE ENFORCEMENT MEASURES RELATING TO
THE RUSSIAN FEDERATION*Section 201. Reports on implementation by the Russian Federation of obligations as a member of the World Trade Organization and enforcement actions by the United States Trade Representative*

Section 201(a) requires the United States Trade Representative (USTR) to report annually to the Senate Finance Committee and the House Ways and Means Committee on the Russian Federation’s implementation of its obligations as a member of the WTO, in particular with respect to obligations relating to sanitary and phytosanitary (SPS) issues and intellectual property protection. The USTR’s report would also cover the Russian Federation’s progress on acceding to and implementing the WTO Information Technology Agreement and the WTO Agreement on Government Procurement. To the extent the USTR believes that the Russian Federation is not fully implementing a WTO agreement or making adequate progress in acceding to the above agreements, the USTR would be required to include in the report its plans for addressing those situations. In preparing the report, the USTR must provide an opportunity for public comment, including by holding a public hearing.

Section 201(b) requires the USTR to report within 180 days, and annually thereafter, to the Senate Finance Committee and the House Ways and Means Committee on enforcement actions taken by the USTR to ensure full compliance by the Russian Federation with its WTO obligations.

Section 202. Promotion of the rule of law in the Russian Federation to support United States trade and investment

Section 202(a) requires the USTR and the Secretary of State to report annually on measures they have taken and results achieved to promote the rule of law in the Russian Federation and to support U.S. trade and investment by strengthening investor protections in Russia, including the negotiation of a new bilateral investment treaty; advocating for U.S. investors in Russia, including by promoting the claims of U.S. investors in the Yukos Oil Company; encouraging all parties to the Organisation for Economic Co-operation and Development Anti-Bribery Convention, including the Russian Federation, to fully implement their commitments; promoting corruption-free customs, tax, and judicial authorities in the Russian Federation; and increasing cooperation between the United States and the Russian Federation to expand the capacity for civil society organizations to monitor, investigate, and report on suspected incidents of corruption.

Section 202(b) requires the Secretary of Commerce to establish and maintain a hotline and secure website to allow U.S. entities to report instances of bribery, attempted bribery, and other forms of corruption in the Russian Federation that could affect them and to request U.S. assistance relating to these issues in the Russian Federation. Section 202(b) also requires the Secretary of Commerce to report annually to the Senate Finance Committee and the House Ways and Means Committee on the instances of bribery, attempted bribery, and other forms of corruption reported through the hotline and website, a description of the regions where those instances are alleged to have occurred, and a summary of U.S. actions taken in response to requests. The identities of those reporting will not be included in the report. The report will also describe the efforts undertaken by the Secretary of Commerce to inform U.S. entities doing business in Russia of the availability of assistance with corruption problems through the hotline and website.

Section 203. Reports on laws, policies, and practices of the Russian Federation that discriminate against United States digital trade

Section 203 amends section 181 of the Trade Act of 1974 by requiring that the report under section 181 include a description of laws, policies, or practices of the Russian Federation that deny fair and equitable treatment to U.S. digital trade.

Section 204. Efforts to reduce barriers to trade imposed by the Russian Federation

Section 204 requires the USTR to pursue the reduction of Russian barriers to U.S. exports through efforts to negotiate a bilateral agreement with the Russian Federation that would recognize U.S. SPS measures as equivalent to Russian SPS measures, and through efforts to obtain the Russian Federation's acceptance of an action plan to provide greater protections for intellectual property rights than those provided under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

TITLE III—SANCTIONS WITH RESPECT TO PERSONS
RESPONSIBLE FOR GROSS VIOLATIONS OF HUMAN RIGHTS

Section 301. Short title

Section 301 provides that this title may be cited as the “Sergei Magnitsky Rule of Law Accountability Act of 2012.”

Section 302. Findings

Section 302 sets forth Congressional findings relating to the death of Sergei Magnitsky, as well as human rights and corruption issues in Russia more generally.

Section 303. Definitions

Section 303 defines the terms “admitted,” “alien,” “appropriate congressional committees,” “financial institution,” and “United States Person.”

Section 304. Identification of persons responsible for the detention, abuse and death of Sergei Magnitsky and other gross violations of human rights

Section 304(a) requires the Secretary of State, in consultation with the Secretary of the Treasury, to submit to the appropriate congressional committees a list of each person the Secretary of State determines meets one of the following categories of criteria:

(1) Persons responsible for the detention, abuse, or death of Mr. Magnitsky; persons who participated in efforts to conceal the legal liability for the detention, abuse, or death of Mr. Magnitsky; persons who benefitted financially from the detention, abuse, or death of Mr. Magnitsky; or persons involved in the criminal conspiracy uncovered by Mr. Magnitsky; or

(2) Persons 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 Russian Government; 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, anywhere in the world; or

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

Section 304(b) requires the Secretary of State to update the list required by subsection 304(a) as more information becomes available.

Section 304(c) states that a person shall be removed from the list required by section 304(a) if the Secretary of State determines that the person did not engage in the activity for which the person was added to the list.

Section 304(d) describes the form the list will take and the extent of its public availability. It requires that, except as permitted by subsections 304(d)(2)-(3), the list shall be submitted in unclassified form and published in the Federal Register. Section 304(d)(2) permits information to be submitted in a classified annex if the Secretary of State determines that it is necessary for the national se-

curity interests of the United States to do so, and, prior to submitting a list including a classified annex, provides the appropriate congressional committees notice of and a justification for including each person in the classified annex. Section 304(d)(3) requires that, not later than 300 days after the date of enactment and annually thereafter, the Secretary review the classified annex and provide to the appropriate congressional committees a justification for continuing to include each person in such an annex.

Section 304(e) requires the Secretary of State to provide a response not later than 120 days after receiving a written request from the chairperson and ranking member of one of the appropriate congressional committees concerning whether a specific person meets the criteria for being added to the list requires by subsection 4(a). The response may be submitted in classified form if the Secretary determines that it is necessary for the national security interests of the United States to do so.

Section 304(f) clarifies that the Secretary of State shall publish the list required by subsection 304(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.

Section 305. Inadmissibility of Certain Aliens

This section provides that 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 304(a), and that 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 this title. The application of this section may be waived by the Secretary of State if the Secretary determines that such a waiver 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 if the Secretary determines that a waiver is in the national security interests of the United States and provides, prior to granting such a waiver, notice of and a justification for the waiver to the appropriate congressional committees.

Section 306. Financial measures

This section requires the Secretary of the Treasury to freeze and prohibit all transactions in property and interests in property of a person that the Secretary, in consultation with the Secretary of State, determines has engaged in an activity described in paragraph (1), (2), or (3) of section 304(a) if such property and interests in property are in the United States, come within the United States, or come within the possession or control of a United States person. The Secretary of the Treasury may waive the application of this section if the Secretary determines that such a waiver is in the national security interests of the United States and, prior to granting such a waiver, provides notice of and justification for the waiver to the appropriate congressional committees.

Section 307. Report to Congress

This section requires the Secretary of State and Secretary of Treasury to submit a report one year after the date of enactment (and annually thereafter) to the appropriate congressional committees. The report must describe the actions taken to carry out this title, including the number of times and circumstances in which persons described in section 304(a) have been added to the list during the year preceding the report and if few or no such persons have been added during that year, the reasons for not adding more persons to the list. The report must also describe efforts to encourage the governments of other countries to impose sanctions that are similar to the sanctions imposed under this title.

TITLE IV—PERMANENT NORMAL TRADE RELATIONS FOR
MOLDOVA

Section 401. Findings

Section 401 sets forth Congressional findings relating to Moldova's record in meeting the requirements of Title IV and to Moldova's accession to the WTO.

Section 402. Termination of application of Title IV of the Trade Act of 1974 to products of Moldova

Section 402 authorizes the President to determine that Title IV should no longer apply to Moldova, and to proclaim the extension of normal trade relations treatment to the products of Moldova. Section 402 terminates the application of Title IV to Moldova on the date of the President's proclamation.

F. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that on July 18, 2012, S. 3046 was ordered favorably reported by a roll call vote of 24 ayes and 0 nays. Ayes: Baucus, Rockefeller, Conrad, Bingaman (proxy), Kerry, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Hatch, Grassley (proxy), Snowe (proxy), Kyl, Crapo, Roberts (proxy), Enzi, Cornyn (proxy), Coburn (proxy), Thune, Burr.

II. BUDGETARY IMPACT OF THE BILL

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 24, 2012.

Hon. MAX BAUCUS,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3406, the Russia and Moldova Jackson-Vanik Repeal and Magnitsky Rule of Law Accountability Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

S. 3406—Russia and Moldova Jackson-Vanik Repeal and Magnitsky Rule of Law Accountability Act of 2012

CBO estimates that implementing S. 3406 would cost \$7 million over the 2013–2017 period, assuming appropriation of the necessary amounts. The bill would affect direct spending and revenues; therefore, pay-as-you-go procedures apply, but CBO estimates that any such effects would not be significant in any year. S. 3406 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

S. 3406 would remove Moldova and the Russian Federation from the list of countries specified under title IV of the Trade Act of 1974 (the Jackson-Vanik amendment), thereby granting them permanent normal trade relations (NTR) with the United States.

Those countries have had NTR status with the United States for about 20 years, and CBO’s baseline reflects the expectation that they will maintain that status. Establishing permanent NTR with Moldova and the Russian Federation could potentially increase tariff collections by lifting quotas on certain imported goods. CBO estimates, however, that any such effects would be insignificant over the 2013–2022 period.

Title III of S. 3406 would require the Departments of State and Treasury to compile, publish, and annually report on a list of persons responsible for the death of Sergei Magnitsky or human rights violations in foreign countries. Listed persons would be ineligible for entry into the United States, have any existing visas revoked, and have their assets frozen.

Based on information from the Departments of State, Treasury, and Commerce, as well as the U.S. Trade Representative (USTR), CBO estimates that implementing title III of S. 3406 would cost a total of \$7 million over the 2013–2017, assuming appropriation of the necessary amounts. That amount includes affected agencies’ costs to hire additional staff, complete required reports, hold public hearings, and establish and maintain a secure phone line and Web site related to activities under the bill. CBO also expects that enacting S. 3406 would decrease revenues from visa fees and increase revenues from civil and criminal penalties imposed on those who violate the regulations. CBO estimates that the provisions would affect few people and that revenues deposited in the Treasury would not be significant in any year. The legislation also would increase direct spending from criminal penalties, which are deposited in the Crime Victims Fund and spent in subsequent years. However, CBO expects that any net effects associated with collecting and spending such penalties would not be significant in any year.

Title III of S. 3406 is similar to two other bills for which CBO has prepared cost estimates. On July 5, 2012, CBO transmitted a cost estimate for S. 1039, the Sergei Magnitsky Rule of Law Accountability Act of 2012, as reported by the Senate Committee on

Foreign Relations on June 26, 2012. That bill is identical to title III of S. 3406, and our cost estimates are the same. On June 29, 2012, CBO transmitted a cost estimate for H.R. 4405, the Sergei Magnitsky Rule of Law Accountability Act of 2012, as ordered reported by the House Committee on Foreign Affairs on June 7, 2012. Because the provisions of H.R. 4405 would apply only to human rights violations in the Russian Federation, our estimate of costs under that bill is lower.

The CBO staff contacts for this estimate are Sunita D'Monte, Matthew Pickford, and Susan Willie. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

III. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that S. 3406 will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. No. 104-04). The Committee has reviewed the provisions of S. 3406 as approved by the Committee on July 18, 2012. In accordance with the requirements of UMRA, the Committee has determined that the provisions of S. 3406 contain no intergovernmental mandates as defined in UMRA, and impose no costs on state, local, or tribal governments.

IV. ADDITIONAL VIEWS OF SENATOR DEBBIE STABENOW

Granting Russia PNTR status without strong oversight and accountability would be another failed trade deal for American manufacturers and farmers. While I am pleased with the accountability measures added to the bill in Committee, I will continue working with my colleagues to further strengthen these provisions as this bill is considered on the Senate floor.

We must be willing to hold Russia, and all of our trade partners, accountable to the commitments they made to join the World Trade Organization. That includes commitments related to improving labor standards, protecting intellectual property rights, and enforcing against human rights violations. We need to stand up for American businesses and workers so they have the opportunity to compete and win globally on a level playing field. To do this, we must be tough with other countries that are violating international trade law to give their own companies an anti-competitive advantage.

**V. CHANGES IN EXISTING LAW MADE BY THE BILL,
AS REPORTED**

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

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**TITLE I—NEGOTIATING AND OTHER
AUTHORITY**

**CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS
AND CERTAIN UNFAIR TRADE ACTIONS**

* * * * *

SEC. 181. ESTIMATES OF BARRIERS TO MARKET ACCESS.

(a) NATIONAL TRADE ESTIMATES.—

(1) * * *

* * * * *

(3) *INCLUSION OF CERTAIN DISCRIMINATORY LAWS, POLICIES, AND PRACTICES OF THE RUSSIAN FEDERATION.—For calendar year 2012 and each succeeding calendar year, the Trade Representative shall include in the analyses and estimates under paragraph (1) an identification and analysis of any laws, policies, or practices of the Russian Federation that deny fair and equitable market access to United States digital trade.*

[(3)] (4) Annual revisions and updates * * *

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