



December 20, 2023

The Jackson-Vanik Amendment and Permanent Normal Trade Relations

Overview

Section 402 of the Trade Act of 1974 (“the Act,” 19 U.S.C. § 2432), commonly known as the Jackson-Vanik amendment, denies normal trade relations (NTR) status to some current and former nonmarket economies (NMEs), unless they adhere to certain freedom-of-emigration requirements. Congress passed this legislation in response to restrictions on emigration from the Soviet Union that disproportionately affected Jews. A provision of the amendment allows the President to extend conditional NTR status to countries subject to the law by either waiving the amendment’s freedom-of-emigration requirements or determining that the country in question is not in violation of those requirements, subject to annual review. A complete lifting of Jackson-Vanik applicability requires Congress to pass legislation authorizing the President to extend permanent NTR (PNTR) status to a given country. Such legislation is sometimes prompted by a trading partner’s accession to the World Trade Organization (WTO). Congress has passed legislation exempting most countries once affected by the Jackson-Vanik amendment, but it continues to apply to Azerbaijan, Kazakhstan, Tajikistan, Turkmenistan, and Uzbekistan, which receive temporary NTR status, and to Belarus, Cuba, and North Korea, which do not. Of those countries, Kazakhstan and Uzbekistan actively engage Congress requesting repeal of their Jackson-Vanik applicability. The Biden Administration supports repeal for Kazakhstan, Tajikistan, and Uzbekistan.

Background

In 1951, the United States suspended most-favored nation (MFN, also known as normal trade relations in U.S. law) status to the Soviet Union and all other communist countries and areas, except Yugoslavia. In international trade rules, the MFN principle means equal (i.e., nondiscriminatory) treatment of goods and services from all countries granted that status. In 1974, the Jackson-Vanik amendment prohibited the restoration of certain commercial relations with any such NME that prohibited or severely restricted free emigration of its citizens.

Section 402 of the Act identifies such practices as (1) denying citizens the right or opportunity to emigrate, (2) imposing more than a nominal tax on emigration or documents required for emigration, and (3) imposing more than a nominal tax or other charge on citizens because of their desire to emigrate to the country of their choice.

Section 402 and subsequent sections in the Act established a process for the restoration of NTR status for NME countries on a temporary basis. Key conditions for extension of this conditional NTR status are

- conclusion of a bilateral trade agreement with the United States that contains a reciprocal grant of the MFN status and additional provisions required by law (19 U.S.C. §2435), and is approved by the enactment of a joint resolution (19 U.S.C. §2191); and
- the NME country’s compliance with the Act’s freedom-of-emigration requirements, as determined by the U.S. President.

The President may temporarily waive the requirement for full compliance with the emigration provisions upon determining that a waiver would substantially promote freedom of emigration. Both certification and waiver require regular reporting to Congress and an annual renewal process subject to a congressional joint resolution of disapproval.

Current Status

Since 1991, Congress has passed legislation authorizing the President to determine that Jackson-Vanik should no longer apply to Albania, Armenia, Bulgaria, China, Czechoslovakia, Georgia, Hungary, the Kyrgyz Republic, Moldova, Mongolia, Romania, Russia, Ukraine, and Vietnam; those countries (and, in the case of Czechoslovakia, its successor states) all have received PNTR status. Jackson-Vanik applied de facto to Estonia, Latvia, and Lithuania as constituent republics of the Soviet Union. Because the United States did not recognize their forcible incorporation into the USSR during World War II, Congress terminated the applicability of Jackson-Vanik to these three countries after the restoration of their independence in 1991. Russia’s PNTR status was suspended in response to its 2022 invasion of Ukraine. Azerbaijan, Kazakhstan, Tajikistan, and Uzbekistan are certified as compliant and receive conditional NTR status, subject to annual review. Turkmenistan receives temporary NTR status via a presidential waiver. Belarus previously received temporary NTR status under the waiver provision, but it was suspended in response to Belarus’s involvement in Russia’s 2022 invasion of Ukraine. Cuba and North Korea currently do not receive NTR status.

PNTR and the WTO

Two recent instances in which Congress passed legislation authorizing the President to extend PNTR to a country formerly subject to Jackson-Vanik were in response to Vietnam’s and Russia’s respective accessions to the WTO. Joining the WTO involves taking on the commitments and obligations of all of its multilateral agreements, including the requirement that all members extend nondiscriminatory, MFN tariff treatment “immediately and unconditionally” to other WTO members. Governments can be motivated to join not just to expand access to foreign markets but also to

spur domestic economic reforms, help transition to market economies, and promote the rule of law. WTO accession involves a process of market access negotiations and documentation of a country’s trade regime. The length of the process can depend on several factors, including the scope of reforms to be undertaken, the domestic political situation, the priority given to the accession protocol package by the government of the prospective member, and the member’s technical capacity.

Tajikistan and Kazakhstan acceded to the WTO in 2013 and 2015, respectively. Uzbekistan applied to join the WTO in 1994; the process stalled in 2005 and resumed in 2020. Azerbaijan applied for WTO membership in 1997, and in 2023 accession procedures resumed after a six-year gap. In 2022, Turkmenistan began WTO accession procedures.

If it desired, Congress would need to enact legislation authorizing the President to extend PNTR status to Kazakhstan and Tajikistan, and potentially to Azerbaijan, Turkmenistan, and Uzbekistan depending on their prospective accession, for the United States to benefit fully from the terms of these countries’ WTO membership. Such benefits include access to tariff concessions and WTO dispute settlement procedures. If a WTO member determines that it cannot comply with the application of MFN, or any other WTO rule toward a newly acceded WTO member, it can “opt out” of its obligations toward that member by invoking the nonapplication provision (Article XIII, WTO Agreement). A WTO member that opts out of its obligations is excluded from the trade concessions granted by the new member. The United States currently invokes nonapplication with regard to Tajikistan; to date, it has not officially invoked nonapplication for Kazakhstan.

Table 1. Selected U.S.-Central Asia goods trade (US\$ millions)

Trade partner	2022		2012	
	U.S. exports	U.S. imports	U.S. exports	U.S. imports
Kazakhstan	1,081	2,705	884	1,565
Uzbekistan	273	59	285	26
Tajikistan	124	1	54	27

Source: U.S. Census Bureau.

Bilateral Trade and U.S. Investment

Extending PNTR to Kazakhstan, Tajikistan, and Uzbekistan, for which the Biden Administration has stated support, may have limited short-term impact on bilateral trade flows, given that U.S. imports from these countries already receive the MFN rate because they receive temporary NTR status. Of the three countries, U.S. bilateral trade in goods with Kazakhstan is largest by value (see **Table 1**). Additionally, certain U.S. imports from Kazakhstan and Uzbekistan have been eligible to receive duty-free treatment under the U.S. Generalized System of Preferences (GSP), a trade preference program that expands market access for eligible developing countries. GSP authorization lapsed at the end of 2020, but there has been bipartisan interest in reauthorization of the program.

Latest available data from the U.S. Bureau of Economic Analysis and the State Department give the stock of U.S. direct investment in Kazakhstan, Tajikistan, and Uzbekistan as \$44 billion, \$122 million, and \$40 million, respectively.

Potential Repeal of Jackson-Vanik for Kazakhstan, Tajikistan, and Uzbekistan

H.R. 1755 and H.R. 3611, introduced in the 118th Congress, would authorize the President to determine that Jackson-Vanik should no longer apply to Uzbekistan and Kazakhstan, respectively, and to extend PNTR; S. 2748 would do the same for Kazakhstan, Tajikistan, and Uzbekistan. Legislation that would have exempted these three countries was introduced in previous Congresses since the 107th session, but did not emerge from committee. Since 1997, successive U.S. administrations have certified these countries as compliant with the Act’s freedom-of-emigration requirements.

In stating its support for repealing Jackson-Vanik for Kazakhstan, Tajikistan, and Uzbekistan, the Biden Administration has argued that doing so would signal U.S. commitment to economic engagement at a time when the United States is seeking to help these countries diversify away from Russia, and that it would boost trade and investment opportunities for U.S. businesses. Certain U.S. business associations advocate exempting Kazakhstan and/or Uzbekistan. Given that much of the Jewish population of these three countries has emigrated to the United States or Israel since 1991, some proponents of repeal argue that Jackson-Vanik, which initially addressed Soviet restrictions on Jewish emigration, is outdated. Others posit that it is inconsistent with U.S. policy toward Central Asia, arguing that it views these countries through the lens of the Soviet Union rather than as independent states. One Senator has described the continued application of Jackson-Vanik as a “bilateral irritant” for U.S. relations.

Conversely, some stakeholders argue that maintaining Jackson-Vanik applicability grants the United States leverage when engaging with Central Asian countries on human rights issues. In 2020, two U.S.-based nongovernmental organizations urged the Senate Foreign Relations Committee to take action on the deteriorating human rights situation in Tajikistan, including by encouraging the State Department to end certification of Tajikistan as compliant with Jackson-Vanik. Other potential arguments against taking action to exempt Kazakhstan, Uzbekistan, and Tajikistan from Jackson-Vanik include what some might argue is the limited practical impact of Jackson-Vanik on economic relations with these countries, given that all three currently receive conditional NTR status. Additionally, the fact that Uzbekistan has not yet acceded to the WTO might be advanced as an argument against terminating the applicability of Jackson-Vanik to that country.

Maria A. Blackwood, Analyst in Asian Policy

Cathleen D. Cimino-Isaacs, Specialist in International Trade and Finance

Liana Wong, Analyst in International Trade and Finance

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.