



Permanent Normal Trade Relations (PNTR) Status for Russia and U.S.-Russian Economic Ties

William H. Cooper
Specialist in International Trade and Finance

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Summary

U.S.-Russian trade is governed by Title IV of the Trade Act of 1974, which sets conditions on Russia's normal trade relations (NTR), or nondiscriminatory, status, including the "freedom-of-emigration" requirements of the Jackson-Vanik amendment (Section 402). Changing Russia's trade status to unconditional NTR or "permanent normal trade relations status (PNTR)" requires legislation to lift the restrictions of Title IV as they apply to Russia and authorize the President to grant Russia PNTR by proclamation. On November 16, 2012, the House passed (365-43), and on December 6, 2012, the Senate passed (92-4) H.R. 6156, which does just that, among other things. The legislation also included provisions—the Magnitsky Rule of Law Accountability Act of 2012—that impose sanctions on individuals linked to the incarceration and death of Russian lawyer Sergei Magnitsky. H.R. 6156 also authorized PNTR status for Moldova. President Obama signed the legislation into law on December 14, 2012.

PNTR for Russia became an issue for the 112th Congress because, on August 22, 2012, Russia joined the WTO after having completed a 19-year accession process. The WTO requires each member to accord newly acceding members "immediate and unconditional" most-favored-nation (MFN) status, or PNTR. In order to comply with WTO rules, the United States had to extend PNTR to Russia.

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Granting Russia permanent normal trade relations (PNTR) status requires a change in law because Russia is prohibited from receiving PNTR under Title IV of the Trade Act of 1974. The change would likely occur in the form of legislation to eliminate the application of Title IV to trade with Russia. Title IV includes the so-called Jackson-Vanik amendment free emigration requirements. Extension of PNTR has implications for Russia's accession to the World Trade Organization (WTO). The WTO requires its members to extend immediate and unconditional nondiscriminatory treatment to the goods and services of all other members. After 19 years of negotiations, Russia joined the WTO on August 22, 2012. On November 16, 2012, the House passed (365-43), and on December 6, 2012, the Senate passed (92-4) H.R. 6156, which does just that, among other things. The legislation also included provisions—the Magnitsky Rule of Law Accountability Act of 2012—that impose sanctions on individuals linked to the incarceration and death of Russian lawyer Sergei Magnitsky. H.R. 6156 also authorized PNTR status for Moldova. President Obama signed the legislation into law on December 14, 2012.

What are NTR Status and the Jackson-Vanik Amendment?

“Normal trade relations” (NTR), or “most-favored-nation” (MFN), trade status is used to denote nondiscriminatory treatment of a trading partner compared to that of other countries.¹ Only two countries—Cuba and North Korea—do not have NTR status in trade with the United States. In practice, duties on the imports from a country which has been granted NTR status are set at lower rates than those from countries that do not receive such treatment. Thus, imports from a non-NTR country can be at a large price disadvantage compared with imports from NTR-status countries.

Section 401 of Title IV of the Trade Act of 1974 requires the President to continue to deny NTR status to any country that was not receiving such treatment at the time of the law's enactment on January 3, 1975. In effect this meant all communist countries, except Poland and Yugoslavia. Section 402 of Title IV, the so-called Jackson-Vanik amendment, denies the countries eligibility for NTR status as well as access to U.S. government credit facilities, such as the Export-Import Bank, as long as the country denies its citizens the right of freedom of emigration. These restrictions can be removed if the President determines that the country is in *full compliance* with the freedom-of-emigration conditions set out under the Jackson-Vanik amendment. For a country to maintain that status, the President must reconfirm his determination of full compliance in a semiannual report (by June 30 and December 31) to Congress. His determination can be overturned by the enactment of a joint resolution of disapproval concerning the December 31 report.

The Jackson-Vanik amendment also permits the President to *waive* the freedom-of-emigration requirements, if he determines that such a waiver would promote the objectives of the amendment, that is, encourage freedom of emigration. This waiver authority is subject to an annual renewal by the President and to congressional disapproval via a joint resolution. Before a

¹ MFN has been used in international agreements and at one time was used in U.S. law to denote the fundamental trade principle of nondiscriminatory treatment. However, “MFN” was replaced in U.S. law, on July 22, 1998, by the term “normal trade relations.” (P.L. 105-206). MFN is still used in international trade agreements. The terms are used interchangeably in this report.

country can receive NTR treatment under either the presidential determination of full compliance or the presidential waiver, it and the United States must have concluded and enacted a bilateral agreement that provides for, among other things, reciprocal extension of NTR or MFN treatment. The agreement and a presidential proclamation extending NTR status cannot go into effect until a congressional joint resolution approving the agreement is enacted.

Russia's NTR Status

In 1990, the United States and the Soviet Union signed a bilateral trade agreement as required under Title IV of the Trade Act of 1974. The agreement was subsequently applied to U.S.-Russian trade relations, and the United States signed similar but legally separate agreements with the other former non-Baltic Soviet states. The United States extended NTR treatment to Russia under the *presidential waiver* authority beginning in June 1992. Since September 1994, Russia has received NTR status under the *full compliance* provision. Presidential extensions of NTR status to Russia have met with virtually no congressional opposition.

Russian leaders continually pressed the United States to “graduate” Russia from Jackson-Vanik coverage entirely. They saw the amendment as a Cold War relic that did not reflect Russia’s new stature as a fledgling democracy and market economy. Moreover, Russian leaders argued that Russia implemented freedom-of-emigration policies since the fall of the communist government, making the Jackson-Vanik conditions inappropriate and unnecessary.

While Russia remained subject to the Jackson-Vanik amendment, some of the other former Soviet republics have been granted permanent and unconditional NTR. For example, Kyrgyzstan and Georgia received PNTR in 2000, and Armenia received PNTR in January 2005. Perhaps what has irked Russian leaders greatly is that the United States granted permanent and unconditional NTR status to Ukraine in 2006.

As with these other countries, extending PNTR to Russia involved legislation that would remove the application of Title IV of the Trade Act of 1974 as it applied to Russia. It authorized the President to grant PNTR by proclamation. On November 16, 2012, the House passed (365-43), and on December 6, 2012, the Senate passed (92-4) H.R. 6156, which did just that, among other things. President Obama signed the legislation into law on December 14, 2012.

U.S.-Russian Economic Ties

During the Cold War, U.S.-Soviet economic ties were very limited. They were constrained by national security and foreign policy restrictions, including the Jackson-Vanik amendment restrictions. They were also limited by Soviet economic policies of central planning that prohibited foreign investment and tightly controlled foreign trade.

With the collapse of the Soviet Union, successive Russian leaders have been dismantling the central economic planning system. This has included the liberalization of foreign trade and investment. U.S.-Russian economic relations have expanded, but the flow of trade and investment remains very low, as reflected in **Table 1**, which contains data on U.S. merchandise trade with Russia since 2001.

Table I. U.S. Trade with Russia, 2001-2011

(Billions of dollars)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Exports	2.4	2.4	3.0	3.9	4.7	7.4	9.3	5.4	6.0	8.3	10.7
Imports	6.8	8.6	12.6	15.3	19.8	19.3	26.8	18.2	25.7	34.6	29.3
Balances	-4.4	-6.2	-8.9	-11.3	-15.1	-11.9	-17.4	-12.8	-19.7	-26.3	-18.6

Source: U.S. Department of Commerce, International Trade Administration.

The table indicates that U.S.-Russian trade, at least U.S. imports, has grown appreciably. The surge in the value of imports is largely attributable to the rise in the world prices of oil and other natural resources—which comprise most of U.S. imports from Russia—and not to an increase in the volume of imports. U.S. exports span a range of products including meat, machinery parts, and aircraft parts. U.S. imports increased more than 244%, from \$7.8 billion to \$26.8 billion from 2000 to 2008, and U.S. exports rose 343%, from \$2.1 billion to \$9.3 billion. However, U.S. exports and imports with Russia declined substantially in 2009, as a result of the global financial crisis and economic downturn, but increased in 2010 and 2011 as both countries have shown signs of recovery. Exports continued to increase in 2012 while imports decreased somewhat. Russia was the 28th -largest export market and 16th-largest source of imports for the United States in 2012.

U.S. exports to and imports from Russia are heavily concentrated in a few commodity categories. The top five 2-digit Harmonized System (HS) categories of imports accounted for about 70% of total U.S. imports from Russia and consisted of precious stones and metals, inorganic chemicals, mineral fuels, aluminum, iron and steel, and fish and other seafood. About 60% of U.S. exports to Russia consisted of products in three 2-digit HS categories: aircraft, machinery (mostly parts for oil and gas production equipment), and meat (beef, pork, and poultry).²

Issues in U.S.-Russian Trade

Russia’s treatment of imports of U.S. meats—poultry, pork, and beef—is one of the most sensitive issues in U.S.-Russian trade relations. Russia’s agricultural sector, particularly meat production, has not been very competitive, and domestic producers have not been able to fulfill Russia’s expanding demand for meat, especially as the rise of Russian incomes has led to a rise in demand for meat in the Russian diet. U.S. producers, especially of poultry, have been able to take advantage and have become major sources of meat to the Russian market. At the same time, Russia has become an important market for U.S. exports of meat. For example, in 2009, Russia was the largest market for U.S. poultry meat exports.³

On January 1, 2010, the Russian government implemented new regulations on imports of poultry, claiming that the chlorine wash that U.S. poultry producers use in the preparation of chickens violates Russian standards and is unsafe. These regulations effectively halted U.S. exports of poultry to Russia. The United States claimed that the wash is effective and safe and that Russian restrictions are not scientifically based. U.S. and Russian officials conducted discussions to

² *World Trade Atlas*.

³ U.S. Department of Agriculture. Economic Research Service. FATUS, *Export Aggregations*, March 18, 2009.

resolve the issue. At their June 24, 2010, press conference that closed a bilateral summit meeting, President Obama and then-President Medvedev announced that the dispute over poultry trade had been resolved and that U.S. shipments of poultry to Russia would resume. However, the full resumption of shipments was delayed over Russian demands to inspect U.S. poultry processing plants before they can be certified for shipping to Russia. On September 30, 2010, the two countries reportedly reached a compromise on this issue whereby Russian inspectors would examine and certify U.S. plants on an expedited basis.⁴ However, as a result of the Russian restrictions, U.S. exports of poultry to Russia plummeted almost 70% by the end 2011 compared to 2009.⁵

The lack of adequate intellectual property rights (IPR) protection in Russia has tainted the business climate in Russia for U.S. investors for some time. The Office of the United States Trade Representative (USTR) consistently identifies Russia in its Special 301 Report as a “priority watch list” country, as it did in its latest (April 30, 2012) report. The USTR report acknowledges improvements in IPR protection and cites steps taken to fulfill its commitments to improve IPR protection made as part of the 2006 bilateral agreement that was reached as part of Russia’s WTO accession process. It also finds that Russia has problems with weak enforcement of IPR in some areas, including internet piracy.⁶

Russian economic policies and regulations have been a source of concerns. The United States and the U.S. business community have asserted that structural problems and inefficient government regulations and policies have been a major cause of the low levels of trade and investment with the United States. U.S. exporters have also cited problems with Russian customs regulations that are complicated and time-consuming.

Russia’s Accession to the WTO

PNTR for Russia is closely tied to Russia’s efforts to join the WTO. The WTO requires its members to extend immediate and unconditional nondiscriminatory treatment to the goods and services of all other members. To fulfill that commitment, the United States would have to extend PNTR to Russia.

Russia first applied to join the General Agreement on Tariffs and Trade (GATT—now the World Trade Organization [WTO]) in 1993.⁷ Russia completed negotiations with a WTO Working Party (WP), which includes representatives from about 60 WTO members, including the United States and the European Union (EU). WP members raised concerns about Russia’s IPR enforcement policies and practices, sanitary and phytosanitary (SPS) regulations that may be blocking imports of agricultural products unnecessarily, and Russia’s demand to keep its large subsidies for its agricultural sector. The United States also raised issues regarding the role of state-owned enterprises (SOEs) in the Russian economy and Russian impediments to imports of U.S. products containing encryption technology.

⁴ *World Trade Online*. September 30, 2010. For more information on issues pertaining to U.S. exports of meat to Russia, see CRS Report RS22948, *U.S.-Russia Meat and Poultry Trade Issues*, by Renée Johnson.

⁵ Derived from U.S. Department of Commerce data.

⁶ Office of the United States Trade Representative, *Special 301 Report*, April 30, 2011, p. 26.

⁷ For more information on Russia’s WTO accession, see CRS Report R42085, *Russia’s Accession to the WTO and Its Implications for the United States*, by William H. Cooper.

Prime Minister Putin's June 9, 2009, announcement that Russia would be abandoning its application to join the WTO as a single entity and would instead pursue it with Belarus and Kazakhstan as a customs union seemed to set back the accession process. However, after meeting resistance from WTO officials, Russia and the other two countries decided to pursue accession separately. On June 24, 2010, during their meeting in Washington, DC, President Obama and President Medvedev pledged to resolve the remaining issues regarding Russia's accession to the WTO by September 30. The United States also pledged to provide technical assistance to Russia to speed up the process of Russia's accession taking into account its customs union with Belarus and Kazakhstan. On October 1, 2010, the USTR announced that "the United States and Russia have reached agreement on the substance of a number of Russian commitments." He noted that Russia had enacted amendments to laws related to the protection of IPR and that the United States "looks to the effective implementation of these laws."⁸

Russia completed its bilateral negotiations and negotiations with the Working Party. On November 10, 2011, the members of the Working Party approved the accession package and sent it on for consideration by the Ministerial Conference. The Ministerial Conference approved the package and, on December 16, 2011, formally invited Russia to join the WTO. The lower house of the Russian parliament—the State Duma—and the upper house—the Federal Council—approved the protocol of accession on July 10 and July 18, 2012, respectively. President Putin signed the measure into law on July 21, and Russia formally joined the WTO on August 22, 2012.

Legislative Developments

PNTR was a major issue in Russia's accession to the WTO. Because Title IV still applied to Russia at the time of its WTO accession, the United States invoked nonapplication of WTO rules, procedures, and agreements in its trade with Russia. As a result, many of the commitments that Russia made in joining the WTO might not have applied to the United States. (Under the 1992 U.S.-Russia bilateral trade agreement, Russia was obligated to apply nondiscriminatory tariff treatment to imports from the United States.)

On November 16, and on December 6, 2012, respectively, the House passed (365-43) and the Senate passed (92-4) H.R. 6156 (365-43). The President signed the bill into law on December 14, 2012. The law removed the application of Title IV to trade with Russia and authorized the President to grant PNTR to Russia by proclamation. It also contained other provisions that required:

- the USTR report annually to the Senate Finance Committee and the House Ways and Means Committee on Russia's implementation of its WTO commitments, including sanitary and phytosanitary (SPS) standards and IPR protection and on acceding to the WTO plurilateral agreements on government procurement and information technology;
- the USTR report to the two committees within 180 days and annually thereafter on USTR actions to enforce Russia's compliance with its WTO commitments;

⁸ Office of the United States Trade Representative, *USTR Kirk Welcomes Bilateral Resolution of Key WTO Issues with Russia* press statement, October 1, 2010.

- the USTR and the Secretary of State report annually on measures that they have taken and results they have achieved to promote the rule of law in Russia and to support U.S. trade and investment by strengthening investor protections in Russia;
- the Secretary of Commerce to take specific measures against bribery and corruption in Russia, including establishing a hotline and website for U.S. investors to report instances of bribery and corruption; a description of Russian government policies, practices, and laws that adversely affect U.S. digital trade be included in the USTR's annual trade barriers report (required under Section 181 of the Trade Act of 1974); and
- the negotiation of a bilateral agreement with Russia on equivalency of SPS measures.

The law also authorizes PNTR for Moldova. In addition, it contained the Magnitsky Rule of Law Accountability Act of 2012, which imposes sanctions on individuals linked to the incarceration and death of Russian lawyer Sergei Magnitsky.⁹

Author Contact Information

William H. Cooper
Specialist in International Trade and Finance
wcooper@crs.loc.gov, 7-7749

⁹ For more information on the Magnitsky case and related legislation, CRS Report see CRS Report RL33407, *Russian Political, Economic, and Security Issues and U.S. Interests*, coordinated by Jim Nichol.