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

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Summary

The change in Russia's trade status will require legislation to lift the restrictions of Title IV of the Trade Act of 1974 as they apply to Russia, which includes the "freedom-of-emigration" requirements of the Jackson-Vanik amendment. The process for Russia's accession has been completed. As a result, Members of the 112th Congress confront the issue of whether to grant Russia permanent normal trade relations (PNTR).

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Granting Russia permanent normal trade relations (PNTR) status requires a change in law because Russia is prohibited from receiving unconditional and permanent NTR 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. 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. As a result, the United States invoked "non-application" of WTO rules to its trade relationship with Russia. This report examines this legislative issue in the context of Russian accession to the WTO and U.S.-Russian economic ties.

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 31st 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 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.

[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.

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 have continually pressed the United States to "graduate" Russia from Jackson-Vanik coverage entirely. They see the amendment as a Cold War relic that does not reflect Russia's new stature as a fledgling democracy and market economy. Moreover, Russian leaders argue that Russia has implemented freedom-of-emigration policies since the fall of the communist government, making the Jackson-Vanik conditions inappropriate and unnecessary.

While Russia remains 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 would likely involve legislation that would remove the application of Title IV of the Trade Act of 1974 as it applies to Russia. It would authorize the President to grant PNTR by proclamation.

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 2000.

Table 1. U.S. Trade with Russia, 2000-2010

(Billions of U.S. dollars)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Exports	2.1	2.7	2.4	2.4	3.0	3.9	4.7	7.4	9.3	5.4	6.0
Imports	7.8	6.3	6.8	8.6	12.6	15.3	19.8	19.3	26.8	18.2	25.7
Balances	-5.6	-3.5	-4.4	-6.2	-8.9	-11.3	-15.1	-11.9	-17.4	-12.8	-19.7

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 the large share 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 as both countries have shown signs of recovery. Russia accounted for 1.3% of U.S. imports and 0.5% of U.S. exports in 2010, and the United States accounted for 3.1% of Russian exports and 5.1% of Russian imports.[2] Russia was the 37th-largest export market and 17th-largest source of imports for the United States in 2010.

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 (mostly poultry).[3]

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.[4]

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[2] *World Trade Atlas.* Global Trade Information Services, Inc.

[3] *World Trade Atlas.*

[4] U.S. Department of Agriculture. Economic Research Service. FATUS, *Export Aggregations*. Accessed on March 18, 2009.

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 resolve the issue. At their June 24, 2010, press conference that closed a bilateral summit meeting, President Obama and 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 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.[5] However, as a result of the Russian restrictions, U.S. exports of poultry to Russia plummeted 59% as of the of 2010 compared to 2009.[6]

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, 2011) 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.[7]

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. Russia maintains high tariffs on some goods that U.S. manufacturers try to export. For example, tariffs on cars plus the excise tax that is prorated for engine displacement adds close to 70% on the price of imported U.S. passenger cars and sports utility vehicles. 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.[8] Russia completed negotiations with a WTO Working Party

[5] *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.

[6] Derived from U.S. Department of Commerce data.

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

[8] 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.

(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 has 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.

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."[9]

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. Russia's parliament, the State Duma, must approve the accession package, 30 days after which Russia will be a WTO Member.

Implications and Legislation

PNTR is a major issue in Russia's accession to the WTO. Because Title IV still applies to Russia, 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 will have made in joining the WTO might not necessarily apply to the United States, if Title IV remains in effect on Russia when Russia formally joins the WTO.

Legislation to grant Russia PNTR has not been introduced in the 112th Congress. Russian leaders consider the absence of PNTR status an affront and the Jackson-Vanik amendment to be a relic of the Cold War that should no longer apply to U.S.-Russia trade relations, especially since such still ostensibly communist countries as China and Vietnam are afforded PNTR status by the United States.

Congressional consideration of legislation to grant Russia PNTR status would likely generate debate not only on the pros and cons of PNTR status for Russia per se, but also on U.S. economic policy towards Russia and Russia's economic policies and practices. For example, Russia's

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

treatment of imports of U.S-produced poultry has been a contentious issue and could come up during the debate, despite a recent agreement on the issue. In addition, U.S. businesses have cited Russian allegedly weak enforcement of intellectual property rights and government corruption as a significant barrier to doing business there. Human rights and foreign policy issues might also be raised.

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