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112TH CONGRESS
2^D SESSION**H. R. 6156**

IN THE SENATE OF THE UNITED STATES

NOVEMBER 26, 2012

Received; read twice and placed on the calendar

AN ACT

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to products of the Russian Federation and Moldova and to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Russia and Moldova Jackson-Vanik Repeal and Sergei
6 Magnitsky Rule of Law Accountability Act of 2012”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PERMANENT NORMAL TRADE RELATIONS FOR THE RUSSIAN FEDERATION

Sec. 101. Findings.

Sec. 102. Termination of application of title IV of the Trade Act of 1974 to products of the Russian Federation.

TITLE II—TRADE ENFORCEMENT MEASURES RELATING TO THE RUSSIAN FEDERATION

Sec. 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.

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

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

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

TITLE III—PERMANENT NORMAL TRADE RELATIONS FOR MOLDOVA

Sec. 301. Findings.

Sec. 302. Termination of application of title IV of the Trade Act of 1974 to products of Moldova.

TITLE IV—SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY ACT OF 2012

Sec. 401. Short title.

Sec. 402. Findings; Sense of Congress.

Sec. 403. Definitions.

Sec. 404. Identification of persons responsible for the detention, abuse, and death of Sergei Magnitsky and other gross violations of human rights.

Sec. 405. Inadmissibility of certain aliens.

Sec. 406. Financial measures.

Sec. 407. Report to Congress.

1 TITLE I—PERMANENT NORMAL 2 TRADE RELATIONS FOR THE 3 RUSSIAN FEDERATION

4 SEC. 101. FINDINGS.

5 Congress finds the following:

6 (1) The Russian Federation allows its citizens
7 the right and opportunity to emigrate, free of any

1 heavy tax on emigration or on the visas or other
2 documents required for emigration and free of any
3 tax, levy, fine, fee, or other charge on any citizens
4 as a consequence of the desire of those citizens to
5 emigrate to the country of their choice.

6 (2) The Russian Federation has been found to
7 be in full compliance with the freedom of emigration
8 requirements under title IV of the Trade Act of
9 1974 (19 U.S.C. 2431 et seq.) since 1994.

10 (3) The Russian Federation has received nor-
11 mal trade relations treatment since concluding a bi-
12 lateral trade agreement with the United States that
13 entered into force in 1992.

14 (4) On December 16, 2011, the Ministerial
15 Conference of the World Trade Organization invited
16 the Russian Federation to accede to the World
17 Trade Organization.

18 **SEC. 102. TERMINATION OF APPLICATION OF TITLE IV OF**
19 **THE TRADE ACT OF 1974 TO PRODUCTS OF**
20 **THE RUSSIAN FEDERATION.**

21 (a) PRESIDENTIAL DETERMINATIONS AND EXTEN-
22 SION OF NONDISCRIMINATORY TREATMENT.—Notwith-
23 standing any provision of title IV of the Trade Act of 1974
24 (19 U.S.C. 2431 et seq.), the President may—

1 (1) determine that such title should no longer
2 apply to the Russian Federation; and

3 (2) after making a determination under para-
4 graph (1) with respect to the Russian Federation,
5 proclaim the extension of nondiscriminatory treat-
6 ment (normal trade relations treatment) to the prod-
7 ucts of the Russian Federation.

8 (b) EFFECTIVE DATE OF NONDISCRIMINATORY
9 TREATMENT.—The extension of nondiscriminatory treat-
10 ment to the products of the Russian Federation pursuant
11 to subsection (a) shall be effective not sooner than the ef-
12 fective date of the accession of the Russian Federation to
13 the World Trade Organization.

14 (c) TERMINATION OF APPLICABILITY OF TITLE
15 IV.—On and after the effective date under subsection (b)
16 of the extension of nondiscriminatory treatment to the
17 products of the Russian Federation, title IV of the Trade
18 Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply
19 to the Russian Federation.

1 **TITLE II—TRADE ENFORCEMENT**
2 **MEASURES RELATING TO THE**
3 **RUSSIAN FEDERATION**

4 **SEC. 201. REPORTS ON IMPLEMENTATION BY THE RUSSIAN**
5 **FEDERATION OF OBLIGATIONS AS A MEMBER**
6 **OF THE WORLD TRADE ORGANIZATION AND**
7 **ENFORCEMENT ACTIONS BY THE UNITED**
8 **STATES TRADE REPRESENTATIVE.**

9 (a) REPORTS ON IMPLEMENTATION.—

10 (1) IN GENERAL.—Not later than one year
11 after the effective date under section 102(b) of the
12 extension of nondiscriminatory treatment to the
13 products of the Russian Federation, and annually
14 thereafter, the United States Trade Representative
15 shall submit to the Committee on Finance of the
16 Senate and the Committee on Ways and Means of
17 the House of Representatives a report assessing the
18 following:

19 (A) The extent to which the Russian Fed-
20 eration is implementing the WTO Agreement
21 (as defined in section 2 of the Uruguay Round
22 Agreements Act (19 U.S.C. 3501)) and the fol-
23 lowing agreements annexed to that Agreement:

24 (i) The Agreement on the Application
25 of Sanitary and Phytosanitary Measures

(referred to in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3))).

(ii) The Agreement on Trade-Related Aspects of Intellectual Property Rights (referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))).

(B) The progress made by the Russian Federation in acceding to, and the extent to which the Russian Federation is implementing, the following:

(i) The Ministerial Declaration on Trade in Information Technology Products of the World Trade Organization, agreed to at Singapore December 13, 1996 (commonly referred to as the “Information Technology Agreement”) (or a successor agreement).

(ii) The Agreement on Government Procurement (referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17))).

(2) PLAN FOR ACTION BY TRADE REPRESENTATIVE.—

1 (A) IN GENERAL.—If, in preparing a re-
2 port required by paragraph (1), the Trade Rep-
3 resentative believes that the Russian Federation
4 is not fully implementing an agreement speci-
5 fied in subparagraph (A) or (B) of that para-
6 graph or that the Russian Federation is not
7 making adequate progress in acceding to an
8 agreement specified in subparagraph (B) of
9 that paragraph, the Trade Representative shall,
10 except as provided in subparagraph (B) of this
11 paragraph, include in the report a description
12 of the actions the Trade Representative plans to
13 take to encourage the Russian Federation to
14 improve its implementation of the agreement or
15 increase its progress in acceding to the agree-
16 ment, as the case may be.

17 (B) CLASSIFIED INFORMATION.—If any in-
18 formation regarding a planned action referred
19 to in subparagraph (A) is classifiable under Ex-
20 ecutive Order 13526 (75 Fed. Reg. 707; relat-
21 ing to classified national security information)
22 or a subsequent Executive order, the Trade
23 Representative shall report that information to
24 the Committee on Finance of the Senate and

the Committee on Ways and Means of the House of Representatives by—

(i) including the information in a classified annex to the report required by paragraph (1); or

(ii) consulting with the Committee on Finance and the Committee on Ways and Means with respect to the information instead of including the information in the report or a classified annex to the report.

(3) PUBLIC COMMENTS.—

(A) IN GENERAL.—In developing the report required by paragraph (1), the Trade Representative shall provide an opportunity for the public to comment, including by holding a public hearing.

(B) PUBLICATION IN FEDERAL REGISTER.—The Trade Representative shall publish notice of the opportunity to comment and hearing required by subparagraph (A) in the Federal Register.

(b) REPORT ON ENFORCEMENT ACTIONS TAKEN BY TRADE REPRESENTATIVE.—Not later than 180 days after the effective date under section 102(b) of the extension of nondiscriminatory treatment to the products of the

1 Russian Federation, and annually thereafter, the United
2 States Trade Representative shall submit to the Com-
3 mittee on Finance of the Senate and the Committee on
4 Ways and Means of the House of Representatives a report
5 describing the enforcement actions taken by the Trade
6 Representative against the Russian Federation to ensure
7 the full compliance of the Russian Federation with its obli-
8 gations as a member of the World Trade Organization,
9 including obligations under agreements with members of
10 the Working Party on the accession of the Russian Fed-
11 eration to the World Trade Organization.

12 **SEC. 202. PROMOTION OF THE RULE OF LAW IN THE RUS-**
13 **SIAN FEDERATION TO SUPPORT UNITED**
14 **STATES TRADE AND INVESTMENT.**

15 (a) REPORTS ON PROMOTION OF RULE OF LAW.—
16 Not later than one year after the effective date under sec-
17 tion 102(b) of the extension of nondiscriminatory treat-
18 ment to the products of the Russian Federation, and an-
19 nually thereafter, the United States Trade Representative
20 and the Secretary of State shall jointly submit to the Com-
21 mittee on Finance of the Senate and the Committee on
22 Ways and Means of the House of Representatives a re-
23 port—

24 (1) on the measures taken by the Trade Rep-
25 resentative and the Secretary and the results

1 achieved during the year preceding the submission of
2 the report with respect to promoting the rule of law
3 in the Russian Federation, including with respect
4 to—

5 (A) strengthening formal protections for
6 United States investors in the Russian Federa-
7 tion, including through the negotiation of a new
8 bilateral investment treaty;

9 (B) advocating for United States investors
10 in the Russian Federation, including by pro-
11 moting the claims of United States investors in
12 Yukos Oil Company;

13 (C) encouraging all countries that are par-
14 ties to the Convention on Combating Bribery of
15 Foreign Public Officials in International Busi-
16 ness Transactions of the Organisation for Eco-
17 nomic Co-operation and Development, done at
18 Paris December 17, 1997 (commonly referred
19 to as the “OECD Anti-Bribery Convention”),
20 including the Russian Federation, to fully im-
21 plement their commitments under the Conven-
22 tion to prevent overseas business bribery by the
23 nationals of those countries;

1 (D) promoting a customs administration,
2 tax administration, and judiciary in the Russia
3 Federation that are free of corruption; and

4 (E) increasing cooperation between the
5 United States and the Russian Federation to
6 expand the capacity for civil society organiza-
7 tions to monitor, investigate, and report on sus-
8 pected instances of corruption; and

9 (2) that discloses the status of any pending pe-
10 tition for espousal filed with the Secretary by a
11 United States investor in the Russian Federation.

12 (b) ANTI-BRIBERY REPORTING AND ASSISTANCE.—

13 (1) IN GENERAL.—The Secretary of Commerce
14 shall establish and maintain a dedicated phone hot-
15 line and secure website, accessible from within and
16 outside the Russian Federation, for the purpose of
17 allowing United States entities—

18 (A) to report instances of bribery, at-
19 tempted bribery, or other forms of corruption in
20 the Russian Federation that impact or poten-
21 tially impact their operations; and

22 (B) to request the assistance of the United
23 States with respect to issues relating to corrup-
24 tion in the Russian Federation.

25 (2) REPORT REQUIRED.—

1 (A) IN GENERAL.—Not later than one year
2 after the effective date under section 102(b) of
3 the extension of nondiscriminatory treatment to
4 the products of the Russian Federation, and
5 annually thereafter, the Secretary of Commerce
6 shall submit to the Committee on Finance of
7 the Senate and the Committee on Ways and
8 Means of the House of Representatives a report
9 that includes the following:

10 (i) The number of instances in which
11 bribery, attempted bribery, or other forms
12 of corruption have been reported using the
13 hotline or website established pursuant to
14 paragraph (1).

15 (ii) A description of the regions in the
16 Russian Federation in which those in-
17 stances are alleged to have occurred.

18 (iii) A summary of actions taken by
19 the United States to provide assistance to
20 United States entities pursuant to para-
21 graph (1)(B).

22 (iv) A description of the efforts taken
23 by the Secretary to inform United States
24 entities conducting business in the Russian
25 Federation or considering conducting busi-

1 ness in the Russian Federation of the
2 availability of assistance through the hot-
3 line and website.

4 (B) CONFIDENTIALITY.—The Secretary
5 shall not include in the report required by sub-
6 paragraph (A) the identity of a United States
7 entity that reports instances of bribery, at-
8 tempted bribery, or other forms of corruption in
9 the Russian Federation or requests assistance
10 pursuant to paragraph (1).

11 **SEC. 203. REPORTS ON LAWS, POLICIES, AND PRACTICES**
12 **OF THE RUSSIAN FEDERATION THAT DIS-**
13 **CRIMINATE AGAINST UNITED STATES DIG-**
14 **ITAL TRADE.**

15 Section 181(a) of the Trade Act of 1974 (19 U.S.C.
16 2241(a)) is amended—

17 (1) by redesignating paragraph (3) as para-
18 graph (4); and

19 (2) by inserting after paragraph (2) the fol-
20 lowing:

21 “(3) INCLUSION OF CERTAIN DISCRIMINATORY
22 LAWS, POLICIES, AND PRACTICES OF THE RUSSIAN
23 FEDERATION.—For calender year 2012 and each
24 succeeding calendar year, the Trade Representative
25 shall include in the analyses and estimates under

1 paragraph (1) an identification and analysis of any
2 laws, policies, or practices of the Russian Federation
3 that deny fair and equitable market access to United
4 States digital trade.”.

5 **SEC. 204. EFFORTS TO REDUCE BARRIERS TO TRADE IM-**
6 **POSED BY THE RUSSIAN FEDERATION.**

7 The United States Trade Representative shall con-
8 tinue to pursue the reduction of barriers to trade imposed
9 by the Russian Federation on articles exported from the
10 United States to the Russian Federation through ef-
11 forts—

12 (1) to negotiate a bilateral agreement under
13 which the Russian Federation will accept the sani-
14 tary and phytosanitary measures of the United
15 States as equivalent to the sanitary and
16 phytosanitary measures of the Russian Federation;
17 and

18 (2) to obtain the adoption by the Russian Fed-
19 eration of an action plan for providing greater pro-
20 tections for intellectual property rights than the pro-
21 tections required by the Agreement on Trade-Related
22 Aspects of Intellectual Property Rights (re-
23 ferred to in section 101(d)(15) of the Uruguay
24 Round Agreements Act (19 U.S.C. 3511(d)(15))).

1 **TITLE III—PERMANENT NORMAL**
2 **TRADE RELATIONS FOR**
3 **MOLDOVA**

4 **SEC. 301. FINDINGS.**

5 Congress finds the following:

6 (1) Moldova allows its citizens the right and op-
7 portunity to emigrate, free of any heavy tax on emi-
8 gration or on the visas or other documents required
9 for emigration and free of any tax, levy, fine, fee, or
10 other charge on any citizens as a consequence of the
11 desire of those citizens to emigrate to the country of
12 their choice.

13 (2) Moldova has been found to be in full com-
14 pliance with the freedom of emigration requirements
15 under title IV of the Trade Act of 1974 (19 U.S.C.
16 2431 et seq.) since 1997.

17 (3) Moldova acceded to the World Trade Orga-
18 nization on July 26, 2001.

19 **SEC. 302. TERMINATION OF APPLICATION OF TITLE IV OF**
20 **THE TRADE ACT OF 1974 TO PRODUCTS OF**
21 **MOLDOVA.**

22 (a) **PRESIDENTIAL DETERMINATIONS AND EXTEN-**
23 **SION OF NONDISCRIMINATORY TREATMENT.**—Notwith-
24 standing any provision of title IV of the Trade Act of 1974
25 (19 U.S.C. 2431 et seq.), the President may—

1 (1) determine that such title should no longer
2 apply to Moldova; and

3 (2) after making a determination under para-
4 graph (1) with respect to Moldova, proclaim the ex-
5 tension of nondiscriminatory treatment (normal
6 trade relations treatment) to the products of
7 Moldova.

8 (b) TERMINATION OF APPLICABILITY OF TITLE
9 IV.—On and after the date on which the President ex-
10 tends nondiscriminatory treatment to the products of
11 Moldova pursuant to subsection (a), title IV of the Trade
12 Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply
13 to Moldova.

14 **TITLE IV—SERGEI MAGNITSKY**
15 **RULE OF LAW ACCOUNT-**
16 **ABILITY ACT OF 2012**

17 **SEC. 401. SHORT TITLE.**

18 This title may be cited as the “Sergei Magnitsky Rule
19 of Law Accountability Act of 2012”.

20 **SEC. 402. FINDINGS; SENSE OF CONGRESS.**

21 (a) FINDINGS.—Congress finds the following:

22 (1) The United States aspires to a mutually
23 beneficial relationship with the Russian Federation
24 based on respect for human rights and the rule of
25 law, and supports the people of the Russian Federa-

1 tion in their efforts to realize their full economic po-
2 tential and to advance democracy, human rights,
3 and the rule of law.

4 (2) The Russian Federation—

5 (A) is a member of the United Nations,
6 the Organization for Security and Co-operation
7 in Europe, the Council of Europe, and the
8 International Monetary Fund;

9 (B) has ratified the Convention against
10 Torture and Other Cruel, Inhuman or Degrad-
11 ing Treatment or Punishment, the International
12 Covenant on Civil and Political Rights, and the
13 United Nations Convention against Corruption;
14 and

15 (C) is bound by the legal obligations set
16 forth in the European Convention on Human
17 Rights.

18 (3) States voluntarily commit themselves to re-
19 spect obligations and responsibilities through the
20 adoption of international agreements and treaties,
21 which must be observed in good faith in order to
22 maintain the stability of the international order.
23 Human rights are an integral part of international
24 law, and lie at the foundation of the international
25 order. The protection of human rights, therefore,

1 particularly in the case of a country that has in-
2 curred obligations to protect human rights under an
3 international agreement to which it is a party, is not
4 left exclusively to the internal affairs of that coun-
5 try.

6 (4) Good governance and anti-corruption meas-
7 ures are instrumental in the protection of human
8 rights and in achieving sustainable economic growth,
9 which benefits both the people of the Russian Fed-
10 eration and the international community through the
11 creation of open and transparent markets.

12 (5) Systemic corruption erodes trust and con-
13 fidence in democratic institutions, the rule of law,
14 and human rights protections. This is the case when
15 public officials are allowed to abuse their authority
16 with impunity for political or financial gains in collu-
17 sion with private entities.

18 (6) The Russian nongovernmental organization
19 INDEM has estimated that bribes by individuals
20 and businesses in the Russian Federation amount to
21 hundreds of billions of dollars a year, an increasing
22 share of the country's gross domestic product.

23 (7) Sergei Leonidovich Magnitsky died on No-
24 vember 16, 2009, at the age of 37, in Matrosskaya

1 Tishina Prison in Moscow, Russia, and is survived
2 by a mother, a wife, and 2 sons.

3 (8) On July 6, 2011, Russian President
4 Dimitry Medvedev's Human Rights Council an-
5 nounced the results of its independent investigation
6 into the death of Sergei Magnitsky. The Human
7 Rights Council concluded that Sergei Magnitsky's
8 arrest and detention was illegal; he was denied ac-
9 cess to justice by the courts and prosecutors of the
10 Russian Federation; he was investigated by the same
11 law enforcement officers whom he had accused of
12 stealing Hermitage Fund companies and illegally ob-
13 taining a fraudulent \$230,000,000 tax refund; he
14 was denied necessary medical care in custody; he
15 was beaten by 8 guards with rubber batons on the
16 last day of his life; and the ambulance crew that was
17 called to treat him as he was dying was deliberately
18 kept outside of his cell for one hour and 18 minutes
19 until he was dead. The report of the Human Rights
20 Council also states the officials falsified their ac-
21 counts of what happened to Sergei Magnitsky and,
22 18 months after his death, no officials had been
23 brought to trial for his false arrest or the crime he
24 uncovered. The impunity continued in April 2012,
25 when Russian authorities dropped criminal charges

1 against Larisa Litvinova, the head doctor at the
2 prison where Magnitsky died.

3 (9) The systematic abuse of Sergei Magnitsky,
4 including his repressive arrest and torture in custody
5 by officers of the Ministry of the Interior of the Rus-
6 sian Federation that Mr. Magnitsky had implicated
7 in the embezzlement of funds from the Russian
8 Treasury and the misappropriation of 3 companies
9 from his client, Hermitage Capital Management, re-
10 flects how deeply the protection of human rights is
11 affected by corruption.

12 (10) The politically motivated nature of the per-
13 secution of Mr. Magnitsky is demonstrated by—

14 (A) the denial by all state bodies of the
15 Russian Federation of any justice or legal rem-
16 edies to Mr. Magnitsky during the nearly 12
17 full months he was kept without trial in deten-
18 tion; and

19 (B) the impunity since his death of state
20 officials he testified against for their involve-
21 ment in corruption and the carrying out of his
22 repressive persecution.

23 (11) The Public Oversight Commission of the
24 City of Moscow for the Control of the Observance of
25 Human Rights in Places of Forced Detention, an or-

1 ganization empowered by Russian law to independ-
2 ently monitor prison conditions, concluded on De-
3 cember 29, 2009, “A man who is kept in custody
4 and is being detained is not capable of using all the
5 necessary means to protect either his life or his
6 health. This is a responsibility of a state which holds
7 him captive. Therefore, the case of Sergei Magnitsky
8 can be described as a breach of the right to life. The
9 members of the civic supervisory commission have
10 reached the conclusion that Magnitsky had been ex-
11 periencing both psychological and physical pressure
12 in custody, and the conditions in some of the wards
13 of Butyrka can be justifiably called torturous. The
14 people responsible for this must be punished.”.

15 (12) Sergei Magnitsky’s experience, while par-
16 ticularly illustrative of the negative effects of official
17 corruption on the rights of an individual citizen, ap-
18 pears to be emblematic of a broader pattern of dis-
19 regard for the numerous domestic and international
20 human rights commitments of the Russian Federa-
21 tion and impunity for those who violate basic human
22 rights and freedoms.

23 (13) The second trial, verdict, and sentence
24 against former Yukos executives Mikhail
25 Khodorkovsky and Platon Lebedev evoke serious

1 concerns about the right to a fair trial and the inde-
2 pendence of the judiciary in the Russian Federation.
3 The lack of credible charges, intimidation of wit-
4 nesses, violations of due process and procedural
5 norms, falsification or withholding of documents, de-
6 nial of attorney-client privilege, and illegal detention
7 in the Yukos case are highly troubling. The Council
8 of Europe, Freedom House, and Amnesty Inter-
9 national, among others, have concluded that they
10 were charged and imprisoned in a process that did
11 not follow the rule of law and was politically influ-
12 enced. Furthermore, senior officials of the Govern-
13 ment of the Russian Federation, including First
14 Deputy Prime Minister Igor Shuvalov, have acknowl-
15 edged that the arrest and imprisonment of
16 Khodorkovsky were politically motivated.

17 (14) According to Freedom House’s 2011 re-
18 port entitled “The Perpetual Battle: Corruption in
19 the Former Soviet Union and the New EU Mem-
20 bers”, “[t]he highly publicized cases of Sergei
21 Magnitsky, a 37-year-old lawyer who died in pretrial
22 detention in November 2009 after exposing a multi-
23 million-dollar fraud against the Russian taxpayer,
24 and Mikhail Khodorkovsky, the jailed business mag-
25 nate and regime critic who was sentenced at the end

1 of 2010 to remain in prison through 2017, put an
2 international spotlight on the Russian state's con-
3 tempt for the rule of law. . . . By silencing influen-
4 tial and accomplished figures such as Khodorkovsky
5 and Magnitsky, the Russian authorities have made
6 it abundantly clear that anyone in Russia can be si-
7 lenced.”.

8 (15) The tragic and unresolved murders of
9 Nustap Abdurakhmanov, Maksharip Aushev,
10 Natalya Estemirova, Akhmed Hadjimagomedov,
11 Umar Israilov, Paul Klebnikov, Anna Politkovskaya,
12 Saihadji Saihadjiev, and Magomed Y. Yevloyev, the
13 death in custody of Vera Trifonova, the disappear-
14 ances of Mokhmadsalakh Masaev and Said-Saleh
15 Ibragimov, the torture of Ali Israilov and Islam
16 Umarpashaev, the near-fatal beatings of Mikhail
17 Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail
18 Vinyukov, and the harsh and ongoing imprisonment
19 of Mikhail Khodorkovsky, Alexei Kozlov, Platon
20 Lebedev, and Fyodor Mikheev further illustrate the
21 grave danger of exposing the wrongdoing of officials
22 of the Government of the Russian Federation, in-
23 cluding Chechen leader Ramzan Kadyrov, or of seek-
24 ing to obtain, exercise, defend, or promote inter-
25 nationally recognized human rights and freedoms.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the United States should continue to strongly
3 support, and provide assistance to, the efforts of the Rus-
4 sian people to establish a vibrant democratic political sys-
5 tem that respects individual liberties and human rights,
6 including by enhancing the provision of objective informa-
7 tion through all relevant media, such as Radio Liberty and
8 the internet. The Russian Government’s suppression of
9 dissent and political opposition, the limitations it has im-
10 posed on civil society and independent media, and the de-
11 terioration of economic and political freedom inside Russia
12 are of profound concern to the United States Government
13 and to the American people.

14 **SEC. 403. DEFINITIONS.**

15 In this title:

16 (1) ADMITTED; ALIEN.—The terms “admitted”
17 and “alien” have the meanings given those terms in
18 section 101 of the Immigration and Nationality Act
19 (8 U.S.C. 1101).

20 (2) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term “appropriate congressional com-
22 mittees” means—

23 (A) the Committee on Armed Services, the
24 Committee on Financial Services, the Com-
25 mittee on Foreign Affairs, the Committee on

1 Homeland Security, and the Committee on the
2 Judiciary of the House of Representatives; and

3 (B) the Committee on Armed Services, the
4 Committee on Banking, Housing, and Urban
5 Affairs, the Committee on Foreign Relations,
6 the Committee on Homeland Security and Gov-
7 ernmental Affairs, and the Committee on the
8 Judiciary of the Senate.

9 (3) FINANCIAL INSTITUTION.—The term “fi-
10 nancial institution” has the meaning given that term
11 in section 5312 of title 31, United States Code.

12 (4) UNITED STATES PERSON.—The term
13 “United States person” means—

14 (A) a United States citizen or an alien law-
15 fully admitted for permanent residence to the
16 United States; or

17 (B) an entity organized under the laws of
18 the United States or of any jurisdiction within
19 the United States, including a foreign branch of
20 such an entity.

1 **SEC. 404. IDENTIFICATION OF PERSONS RESPONSIBLE FOR**
2 **THE DETENTION, ABUSE, AND DEATH OF**
3 **SERGEI MAGNITSKY AND OTHER GROSS VIO-**
4 **LATIONS OF HUMAN RIGHTS.**

5 (a) IN GENERAL.—Not later than 120 days after the
6 date of the enactment of this Act, the President shall sub-
7 mit to the appropriate congressional committees a list of
8 each person who the President determines, based on cred-
9 ible information—

10 (1) is responsible for the detention, abuse, or
11 death of Sergei Magnitsky, participated in efforts to
12 conceal the legal liability for the detention, abuse, or
13 death of Sergei Magnitsky, financially benefitted
14 from the detention, abuse, or death of Sergei
15 Magnitsky, or was involved in the criminal con-
16 spiracy uncovered by Sergei Magnitsky;

17 (2) is responsible for extrajudicial killings, tor-
18 ture, or other gross violations of internationally rec-
19 ognized human rights committed against individuals
20 seeking—

21 (A) to expose illegal activity carried out by
22 officials of the Government of the Russian Fed-
23 eration; or

24 (B) to obtain, exercise, defend, or promote
25 internationally recognized human rights and
26 freedoms, such as the freedoms of religion, ex-

1 pression, association, and assembly, and the
2 rights to a fair trial and democratic elections,
3 in Russia; or

4 (3) acted as an agent of or on behalf of a per-
5 son in a matter relating to an activity described in
6 paragraph (1) or (2).

7 (b) UPDATES.—The President shall submit to the ap-
8 propriate congressional committees an update of the list
9 required by subsection (a) as new information becomes
10 available.

11 (c) FORM.—

12 (1) IN GENERAL.—The list required by sub-
13 section (a) shall be submitted in unclassified form.

14 (2) EXCEPTION.—The name of a person to be
15 included in the list required by subsection (a) may
16 be submitted in a classified annex only if the Presi-
17 dent—

18 (A) determines that it is vital for the na-
19 tional security interests of the United States to
20 do so;

21 (B) uses the annex in such a manner con-
22 sistent with congressional intent and the pur-
23 poses of this Act; and

24 (C) 15 days prior to submitting the name
25 in a classified annex, provides to the appro-

1 prate congressional committees notice of, and a
2 justification for, including or continuing to in-
3 clude each person in the classified annex despite
4 any publicly available credible information indi-
5 cating that the person engaged in an activity
6 described in paragraph (1), (2), or (3) of sub-
7 section (a).

8 (3) CONSIDERATION OF DATA FROM OTHER
9 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
10 TIONS.—In preparing the list required by subsection
11 (a), the President shall consider information pro-
12 vided by the chairperson and ranking member of
13 each of the appropriate congressional committees
14 and credible data obtained by other countries and
15 nongovernmental organizations, including organiza-
16 tions inside Russia, that monitor the human rights
17 abuses of the Government of the Russian Federa-
18 tion.

19 (4) PUBLIC AVAILABILITY.—The unclassified
20 portion of the list required by subsection (a) shall be
21 made available to the public and published in the
22 Federal Register.

23 (d) REMOVAL FROM LIST.—A person may be re-
24 moved from the list required by subsection (a) if the Presi-
25 dent determines and reports to the appropriate congres-

1 sional committees not less than 15 days prior to the re-
2 moval of the person from the list that—

3 (1) credible information exists that the person
4 did not engage in the activity for which the person
5 was added to the list;

6 (2) the person has been prosecuted appro-
7 priately for the activity in which the person engaged;
8 or

9 (3) the person has credibly demonstrated a sig-
10 nificant change in behavior, has paid an appropriate
11 consequence for the activities in which the person
12 engaged, and has credibly committed to not engage
13 in the types of activities specified in paragraphs (1)
14 through (3) of subsection (a).

15 (e) REQUESTS BY CHAIRPERSON AND RANKING
16 MEMBER OF APPROPRIATE CONGRESSIONAL COMMIT-
17 TEES.—

18 (1) IN GENERAL.—Not later than 120 days
19 after receiving a written request from the chair-
20 person and ranking member of one of the appro-
21 priate congressional committees with respect to
22 whether a person meets the criteria for being added
23 to the list required by subsection (a), the President
24 shall submit a response to the chairperson and rank-

1 ing member of the committee which made the re-
2 quest with respect to the status of the person.

3 (2) FORM.—The President may submit a re-
4 sponse required by paragraph (1) in classified form
5 if the President determines that it is necessary for
6 the national security interests of the United States
7 to do so.

8 (3) REMOVAL.—If the President removes from
9 the list required by subsection (a) a person who has
10 been placed on the list at the request of the chair-
11 person and ranking member of one of the appro-
12 priate congressional committees, the President shall
13 provide the chairperson and ranking member with
14 any information that contributed to the removal de-
15 cision. The President may submit such information
16 in classified form if the President determines that
17 such is necessary for the national security interests
18 of the United States.

19 (f) NONAPPLICABILITY OF CONFIDENTIALITY RE-
20 QUIREMENT WITH RESPECT TO VISA RECORDS.—The
21 President shall publish the list required by subsection (a)
22 without regard to the requirements of section 222(f) of
23 the Immigration and Nationality Act (8 U.S.C. 1202(f))
24 with respect to confidentiality of records pertaining to the

1 issuance or refusal of visas or permits to enter the United
2 States.

3 **SEC. 405. INADMISSIBILITY OF CERTAIN ALIENS.**

4 (a) INELIGIBILITY FOR VISAS.—An alien is ineligible
5 to receive a visa to enter the United States and ineligible
6 to be admitted to the United States if the alien is on the
7 list required by section 404(a).

8 (b) CURRENT VISAS REVOKED.—The Secretary of
9 State shall revoke, in accordance with section 221(i) of
10 the Immigration and Nationality Act (8 U.S.C. 1201(i)),
11 the visa or other documentation of any alien who would
12 be ineligible to receive such a visa or documentation under
13 subsection (a) of this section.

14 (c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

15 (1) IN GENERAL.—The Secretary of State may
16 waive the application of subsection (a) or (b) in the
17 case of an alien if—

18 (A) the Secretary determines that such a
19 waiver—

20 (i) is necessary to permit the United
21 States to comply with the Agreement be-
22 tween the United Nations and the United
23 States of America regarding the Head-
24 quarters of the United Nations, signed
25 June 26, 1947, and entered into force No-

1 vember 21, 1947, or other applicable inter-
2 national obligations of the United States;
3 or

4 (ii) is in the national security interests
5 of the United States; and

6 (B) prior to granting such a waiver, the
7 Secretary provides to the appropriate congres-
8 sional committees notice of, and a justification
9 for, the waiver.

10 (2) TIMING FOR CERTAIN WAIVERS.—Notifica-
11 tion under subparagraph (B) of paragraph (1) shall
12 be made not later than 15 days prior to granting a
13 waiver under such paragraph if the Secretary grants
14 such waiver in the national security interests of the
15 United States in accordance with subparagraph
16 (A)(ii) of such paragraph.

17 (d) REGULATORY AUTHORITY.—The Secretary of
18 State shall prescribe such regulations as are necessary to
19 carry out this section.

20 **SEC. 406. FINANCIAL MEASURES.**

21 (a) FREEZING OF ASSETS.—

22 (1) IN GENERAL.—The President shall exercise
23 all powers granted by the International Emergency
24 Economic Powers Act (50 U.S.C. 1701 et seq.) (ex-
25 cept that the requirements of section 202 of such

1 Act (50 U.S.C. 1701) shall not apply) to the extent
2 necessary to freeze and prohibit all transactions in
3 all property and interests in property of a person
4 who is on the list required by section 404(a) of this
5 Act if such property and interests in property are in
6 the United States, come within the United States, or
7 are or come within the possession or control of a
8 United States person.

9 (2) EXCEPTION.—Paragraph (1) shall not
10 apply to persons included on the classified annex
11 under section 404(c)(2) if the President determines
12 that such an exception is vital for the national secu-
13 rity interests of the United States.

14 (b) WAIVER FOR NATIONAL SECURITY INTERESTS.—
15 The Secretary of the Treasury may waive the application
16 of subsection (a) if the Secretary determines that such a
17 waiver is in the national security interests of the United
18 States. Not less than 15 days prior to granting such a
19 waiver, the Secretary shall provide to the appropriate con-
20 gressional committees notice of, and a justification for, the
21 waiver.

22 (c) ENFORCEMENT.—

23 (1) PENALTIES.—A person that violates, at-
24 tempts to violate, conspires to violate, or causes a
25 violation of this section or any regulation, license, or

1 order issued to carry out this section shall be subject
2 to the penalties set forth in subsections (b) and (c)
3 of section 206 of the International Emergency Eco-
4 nomic Powers Act (50 U.S.C. 1705) to the same ex-
5 tent as a person that commits an unlawful act de-
6 scribed in subsection (a) of such section.

7 (2) REQUIREMENTS FOR FINANCIAL INSTITU-
8 TIONS.—Not later than 120 days after the date of
9 the enactment of this Act, the Secretary of the
10 Treasury shall prescribe or amend regulations as
11 needed to require each financial institution that is a
12 United States person and has within its possession
13 or control assets that are property or interests in
14 property of a person who is on the list required by
15 section 404(a) if such property and interests in
16 property are in the United States to certify to the
17 Secretary that, to the best of the knowledge of the
18 financial institution, the financial institution has fro-
19 zen all assets within the possession or control of the
20 financial institution that are required to be frozen
21 pursuant to subsection (a).

22 (d) REGULATORY AUTHORITY.—The Secretary of the
23 Treasury shall issue such regulations, licenses, and orders
24 as are necessary to carry out this section.

1 **SEC. 407. REPORT TO CONGRESS.**

2 Not later than one year after the date of the enact-
3 ment of this Act and annually thereafter, the Secretary
4 of State and the Secretary of the Treasury shall submit
5 to the appropriate congressional committees a report on—

6 (1) the actions taken to carry out this title, in-
7 cluding—

8 (A) the number of persons added to or re-
9 moved from the list required by section 404(a)
10 during the year preceding the report, the dates
11 on which such persons have been added or re-
12 moved, and the reasons for adding or removing
13 them; and

14 (B) if few or no such persons have been
15 added to that list during that year, the reasons
16 for not adding more such persons to the list;
17 and

18 (2) efforts by the executive branch to encourage
19 the governments of other countries to impose sanc-
20 tions that are similar to the sanctions imposed under
21 this title.

Passed the House of Representatives November 16,
2012.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 552

112TH CONGRESS
2^D Session

H. R. 6156

AN ACT

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to products of the Russian Federation and Moldova and to require reports on the compliance of the Russian Federation with its obligations as a member of the World Trade Organization, and for other purposes.

NOVEMBER 26, 2012

Received; read twice and placed on the calendar