

Calendar No. 461112TH CONGRESS
2^D SESSION**S. 3406**

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to 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.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2012

Mr. BAUCUS, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to 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.

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

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

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

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 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 enforce-
 ment 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 Federa-
 tion.

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

Sec. 301. Short title.

Sec. 302. Findings.

Sec. 303. Definitions.

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

Sec. 305. Inadmissibility of certain aliens.

Sec. 306. Financial measures.

Sec. 307. Report to Congress.

TITLE IV—PERMANENT NORMAL TRADE RELATIONS FOR
 MOLDOVA

Sec. 401. Findings.

Sec. 402. Termination of application of title IV of the Trade Act of 1974 to
 products of Moldova.

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
8 heavy tax on emigration or on the visas or other
9 documents required for emigration and free of any
10 tax, levy, fine, fee, or other charge on any citizens
11 as a consequence of the desire of those citizens to
12 emigrate to the country of their choice.

13 (2) The Russian Federation has been found to
14 be in full compliance with the freedom of emigration
15 requirements under title IV of the Trade Act of
16 1974 (19 U.S.C. 2431 et seq.) since 1994.

17 (3) The Russian Federation has received nor-
18 mal trade relations treatment since concluding a bi-
19 lateral trade agreement with the United States that
20 entered into force in 1992.

21 (4) On December 16, 2011, the Ministerial
22 Conference of the World Trade Organization invited
23 the Russian Federation to accede to the World
24 Trade Organization.

1 **SEC. 102. TERMINATION OF APPLICATION OF TITLE IV OF**
2 **THE TRADE ACT OF 1974 TO PRODUCTS OF**
3 **THE RUSSIAN FEDERATION.**

4 (a) **PRESIDENTIAL DETERMINATIONS AND EXTEN-**
5 **SION OF NONDISCRIMINATORY TREATMENT.**—Notwith-
6 standing any provision of title IV of the Trade Act of 1974
7 (19 U.S.C. 2431 et seq.), the President may—

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

10 (2) after making a determination under para-
11 graph (1) with respect to the Russian Federation,
12 proclaim the extension of nondiscriminatory treat-
13 ment (normal trade relations treatment) to the prod-
14 ucts of the Russian Federation.

15 (b) **EFFECTIVE DATE OF NONDISCRIMINATORY**
16 **TREATMENT.**—The extension of nondiscriminatory treat-
17 ment to the products of the Russian Federation pursuant
18 to subsection (a) shall be effective not sooner than the ef-
19 fective date of the accession of the Russian Federation to
20 the World Trade Organization.

21 (c) **TERMINATION OF APPLICABILITY OF TITLE**
22 **IV.**—On and after the effective date under subsection (b)
23 of the extension of nondiscriminatory treatment to the
24 products of the Russian Federation, title IV of the Trade
25 Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply
26 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

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

4 (ii) The Agreement on Trade-Related
5 Aspects of Intellectual Property Rights (re-
6 ferred to in section 101(d)(15) of the Uru-
7 guay Round Agreements Act (19 U.S.C.
8 3511(d)(15))).

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

13 (i) The Ministerial Declaration on
14 Trade in Information Technology Products
15 of the World Trade Organization, agreed
16 to at Singapore December 13, 1996 (com-
17 monly referred to as the “Information
18 Technology Agreement”) (or a successor
19 agreement).

20 (ii) The Agreement on Government
21 Procurement (referred to in section
22 101(d)(17) of the Uruguay Round Agree-
23 ments Act (19 U.S.C. 3511(d)(17))).

24 (2) PLAN FOR ACTION BY TRADE REPRESENTA-
25 TIVE.—

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 Rep-
23 resentative shall report that information to the
24 Committee on Finance of the Senate and the

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

3 (i) including the information in a clas-
4 sified annex to the report required by para-
5 graph (1); or

6 (ii) consulting with the Committee on
7 Finance and the Committee on Ways and
8 Means with respect to the information in-
9 stead of including the information in the
10 report or a classified annex to the report.

11 (3) PUBLIC COMMENTS.—

12 (A) IN GENERAL.—In developing the re-
13 port required by paragraph (1), the Trade Rep-
14 resentative shall provide an opportunity for the
15 public to comment, including by holding a pub-
16 lic hearing.

17 (B) PUBLICATION IN FEDERAL REG-
18 ISTER.—The Trade Representative shall publish
19 notice of the opportunity to comment and hear-
20 ing required by subparagraph (A) in the Fed-
21 eral Register.

22 (b) REPORT ON ENFORCEMENT ACTIONS TAKEN BY
23 TRADE REPRESENTATIVE.—Not later than 180 days after
24 the effective date under section 102(b) of the extension
25 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 calendar 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—SANCTIONS WITH RE-**
2 **SPECT TO PERSONS RESPON-**
3 **SIBLE FOR GROSS VIOLA-**
4 **TIONS OF HUMAN RIGHTS**

5 **SEC. 301. SHORT TITLE.**

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

8 **SEC. 302. FINDINGS.**

9 Congress finds the following:

10 (1) The United States supports the people of
11 the Russian Federation in their efforts to realize
12 their full economic potential and to advance democ-
13 racy, human rights, and the rule of law.

14 (2) The Russian Federation—

15 (A) is a member of the United Nations,
16 the Organization for Security and Co-operation
17 in Europe, the Council of Europe, and the
18 International Monetary Fund; and

19 (B) is a party to the Convention against
20 Torture and Other Cruel, Inhuman or Degrad-
21 ing Treatment or Punishment, the International
22 Covenant on Civil and Political Rights, the
23 United Nations Convention against Corruption,
24 and the European Convention on Human
25 Rights.

1 (3) In becoming parties to human rights trea-
2 ties, governments voluntarily undertake international
3 obligations to respect and encourage certain funda-
4 mental rights and freedoms of their citizens. The
5 protection and encouragement of human rights
6 throughout the world is an important objective of
7 United States foreign policy.

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

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

20 (6) The Russian nongovernmental organization
21 INDEM has estimated that corruption amounts to
22 hundreds of billions of dollars a year, an increasing
23 share of the gross domestic product of the Russian
24 Federation.

1 (7) The President of the Russian Federation,
2 Dmitry Medvedev, has addressed corruption in many
3 public speeches, including stating in his 2009 ad-
4 dress to Russia’s Federal Assembly, “[Z]ero toler-
5 ance of corruption should become part of our na-
6 tional culture. . . . In Russia we often say that there
7 are few cases in which corrupt officials are pros-
8 ecuted. . . . [S]imply incarcerating a few will not re-
9 solve the problem. But incarcerated they must be.”.
10 President Medvedev went on to say, “We shall over-
11 come underdevelopment and corruption because we
12 are a strong and free people, and deserve a normal
13 life in a modern, prosperous democratic society.”.
14 Furthermore, President Medvedev has acknowledged
15 Russia’s disregard for the rule of law and used the
16 term “legal nihilism” to describe a criminal justice
17 system that continues to imprison innocent people.

18 (8) In light of the importance of legitimate and
19 transparent public institutions and the serious nega-
20 tive effects that corruption has on the efforts of the
21 United States to strengthen democratic institutions
22 and free market systems, Presidential Proclamation
23 7750 of January 12, 2004, allows the Secretary of
24 State to suspend the entry into the United States of

1 aliens who are suspected of participating in corrupt
2 practices.

3 (9) The systematic abuse of Sergei Magnitsky,
4 including his repressive arrest and torture in custody
5 by the same officers of the Ministry of the Interior
6 of the Russian Federation that Mr. Magnitsky had
7 implicated in the embezzlement of funds from the
8 Russian Treasury and the misappropriation of 3
9 companies from his client, Hermitage, reflects how
10 deeply the protection of human rights is affected by
11 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 of state officials he testi-
20 fied against for their involvement in corruption
21 and the carrying out of his repressive persec-
22 tion since his death.

23 (11) Mr. Magnitsky died on November 16,
24 2009, at the age of 37, in Matrosskaya Tishina Pris-

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

3 (12) The Public Oversight Commission of the
4 City of Moscow for the Control of the Observance of
5 Human Rights in Places of Forced Detention, an or-
6 ganization empowered by Russian law to independ-
7 ently monitor prison conditions, concluded, “A man
8 who is kept in custody and is being detained is not
9 capable of using all the necessary means to protect
10 either his life or his health. This is a responsibility
11 of a state which holds him captive. Therefore, the
12 case of Sergei Magnitsky can be described as a
13 breach of the right to life. The members of the civic
14 supervisory commission have reached the conclusion
15 that Magnitsky had been experiencing both psycho-
16 logical and physical pressure in custody, and the
17 conditions in some of the wards of Butyrka can be
18 justifiably called torturous. The people responsible
19 for this must be punished.”.

20 (13) On July 6, 2011, President Medvedev’s
21 Human Rights Council announced the results of its
22 independent investigation into the death of Sergei
23 Magnitsky. The Human Rights Council concluded
24 that Sergei Magnitsky’s arrest and detention was ille-
25 gal, he was denied access to justice by the courts

1 and prosecutors of the Russian Federation, he was
2 investigated by the same law enforcement officers
3 whom he had accused of stealing Hermitage Fund
4 companies and illegally obtaining a fraudulent
5 \$230,000,000 tax refund, he was denied necessary
6 medical care in custody, he was beaten by 8 guards
7 with rubber batons on the last day of his life, and
8 the ambulance crew that was called to treat him as
9 he was dying was deliberately kept outside of his cell
10 for one hour and 18 minutes until he was dead. The
11 report of the Human Rights Council also states the
12 officials falsified their accounts of what happened to
13 Sergei Magnitsky and, 18 months after his death, no
14 officials had been brought to trial for his false arrest
15 or the crime he uncovered.

16 (14) The second trial, verdict, and sentence
17 against former Yukos executives Mikhail
18 Khodorkovsky and Platon Lebedev evoke serious
19 concerns about the right to a fair trial and the inde-
20 pendence of the judiciary in the Russian Federation.
21 The lack of credible charges, intimidation of wit-
22 nesses, violations of due process and procedural
23 norms, falsification or withholding of documents, de-
24 nial of attorney-client privilege, and illegal detention
25 in the Yukos case are highly troubling. The Council

1 of Europe, Freedom House, and Amnesty Inter-
2 national, among others, have concluded that they
3 were charged and imprisoned in a process that did
4 not follow the rule of law and was politically influ-
5 enced. Furthermore, senior officials of the Govern-
6 ment of the Russian Federation have acknowledged
7 that the arrest and imprisonment of Khodorkovsky
8 were politically motivated.

9 (15) According to Freedom House’s 2011 re-
10 port entitled “The Perpetual Battle: Corruption in
11 the Former Soviet Union and the New EU Mem-
12 bers”, “[t]he highly publicized cases of Sergei
13 Magnitsky, a 37-year-old lawyer who died in pretrial
14 detention in November 2009 after exposing a multi-
15 million-dollar fraud against the Russian taxpayer,
16 and Mikhail Khodorkovsky, the jailed business mag-
17 nate and regime critic who was sentenced at the end
18 of 2010 to remain in prison through 2017, put an
19 international spotlight on the Russian state’s con-
20 tempt for the rule of law. . . . By silencing influen-
21 tial and accomplished figures such as Khodorkovsky
22 and Magnitsky, the Russian authorities have made
23 it abundantly clear that anyone in Russia can be si-
24 lenced.”.

1 (16) Sergei Magnitsky’s experience, while par-
2 ticularly illustrative of the negative effects of official
3 corruption on the rights of an individual citizen, ap-
4 pears to be emblematic of a broader pattern of dis-
5 regard for the numerous domestic and international
6 human rights commitments of the Russian Federa-
7 tion and impunity for those who violate basic human
8 rights and freedoms.

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

1 seeking to obtain, exercise, defend, or promote inter-
2 nationally recognized human rights and freedoms.

3 (18) The people of the Russian Federation, like
4 people everywhere, deserve to have their human
5 rights and fundamental freedoms respected. Human
6 rights and fundamental freedoms are inalienable and
7 universal in character and thus bind all states.

8 **SEC. 303. DEFINITIONS.**

9 In this title:

10 (1) ADMITTED; ALIEN.—The terms “admitted”
11 and “alien” have the meanings given those terms in
12 section 101 of the Immigration and Nationality Act
13 (8 U.S.C. 1101).

14 (2) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term “appropriate congressional com-
16 mittees” means—

17 (A) the Committee on Armed Services, the
18 Committee on Financial Services, the Com-
19 mittee on Foreign Affairs, the Committee on
20 Homeland Security, and the Committee on the
21 Judiciary of the House of Representatives; and

22 (B) the Committee on Armed Services, the
23 Committee on Banking, Housing, and Urban
24 Affairs, the Committee on Foreign Relations,
25 the Committee on Homeland Security and Gov-

1 ernmental Affairs, and the Committee on the
2 Judiciary of the Senate.

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

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

8 (A) a United States citizen or an alien law-
9 fully admitted for permanent residence to the
10 United States; or

11 (B) an entity organized under the laws of
12 the United States or of any jurisdiction within
13 the United States, including a foreign branch of
14 such an entity.

15 **SEC. 304. IDENTIFICATION OF PERSONS RESPONSIBLE FOR**
16 **THE DETENTION, ABUSE, AND DEATH OF**
17 **SERGEI MAGNITSKY AND OTHER GROSS VIO-**
18 **LATIONS OF HUMAN RIGHTS.**

19 (a) IN GENERAL.—Not later than 120 days after the
20 date of the enactment of this Act, the Secretary of State,
21 in consultation with the Secretary of the Treasury, shall
22 submit to the appropriate congressional committees a list
23 of each person the Secretary of State determines—

24 (1)(A) is responsible for the detention, abuse,
25 or death of Sergei Magnitsky;

1 (B) participated in efforts to conceal the legal
2 liability for the detention, abuse, or death of Sergei
3 Magnitsky;

4 (C) benefitted financially from the detention,
5 abuse, or death of Sergei Magnitsky; or

6 (D) was involved in the criminal conspiracy un-
7 covered by Sergei Magnitsky;

8 (2) is responsible for extrajudicial killings, tor-
9 ture, or other gross violations of internationally rec-
10 ognized human rights committed against individuals
11 seeking—

12 (A) to expose illegal activity carried out by
13 officials of the Government of the Russian Fed-
14 eration; or

15 (B) to obtain, exercise, defend, or promote
16 internationally recognized human rights and
17 freedoms, such as the freedoms of religion, ex-
18 pression, association, and assembly and the
19 rights to a fair trial and democratic elections,
20 anywhere in the world; or

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

1 (b) UPDATES.—The Secretary of State shall update
2 the list required by subsection (a) as new information be-
3 comes available.

4 (c) REMOVAL FROM LIST.—A person shall be re-
5 moved from the list required by subsection (a) if the Sec-
6 retary of State determines that the person did not engage
7 in the activity for which the person was added to the list.

8 (d) FORM OF LIST; PUBLIC AVAILABILITY.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the list required by subsection (a) shall
11 be submitted in unclassified form.

12 (2) CLASSIFIED ANNEX.—The list required by
13 subsection (a) may include a classified annex if the
14 Secretary of State—

15 (A) determines that it is necessary for the
16 national security interests of the United States
17 to do so; and

18 (B) prior to submitting the list including a
19 classified annex, provides to the appropriate
20 congressional committees notice of, and a jus-
21 tification for, including each person in the clas-
22 sified annex.

23 (3) REVIEW OF CLASSIFIED ANNEX.—Not later
24 than 300 days after the date of the enactment of

1 this Act, and annually thereafter, the Secretary
2 shall—

3 (A) review the classified annex, if any, in-
4 cluded in the list required by subsection (a);
5 and

6 (B) provide to the appropriate congres-
7 sional committees a justification for continuing
8 to include each person in the classified annex.

9 (4) PUBLIC AVAILABILITY OF UNCLASSIFIED
10 PORTION.—The unclassified portion of the list re-
11 quired by subsection (a) shall be published in the
12 Federal Register.

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

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

1 retary determines that the person meets those cri-
2 teria.

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

8 (f) NONAPPLICABILITY OF CONFIDENTIALITY RE-
9 QUIREMENT WITH RESPECT TO VISA RECORDS.—The
10 Secretary of State shall publish the list required by sub-
11 section (a) without regard to the requirements of section
12 222(f) of the Immigration and Nationality Act (8 U.S.C.
13 1202(f)) with respect to confidentiality of records per-
14 taining to the issuance or refusal of visas or permits to
15 enter the United States.

16 **SEC. 305. INADMISSIBILITY OF CERTAIN ALIENS.**

17 (a) INELIGIBILITY FOR VISAS.—An alien is ineligible
18 to receive a visa to enter the United States and ineligible
19 to be admitted to the United States if the alien is on the
20 list required by section 304(a).

21 (b) CURRENT VISAS REVOKED.—The Secretary of
22 State shall revoke, in accordance with section 221(i) of
23 the Immigration and Nationality Act (8 U.S.C. 1201(i)),
24 the visa or other documentation of any alien who would

1 be ineligible to receive such a visa or documentation under
2 subsection (a).

3 (c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

4 The Secretary of State may waive the application of sub-
5 section (a) or (b) in the case of an alien if—

6 (1) the Secretary determines that such a waiv-
7 er—

8 (A) is necessary to permit the United
9 States to comply with the Agreement between
10 the United Nations and the United States of
11 America regarding the Headquarters of the
12 United Nations, signed June 26, 1947, and en-
13 tered into force November 21, 1947; or

14 (B) is in the national security interests of
15 the United States; and

16 (2) prior to granting such a waiver, the Sec-
17 retary provides to the appropriate congressional
18 committees notice of, and a justification for, the
19 waiver.

20 **SEC. 306. FINANCIAL MEASURES.**

21 (a) FREEZING OF ASSETS.—The Secretary of the
22 Treasury shall, pursuant to the International Emergency
23 Economic Powers Act (50 U.S.C. 1701 et seq.), freeze and
24 prohibit all transactions in all property and interests in
25 property of a person that the Secretary, in consultation

1 with the Secretary of State, determines has engaged in
2 an activity described in paragraph (1), (2), or (3) of sec-
3 tion 304(a) if such property and interests in property are
4 in the United States, come within the United States, or
5 are or come within the possession or control of a United
6 States person.

7 (b) WAIVER FOR NATIONAL SECURITY INTERESTS.—
8 The Secretary of the Treasury may waive the application
9 of subsection (a) if the Secretary determines that such a
10 waiver is in the national security interests of the United
11 States. Prior to granting such a waiver, the Secretary
12 shall provide to the appropriate congressional committees
13 notice of, and a justification for, the waiver.

14 **SEC. 307. REPORT TO CONGRESS.**

15 Not later than 1 year after the date of the enactment
16 of this Act, and annually thereafter, the Secretary of State
17 and the Secretary of the Treasury shall submit to the ap-
18 propriate congressional committees a report on—

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

21 (A) the number of times and the cir-
22 cumstances in which persons described in sec-
23 tion 304(a) have been added to the list required
24 by that section during the year preceding the
25 report; and

1 (B) if few or no such persons have been
2 added to that list during that year, the reasons
3 for not adding more such persons to the list;
4 and

5 (2) efforts to encourage the governments of
6 other countries to impose sanctions that are similar
7 to the sanctions imposed under this title.

8 **TITLE IV—PERMANENT NORMAL**
9 **TRADE RELATIONS FOR**
10 **MOLDOVA**

11 **SEC. 401. FINDINGS.**

12 Congress finds the following:

13 (1) Moldova allows its citizens the right and op-
14 portunity to emigrate, free of any heavy tax on emi-
15 gration or on the visas or other documents required
16 for emigration and free of any tax, levy, fine, fee, or
17 other charge on any citizens as a consequence of the
18 desire of those citizens to emigrate to the country of
19 their choice.

20 (2) Moldova has been found to be in full com-
21 pliance with the freedom of emigration requirements
22 under title IV of the Trade Act of 1974 (19 U.S.C.
23 2431 et seq.) since 1997.

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

1 **SEC. 402. TERMINATION OF APPLICATION OF TITLE IV OF**
2 **THE TRADE ACT OF 1974 TO PRODUCTS OF**
3 **MOLDOVA.**

4 (a) **PRESIDENTIAL DETERMINATIONS AND EXTEN-**
5 **SION OF NONDISCRIMINATORY TREATMENT.**—Notwith-
6 standing any provision of title IV of the Trade Act of 1974
7 (19 U.S.C. 2431 et seq.), the President may—

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

10 (2) after making a determination under para-
11 graph (1) with respect to Moldova, proclaim the ex-
12 tension of nondiscriminatory treatment (normal
13 trade relations treatment) to the products of
14 Moldova.

15 (b) **TERMINATION OF APPLICABILITY OF TITLE**
16 **IV.**—On and after the date on which the President ex-
17 tends nondiscriminatory treatment to the products of
18 Moldova pursuant to subsection (a), title IV of the Trade
19 Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply
20 to Moldova.

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112TH CONGRESS
2^D SESSION
S. 3406

A BILL

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to 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.

JULY 19, 2012

Read twice and placed on the calendar