AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 461

112TH CONGRESS
2D 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 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—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.

TITLE I—PERMANENT NORMAL TRADE RELATIONS FOR THE RUSSIAN FEDERATION

SEC. 101. FINDINGS.

Congress finds the following:

(1) The Russian Federation allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of those citizens to emigrate to the country of their choice.

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

(3) The Russian Federation has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force in 1992.

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

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

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

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

(2) after making a determination under paragraph (1) with respect to the Russian Federation, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the Russian Federation.

(b) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment to the products of the Russian Federation pursuant to subsection (a) shall be effective not sooner than the effective date of the accession of the Russian Federation to the World Trade Organization.

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

(a) REPORTS ON IMPLEMENTATION.—

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

(A) The extent to which the Russian Federation is implementing the WTO Agreement (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) and the following agreements annexed to that Agreement:

(i) The Agreement on the Application 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.—

(A) IN GENERAL.—If, in preparing a report required by paragraph (1), the Trade Representative believes that the Russian Federation is not fully implementing an agreement specified in subparagraph (A) or (B) of that paragraph or that the Russian Federation is not making adequate progress in acceding to an agreement specified in subparagraph (B) of that paragraph, the Trade Representative shall, except as provided in subparagraph (B) of this paragraph, include in the report a description of the actions the Trade Representative plans to take to encourage the Russian Federation to improve its implementation of the agreement or increase its progress in acceding to the agreement, as the case may be.

(B) CLASSIFIED INFORMATION.—If any information regarding a planned action referred to in subparagraph (A) is classifiable under Executive Order 13526 (75 Fed. Reg. 707; relating to classified national security information) or a subsequent executive order, the Trade Representative shall report that information to 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

Russian Federation, and annually thereafter, the United States Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report describing the enforcement actions taken by the Trade Representative against the Russian Federation to ensure the full compliance of the Russian Federation with its obligations as a member of the World Trade Organization, including obligations under agreements with members of the Working Party on the accession of the Russian Federation to the World Trade Organization.

SEC. 202. PROMOTION OF THE RULE OF LAW IN THE RUSSIAN FEDERATION TO SUPPORT UNITED STATES TRADE AND INVESTMENT.

(a) REPORTS ON PROMOTION OF RULE OF LAW.—Not later than one year after the effective date under section 102(b) of the extension of nondiscriminatory treatment to the products of the Russian Federation, and annually thereafter, the United States Trade Representative and the Secretary of State shall jointly submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

(1) on the measures taken by the Trade Representative and the Secretary and the results

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

(A) strengthening formal protections for United States investors in the Russian Federation, including through the negotiation of a new bilateral investment treaty;

(B) advocating for United States investors in the Russian Federation, including by promoting the claims of United States investors in Yukos Oil Company;

(C) encouraging all countries that are parties to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organisation for Economic Co-operation and Development, done at Paris December 17, 1997 (commonly referred to as the ''OECD Anti-Bribery Convention''), including the Russian Federation, to fully implement their commitments under the Convention to prevent overseas business bribery by the nationals of those countries;

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

(E) increasing cooperation between the United States and the Russian Federation to expand the capacity for civil society organizations to monitor, investigate, and report on suspected instances of corruption; and

(2) that discloses the status of any pending petition for espousal filed with the Secretary by a United States investor in the Russian Federation.

(b) ANTI-BRIBERY REPORTING AND ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Commerce shall establish and maintain a dedicated phone hotline and secure website, accessible from within and outside the Russian Federation, for the purpose of allowing United States entities—

(A) to report instances of bribery, attempted bribery, or other forms of corruption in the Russian Federation that impact or potentially impact their operations; and

(B) to request the assistance of the United States with respect to issues relating to corruption in the Russian Federation.

(2) REPORT REQUIRED.—

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

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

(ii) A description of the regions in the Russian Federation in which those instances are alleged to have occurred.

(iii) A summary of actions taken by the United States to provide assistance to United States entities pursuant to paragraph (1)(B).

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

ness in the Russian Federation of the availability of assistance through the hotline and website.

(B) CONFIDENTIALITY.—The Secretary shall not include in the report required by subparagraph (A) the identity of a United States entity that reports instances of bribery, attempted bribery, or other forms of corruption in the Russian Federation or requests assistance pursuant to paragraph (1).

SEC. 203. REPORTS ON LAWS, POLICIES, AND PRACTICES OF THE RUSSIAN FEDERATION THAT DISCRIMINATE AGAINST UNITED STATES DIGITAL TRADE.

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

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

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

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

SEC. 204. EFFORTS TO REDUCE BARRIERS TO TRADE IMPOSED BY THE RUSSIAN FEDERATION.

The United States Trade Representative shall continue to pursue the reduction of barriers to trade imposed by the Russian Federation on articles exported from the United States to the Russian Federation through efforts—

(1) to negotiate a bilateral agreement under which the Russian Federation will accept the sanitary and phytosanitary measures of the United States as equivalent to the sanitary and phytosanitary measures of the Russian Federation; and

(2) to obtain the adoption by the Russian Federation of an action plan for providing greater protections for intellectual property rights than the protections required by 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))).

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

SEC. 301. SHORT TITLE.

This title may be cited as the ''Sergei Magnitsky Rule of Law Accountability Act of 2012''.

SEC. 302. FINDINGS.

Congress finds the following:

(1) The United States supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

(2) The Russian Federation—

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

(B) is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the United Nations Convention against Corruption, and the European Convention on Human Rights.

(3) In becoming parties to human rights treaties, governments voluntarily undertake international obligations to respect and encourage certain fundamental rights and freedoms of their citizens. The protection and encouragement of human rights throughout the world is an important objective of United States foreign policy.

(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

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

(7) The President of the Russian Federation, Dmitry Medvedev, has addressed corruption in many public speeches, including stating in his 2009 address to Russia's Federal Assembly, ''[Z]ero tolerance of corruption should become part of our national culture. . . . In Russia we often say that there are few cases in which corrupt officials are prosecuted. . . . [S]imply incarcerating a few will not resolve the problem. But incarcerated they must be.''. President Medvedev went on to say, ''We shall overcome underdevelopment and corruption because we are a strong and free people, and deserve a normal life in a modern, prosperous democratic society.''. Furthermore, President Medvedev has acknowledged Russia's disregard for the rule of law and used the term ''legal nihilism'' to describe a criminal justice system that continues to imprison innocent people.

(8) In light of the importance of legitimate and transparent public institutions and the serious negative effects that corruption has on the efforts of the United States to strengthen democratic institutions and free market systems, Presidential Proclamation 7750 of January 12, 2004, allows the Secretary of State to suspend the entry into the United States of

aliens who are suspected of participating in corrupt practices.

(9) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by the same officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage, reflects how deeply the protection of human rights is affected by corruption.

(10) The politically motivated nature of the persecution of Mr. Magnitsky is demonstrated by—

(A) the denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention; and

(B) the impunity of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution since his death.

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

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

(12) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by Russian law to independently monitor prison conditions, concluded, ''A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been experiencing both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.''.

(13) On July 6, 2011, President Medvedev's Human Rights Council announced the results of its independent investigation into the death of Sergei Magnitsky. The Human Rights Council concluded that Sergei Magnitsy's arrest and detention was illegal, he was denied access to justice by the courts

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

(14) The second trial, verdict, and sentence against former Yukos executives Mikhail Khodorkovsky and Platon Lebedev evoke serious concerns about the right to a fair trial and the independence of the judiciary in the Russian Federation. The lack of credible charges, intimidation of witnesses, violations of due process and procedural norms, falsification or withholding of documents, denial of attorney-client privilege, and illegal detention in the Yukos case are highly troubling. The Council

of Europe, Freedom House, and Amnesty International, among others, have concluded that they were charged and imprisoned in a process that did not follow the rule of law and was politically influenced. Furthermore, senior officials of the Government of the Russian Federation have acknowledged that the arrest and imprisonment of Khodorkovsky were politically motivated.

(15) According to Freedom House's 2011 report entitled ''The Perpetual Battle: Corruption in the Former Soviet Union and the New EU Members'', ''[t]he highly publicized cases of Sergei Magnitsky, a 37-year-old lawyer who died in pretrial detention in November 2009 after exposing a multi-million-dollar fraud against the Russian taxpayer, and Mikhail Khodorkovsky, the jailed business magnate and regime critic who was sentenced at the end of 2010 to remain in prison through 2017, put an international spotlight on the Russian state's contempt for the rule of law. . . . By silencing influential and accomplished figures such as Khodorkovsky and Magnitsky, the Russian authorities have made it abundantly clear that anyone in Russia can be silenced.''.

(16) Sergei Magnitsky's experience, while particularly illustrative of the negative effects of official corruption on the rights of an individual citizen, appears to be emblematic of a broader pattern of disregard for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms.

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

seeking to obtain, exercise, defend, or promote internationally recognized human rights and freedoms.

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

SEC. 303. DEFINITIONS.

In this title:

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

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

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

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

(3) FINANCIAL INSTITUTION.—The term ''financial institution'' has the meaning given that term in section 5312 of title 31, United States Code.

(4) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

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

SEC. 304. IDENTIFICATION OF PERSONS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY AND OTHER GROSS VIOLATIONS OF HUMAN RIGHTS.

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

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

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

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

(D) was involved in the criminal conspiracy uncovered by Sergei Magnitsky;

(2) is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking—

(A) to expose illegal activity carried out by officials of the Government of the Russian Federation; or

(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly and the rights to a fair trial and democratic elections, anywhere in the world; or

(3) acted as an agent of or on behalf of a person in a matter relating to an activity described in paragraph (1) or (2).

(b) UPDATES.—The Secretary of State shall update the list required by subsection (a) as new information becomes available.

(c) REMOVAL FROM LIST.—A person shall be removed from the list required by subsection (a) if the Secretary of State determines that the person did not engage in the activity for which the person was added to the list.

(d) FORM OF LIST; PUBLIC AVAILABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the list required by subsection (a) shall be submitted in unclassified form.

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

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

(B) prior to submitting the list including a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including each person in the classified annex.

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

this Act, and annually thereafter, the Secretary shall—

(A) review the classified annex, if any, included in the list required by subsection (a); and

(B) provide to the appropriate congressional committees a justification for continuing to include each person in the classified annex.

(4) PUBLIC AVAILABILITY OF UNCLASSIFIED PORTION.—The unclassified portion of the list required by subsection (a) shall be published in the Federal Register.

(e) REQUESTS BY CHAIRPERSON AND RANKING MEMBER OF APPROPRIATE CONGRESSIONAL COMMITTEES.—

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

retary determines that the person meets those criteria.

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

(f) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The Secretary of State shall publish the list required by subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

SEC. 305. INADMISSIBILITY OF CERTAIN ALIENS.

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

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

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

(c) WAIVER FOR NATIONAL SECURITY INTERESTS.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if—

(1) the Secretary determines that such a waiver—

(A) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947; or

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

(2) prior to granting such a waiver, the Secretary provides to the appropriate congressional committees notice of, and a justification for, the waiver.

SEC. 306. FINANCIAL MEASURES.

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

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

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

SEC. 307. REPORT TO CONGRESS.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

(1) the actions taken to carry out this title, including—

(A) the number of times and the circumstances in which persons described in section 304(a) have been added to the list required by that section during the year preceding the report; and

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

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

TITLE IV—PERMANENT NORMAL TRADE RELATIONS FOR MOLDOVA

SEC. 401. FINDINGS.

Congress finds the following:

(1) Moldova allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of those citizens to emigrate to the country of their choice.

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

(3) Moldova acceded to the World Trade Organization on July 26, 2001.

SEC. 402. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO PRODUCTS OF MOLDOVA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

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

(2) after making a determination under paragraph (1) with respect to Moldova, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

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

Calendar No. 461

112TH CONGRESS
2D 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