

**RUSSIA'S WTO ACCESSION:  
ADMINISTRATION'S VIEWS ON THE  
IMPLICATIONS FOR THE UNITED STATES**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

—————  
JUNE 21, 2012  
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**RUSSIA'S WTO ACCESSION:  
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IMPLICATIONS FOR THE UNITED STATES**

THURSDAY, JUNE 21, 2012

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 9:45 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Bingaman, Kerry, Wyden, Menendez, Cardin, Hatch, Grassley, Snowe, Cornyn, Coburn, and Thune.

Also present: Democratic Staff: Russ Sullivan, Staff Director; Amber Cottle, Chief International Trade Counsel; Hun Quach, International Trade Analyst; Bruce Hirsh, International Trade Counsel; Ryan Carey, Press Assistant; and Sean Neary, Communications Director. Republican Staff: Chris Campbell, Staff Director; Everett Eissenstat, Chief International Trade Counsel; Rebecca Nasca, Staff Assistant; Maureen McLaughlin, Detailee; Greg Kalbaugh, International Trade Counsel; Paul Delaney, International Trade Counsel; Emily Fuller, Fellow; and Douglas Peterson, Tax Detailee.

**OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR  
FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The hearing will come to order.

First, I want to thank the witnesses for reporting a little bit early and changing their schedules. We deeply appreciate that.

It is baseball season, and we should remember the old baseball adage, "Keep your eye on the ball." The ball here is jobs. Russia's accession to the World Trade Organization this summer will mean thousands of jobs here in the United States, but only if we pass Russia permanent normal trade relations legislation by August.

As we heard from business and human rights leaders at our March hearing, the economic case for PNTR is clear. Russia is the 7th-largest economy in the world, the largest economy currently outside the WTO. Regardless of what we do here in Congress, Russia will join the WTO this summer.

We have a choice. If we do nothing, the 154 other countries in the WTO will gain new access to Russia's growing market and we will be left out on the sideline. American workers, businesses, farmers, and ranchers will lose out to their competitors in China and Europe.

But if we do pass Russia PNTR, U.S. exports to Russia are projected to double within 5 years, and that means thousands of new jobs here at home. These new jobs come at no cost to us—zero, nada. Unlike a free trade agreement, we do not lower any of our tariffs and we do not change any of our trade laws. This is a 1-sided deal in America's favor, but only if we act.

That is why I introduced Russia PNTR legislation last week with Senators Thune, Kerry, and McCain. The bill establishes permanent normal trade relations with Russia and it removes Russia from the 1974 Jackson-Vanik amendment.

Passing PNTR will ensure that U.S. aircraft and automotive exporters benefit from lower Russian tariffs. It would mean U.S. service providers gain access to Russia's telecommunications and banking markets, and it will guarantee U.S. farmers and ranchers greater access to the Russian market, including a generous U.S.-specific beef quota of 60,000 metric tons.

That is why U.S. exporters strongly support PNTR. More than 30 U.S. companies, agriculture groups, and trade associations issued statements just last week urging Congress to quickly enact the Russia PNTR bill. I am entering a list of these organizations into the record.

Jewish organizations in both the U.S. and Russia also strongly support PNTR. Congress originally passed the Jackson-Vanik amendment in response to the Soviet Union's immigration restrictions on its Jewish citizens. These restrictions no longer exist, and Russia has fully complied with Jackson-Vanik for nearly 20 years.

That is why the American-Israel Public Affairs Committee and other leading Jewish organizations have urged Congress to quickly enact our PNTR bill, and I am entering a letter from these groups into the record as well. I am also entering into the record a letter from six former U.S. Trade Representatives of both parties who believe we must enact PNTR and that we must do so by August. By keeping the focus on U.S. jobs—and by no means suggesting we ignore the host of difficult issues we face with Russia—we must address the human rights, democracy, and foreign policy concerns.

[The list of organizations and the letters appear in the appendix beginning on p. 32.]

The CHAIRMAN. The U.S. has other tools to address these concerns, and where those tools are not adequate we should improve them. That is why I pledge to support Senator Cardin's human rights bill. The bill would punish those responsible for the death of anti-corruption worker Sergei Magnitsky and others who commit human rights violations by restricting their U.S. visas and freezing their U.S. assets. Nine members of the Finance Committee have co-sponsored this important piece of legislation. The Foreign Relations Committee is marking it up next Tuesday.

As I said in the letter to Senators Cardin and McCain last week, I will add the Magnitsky bill to our PNTR bill when we mark it up in this committee. Passing the Magnitsky bill, along with PNTR, will help promote the goals of both bills. Russia's Syria policy also continues to be a problem. Moscow's support for Assad, despite his regime's gross human rights violations, is simply indefensible.

But as my colleague Senator McCain said, this issue should be dealt with separately from PNTR. Secretary of State Clinton echoed that yesterday in her op-ed in the *Wall Street Journal*.

PNTR is no gift to Russia, and, for U.S. jobs, we need to keep our eye on the ball. Failing to pass PNTR will not help Syria, it will only harm U.S. exporters and the jobs they create.

The United States also has lingering economic concerns with Russia, including inadequate intellectual property enforcement and restrictions on our agricultural exports. If we pass PNTR, WTO rules will require Russia to enforce U.S. intellectual property rights and remove barriers to our agricultural exports.

If Russia fails to do so, we can use the WTO's binding legal enforcement procedures. If we fail to pass PNTR, we will be stuck with the status quo. None of these additional tools would be able to hold Russia accountable. America needs the jobs that PNTR would bring. So let us be ready when Russia joins the WTO this summer and not lose out to the competition. Let us remember to keep our eye on the ball and pass PNTR before August.

[The prepared statement of Chairman Baucus appears in the appendix.]

The CHAIRMAN. Senator Hatch?

**OPENING STATEMENT OF HON. ORRIN G. HATCH,  
A U.S. SENATOR FROM UTAH**

Senator HATCH. Thank you, Mr. Chairman. Thank you for agreeing to hold this hearing.

We will hear two major arguments from the administration today, at least in my opinion. First, we must pass PNTR or our workers will be disadvantaged when Russia joins the WTO this summer. Second, most civil society groups, including many groups who initially supported the Jackson-Vanik amendment, support removing Russia from that statute. Since neither of these points is in dispute, I hope we can quickly move beyond these stale talking points. The issue is not whether Congress should grant Russia PNTR and remove them from Jackson-Vanik. The question is whether this is, in itself, enough.

Both the chairman and I know that it is not. There is already a written commitment that this will not be a clean bill and that there will be legislation beyond PNTR included in it. We also know that members on both sides of the aisle have already raised numerous economic and non-economic issues that need to be addressed if this process is to be successful.

Every day newspaper headlines further document Russia's disregard for the rule of law, human rights, and democracy. Tens of thousands of Russian citizens have taken to the streets to protest the illegitimate Putin regime, at great risk to themselves and their families. Russia's efforts to re-establish its regional hegemony, including through military occupation of regions within Georgia, are well-known.

Russia publicly seeks to undermine the U.S. missile defense system in Europe through military means, if necessary. Russia's military support for the Assad regime in Syria and warm relations with Iran run counter to U.S. efforts to secure regional peace and stability. Just this week, press reports detailed plans for Syria,

Iran, Russia, and China to engage in the largest joint war games ever conducted in the Middle East. These military exercises will include the use of Russian atomic submarines, warships, and aircraft carriers.

The commercial environment in Russia continues to be among the worst in the world. Long-standing commercial disputes, including issues related to the expropriation of Yukos, remain unresolved. Robbery and corruption in Russia are endemic.

The 2011 Transparency International Corruption Perception Index ranks Russia at 143 out of 183 countries, just barely ahead of North Korea and Somalia. Similarly, the World Bank's "Doing Business" Index ranks Russia 120 out of 183 countries.

Russia repeatedly fails to abide by its international commitments. They have yet to fulfill commitments related to intellectual property rights protection and access for U.S. agriculture products made over 6 years ago.

Of course, despite U.S. ratification, Russia never ratified the U.S.-Russia Bilateral Investment Treaty, another clear example of their failure to deliver on their economic promises.

Despite this panoply of problems and Russia's proven record as a rogue regime, the Obama administration has not articulated a clear and coherent strategy regarding Russia. Instead, they ask Congress to simply pass PNTR and remove Russia from long-standing human rights law, while ignoring Russia's rampant corruption, theft of U.S. intellectual property, poor human rights record, and adversarial foreign policy, all for a market that amounts to 0.5 percent of U.S. exports.

The Obama administration argues that the U.S. has no leverage over Russia by withholding PNTR, but they fail to acknowledge that it was the Obama administration that squandered America's leverage when the President decided to invite Russia to join the WTO to augment his failed reset policy. With this leverage now gone, they argue that the myriad of economic problems we confront daily will be resolved through WTO litigation. We know from our experience with China in the WTO that this simply is not enough.

What bothers me most, however, is the President's double standard in dealing with Russia. Three of our closest allies—Colombia, South Korea, and Panama—were forced to wait years for consideration of their trade agreements while the administration invented problems that had to be resolved before it would even act on the agreements. Every one of these markets is larger than Russia's when it comes to current U.S. exports.

The economic arguments for moving each agreement trumped any argument one can make about the immediate economic benefits of having Russia in the WTO, especially when considering that Russia already committed to provide most favored nation treatment to our exports under the terms of our 1992 bilateral trade agreement.

Yet, the President forced our workers and our close allies to wait for years before they could take advantage of our trade agreements. While the President delayed, our workers lost more and more market share to foreign competitors.

Once the President's concerns were addressed, he then demanded that Congress renew a domestic spending program, to the tune of

almost 1 billion taxpayer dollars, before acting on these agreements, all because the President insisted that his trade policy reflect his “core values.”

Well, where are those core values now? When it comes to trade with Russia, they vanish. When it comes to PNTR, the President asks us to act post-haste. He expects Congress to turn a blind eye to the barrage of bad news that demonstrates on a daily basis the deteriorating political, economic, and security relationships between the United States and Russia.

We search in vain for coherence or consistency from the President on the issue of Russia. Despite my best efforts, I cannot discern any consistent principles or values underlying President Obama’s trade strategy or unravel the logic underpinning his flawed approach towards Russia.

That is one reason I asked for an opportunity to hear directly from the administration. These serious issues with Russia matter. They cannot be swept under the rug so the administration can continue to appease Russians in a vain effort to salvage the thin remains of a flawed reset policy.

Congress and this committee have a right to hear from the administration, and when there are policy gaps that harm our economy, national security, or strategic interests, Congress has an obligation to act with or without the administration’s blessing.

With all due respect to our witnesses today—and I happen to admire all three of them—I would be remiss if I failed to express my disappointment that neither Secretary Clinton nor Secretary Pannetta could testify today. They were both in the Senate recently to testify in favor of the Law of the Sea treaty, a fatally flawed document in my eyes which has been debated ad nauseam for over 20 years and will not come for a vote in the Senate anytime soon.

So my hope was that they could have participated in today’s hearing. I expect that we will hear today that Jackson-Vanik is a relic of the Cold War, appropriate for its time but not today. That may be true, but one fact remains: Russia continues to see itself and act as a military, strategic, and economic counterweight to the United States. They view every aspect of their relationship through this lens, including their membership in the WTO.

An administration reset policy toward Russia that ignores this reality and consciously seeks to separate these interrelated issues is naive, dangerous, and doomed to failure. We should support the ability of American workers to try to take advantage of Russia’s impending membership in the WTO, but, in so doing, Russia must be held accountable for its policies.

If the administration is not willing or able to do that, then I think Congress will. Again, Mr. Chairman, I thank you for agreeing to hold today’s hearing, and I look forward to hearing from the witnesses today. I appreciate the witnesses who are here, and I am going to listen very carefully to what they have to say.

The CHAIRMAN. Thank you, Senator, very much. We all look forward to hearing from our witnesses.

[The prepared statement of Senator Hatch appears in the appendix.]

The CHAIRMAN. First, Ambassador Ron Kirk, U.S. Trade Representative, is no stranger to this committee. Welcome back, Mr. Ambassador. We deeply appreciate your insights.

Next, we will have Secretary Tom Vilsack from the U.S. Department of Agriculture. We appreciate you, Mr. Secretary, very much. I must say you are one of the most responsive Secretaries I have ever come across. When I call you, you are there. It is deeply appreciated. Thank you, Mr. Secretary.

Next, Deputy Secretary William Burns from Department of State, former Ambassador to Russia, has obvious deep insights into this issue, and we thank you very much, Mr. Ambassador.

As we mentioned earlier in the other room, I want to again thank you. Chairman Dave Camp of the House Ways and Means Committee told me recently how much he deeply appreciated your answering the questions that he and other members of his committee, bipartisan, asked of you about this question, and he found you very responsive, very helpful. So, thank you very much.

Senator GRASSLEY. Mr. Chairman?

The CHAIRMAN. Yes?

Senator GRASSLEY. I am going to have to go down to Judiciary, but I would like to be notified if you are going to adjourn so I can come back and ask some questions.

The CHAIRMAN. Sure.

We are under a tight time frame this morning. I think we start the vote at 11 on the farm bill, more amendments, so I urge all of us to stay within our 5-minute rule.

Ambassador Kirk?

**STATEMENT OF HON. RONALD KIRK, U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC**

Ambassador KIRK. Thank you, Mr. Chairman, Ranking Member Hatch, and members of the committee. I would like to continue our discussion about critical steps that Congress can take to support jobs for Americans by terminating application of the Jackson-Vanik amendment and authorizing the President to provide permanent normal trade relations to Russia.

Under President Obama's leadership, we have worked with this committee and this Congress to bring our trade policy into greater balance with the needs and concerns of American businesses, workers, and families. As you noted in your remarks, Mr. Chairman, this is about jobs. As a result of our efforts, Commerce estimates that U.S. exports supported at least 1.2 million jobs from 2009 to 2011.

When Russia was invited to join the World Trade Organization last December, we said then, and President Obama reiterated in Mexico this week, that the administration strongly supports legislation to terminate application of the Jackson-Vanik amendment and authorize the President to provide PNTR.

Mr. Chairman, we support your efforts to advance such legislation in the Senate and coordinate with similar efforts in the House. It is important to note this legislation is not about giving Russia any special trade privileges, but it is about making sure that the agreement applies between the United States and Russia so that

American companies, workers, our farmers, our ranchers, our manufacturers, our innovators and service providers, will reap the full benefits of Russia's WTO membership and, just as critically, that we will have the multilateral trade enforcement tools in place to enforce Russia's WTO commitments.

I think it is important to be absolutely clear that Russia will become a member of the World Trade Organization by the end of the summer, and, if this agreement does not apply between the United States and Russia, our businesses and our innovators and exporters will be at a competitive disadvantage compared to their global counterparts.

I have gone into further detail of the impacts of this in my written testimony, but I would like to share just a couple of examples of how we could be harmed if the WTO agreement does not apply between us.

Our farmers and our ranchers, our agriculture producers, will not have the protection of the sanitary and phytosanitary agreements that Russia has committed to abiding by once it joins the WTO. Our businesses will not enjoy access to Russia's expanding services market, which is not covered by the bilateral commercial agreement that Senator Hatch referenced earlier.

Our innovators and creators will not reap the full benefits of stronger intellectual property rights and enforcement of those rights. Just as critically, we will not have access to the World Trade Organization's multilateral enforcement mechanisms, including dispute resolution, to ensure that the rules are followed.

As many of you have noted, Russia's WTO membership is not a panacea, but having clear rules of the road will provide the predictability, the transparency, and market access that our businesses and exporters have been seeking.

Our negotiators insisted that Russia integrate the WTO rules into its legal regime before it was invited to join the WTO, and, as a result, Russia already has in place the laws and regulations necessary to implement the WTO rules. But these rules are only as good as our ability to enforce them. Terminating Jackson-Vanik and extending PNTR to Russia is in the absolute best interests of American businesses, workers, and innovators, and we will continue to work with this Congress to add the other issues that you have articulated this morning. But in the meantime, let us not penalize U.S. companies and workers by forcing them to effectively compete with one hand tied behind their backs.

I respectfully ask this committee to move forward quickly with legislation to terminate Jackson-Vanik and empower the President to extend PNTR to Russia. Thank you.

The CHAIRMAN. Thank you, Mr. Ambassador, very much.

[The prepared statement of Ambassador Kirk appears in the appendix.]

The CHAIRMAN. Next, Secretary Vilsack?

**STATEMENT OF HON. TOM VILSACK, SECRETARY,  
DEPARTMENT OF AGRICULTURE, WASHINGTON, DC**

Secretary VILSACK. Mr. Chairman, Senator Hatch, and members of the committee, thank you for the opportunity to discuss the benefits to U.S. agriculture of ending the application of the Jackson-

Vanik amendment and authorizing permanent normal trade relations for Russia. The Department of Agriculture strongly supports this action to ensure that Russia remains one of our top export markets as it joins the World Trade Organization.

Today, American agricultural exports remain a bright spot in the Nation's economy. Last year, agricultural exports totaled more than \$137 billion, a new record, and supported more than 1 million American jobs in communities across our country.

This included nearly \$1.4 billion in exports to Russia. Because the U.S. imports just \$25 million worth of agricultural exports from Russia, this contributed significantly to our record agricultural trade surplus. I would note for the committee that our exporters accomplished this despite Russia's imposition of non-science-based sanitary and phytosanitary measures and unjustified technical barriers to trade.

Establishing permanent normal trade relations is not a favor to Russia, it is the right thing to do to expand opportunity for American producers and create more jobs here at home. By establishing permanent normal trade relations with Russia, we can significantly expand existing opportunity for America's farmers, ranchers, and producers by providing improved access to Russia's 140 million consumers and an expanding middle class that has grown by more than 50 percent in just the last decade.

By granting Russia permanent normal trade relations, the United States will not provide additional market access to our domestic markets for Russian agricultural imports. We will simply make permanent the market access treatment we have been extending to Russia on an annual basis since 1992.

We also know that, with Russia's membership in the World Trade Organization, it will mean that Russia will be obligated to apply a trade regime consistent with WTO rules. It will have to be transparent in creating and enforcing trade policy, and it will be subject to the WTO dispute resolution process.

Ultimately, this means our farmers and exporters will have more certain and predictable market access to Russia and that they will not be playing on an uneven playing field against WTO member countries around the globe.

Russian consumers value the quality of U.S. food and agricultural products, and their interest is growing by the year. U.S. exports of meat and poultry to Russia have remained strong over the past few years, and Russia is the world's largest importer of beef by quantity.

We are also seeing diversification of the products we export. In fact, last year U.S. exports to Russia constituted a wide variety of products and reached new records. Permanent normal trade relations with Russia will put our farmers and ranchers in the best position possible to continue this success.

Mr. Chairman and members of the committee, in closing I would like to note that we are in a time of tremendous opportunity to continue record agricultural exports. Tireless and determined USDA and USTR negotiators have worked with the U.S. agricultural community to overcome unpredictable Russian market access hurdles for decades.

Our recent efforts have resolved issues critical to Russia's WTO accession. Establishing permanent normal trade relations with Russia will further enhance opportunities for U.S. agriculture, and none of us doubts the U.S. agricultural exporters' ability to compete and to compete successfully.

Mr. Chairman, this concludes my statement. I look forward to answering any questions that you and the committee may have. Thank you.

The CHAIRMAN. Thank you, Mr. Secretary, very much.

[The prepared statement of Secretary Vilsack appears in the appendix.]

The CHAIRMAN. Ambassador Burns?

**STATEMENT OF HON. WILLIAM J. BURNS, DEPUTY SECRETARY OF STATE, DEPARTMENT OF STATE, WASHINGTON, DC**

Ambassador BURNS. Thank you very much, Chairman Baucus, Ranking Member Hatch, members of the committee. Thank you very much for inviting me here today.

I spent a good deal of my diplomatic career helping administrations of both parties navigate our complicated relationship with Russia. I have seen moments of considerable promise at the end of the Cold War and more recently of deepening cooperation on Afghanistan and nuclear arms reductions.

I have seen moments of sharp differences, whether during the Russia-Georgia war in the summer of 2008, or over our enduring human rights concerns. I have seen, through all those years, the importance of carefully assessing what is at stake for the United States and being clear-eyed about American interests and Russia's long-term evolution.

That is the prism through which I believe we can see clearly and unmistakably the importance of terminating application of Jackson-Vanik and extending permanent normal trade relations to Russia. Jackson-Vanik, as you said, Mr. Chairman, long ago achieved its historic purpose.

Some argue that continuing to apply Jackson-Vanik to Russia would give us leverage with Russia. We disagree, and so do leaders of Russia's political opposition who have called on the United States to terminate Jackson-Vanik. That does not diminish their profound concerns about human rights and the Magnitsky case, concerns which we strongly share.

PNTR is not a gift to Russia, it is a smart, strategic investment in one of the world's fastest-growing markets for U.S. goods and services. A vote to extend PNTR will be a vote to create and sustain jobs in America.

We are under no illusions about the challenges that lie ahead. The fact is that U.S.-Russia relations are often an uneasy mix of competition and cooperation, and while it may be tempting to downplay Russia's importance, we simply do not have that luxury.

As a permanent member of the United Nations Security Council, as one of the world's largest nuclear powers, and as the world's single-largest producer of hydrocarbons, Russia's strategic importance to the United States will matter for many years to come. To be sure, we have real and continuing differences with Russia. We disagree fundamentally about the situation in Georgia.

On Syria, we are urging Russia to push the Syrian regime to implement Kofi Annan's 6-point plan, end the violence, and work with the international community in promoting a serious and rapid political transition that includes Assad's departure. We have consistently and directly stressed our concerns about human rights in Russia, and we have taken steps to address these challenges, including programs that support rule of law and civil society in Russia.

Following the tragic death of Sergei Magnitsky, we imposed restrictions to ensure that no one implicated in his death can travel to the United States. But we continue to believe that it is in America's long-term strategic interests to work with Russia in areas where interests overlap.

Already, our work together over the past 3 years has produced significant results, including a new START treaty to reduce strategic nuclear weapons and agreement on civil nuclear cooperation and military transit arrangements to support our efforts in Afghanistan.

With PNTR, we would add expanded trade to that list. PNTR is also an investment in the more open and prosperous Russia that we would like to see develop. As the demonstrations across Russia over the past 6 months make clear, the country's emerging middle class is seeking a more transparent and accountable government and a diversified economy.

We should support these Russian efforts. PNTR and WTO membership by themselves will not suddenly create the kind of change being sought by the Russian people, but they can help open Russia's economy and reinforce rule of law beyond trade.

PNTR should be one part of a stronger and fuller rule of law framework that we pursue with Russia, combined with investment protections such as a new bilateral investment treaty and the OECD anti-bribery convention which Russia joined earlier this year.

Russia's membership in the WTO will soon be a fact. Failing to lift Jackson-Vanik and extend PNTR will not penalize Russia, nor will it provide a lever with which to change the government's behavior. It will only hurt American workers and American companies.

By extending PNTR we can create new markets for our people and support the political and economic changes that the Russian people are seeking. PNTR is clearly in our economic self-interest, and it is an investment in a better partner over the long term for the United States.

Thank you.

The CHAIRMAN. Thank you, Mr. Ambassador, very much.

[The prepared statement of Ambassador Burns appears in the appendix.]

The CHAIRMAN. I want to ensure that every member of the committee has adequate time to ask questions, and the witnesses adequate time to respond, so I am going to limit time to 4½ minutes per Senator and ask everybody to stay within the 4½ minutes.

I will begin by asking you a question, Ambassador Kirk. What would happen if we delayed passage of PNTR legislation until next

year sometime? Some might argue, why do it this year? We can always do it next year.

Ambassador KIRK. Well, time is a matter of concern for us. For that period of time that we are in delay, the WTO agreement would not apply to the United States and Russia. Our exporters would be at a competitive disadvantage on some issues, not all.

The bilateral commercial agreement that we have referenced does provide some measure of tariff relief, but the new disciplines, many of which the United States insists that Russia undertake, we would not have the advantage of. Particularly, our agricultural industry would continue to be frustrated by what we believe is the arbitrariness of some of Russia's agricultural standards. We would be foreclosed from competing as robustly in the services market and a number of other areas that I detailed directly in my full testimony.

The CHAIRMAN. What American companies tell me is that, if we wait until next year, other countries will gain an advantage, a market share advantage, and we very much would disadvantage the United States. It would be difficult in some cases to regain that potential lost market share. So it is not just losing per se, it is losing with respect to competitors who will gain an advantage. Is that correct?

Ambassador KIRK. Yes, sir. And I think we all know that the hardest customer to get is the one that you have lost. We want our exporters to be able to go and compete for this market from day one.

The CHAIRMAN. Secretary Vilsack, could you tell us what additional tools we have in our American toolkit with respect to SPS barriers that we face in Russia, assuming we pass PNTR?

Secretary VILSACK. Well, Mr. Chairman, first and foremost, we obviously would see reduced tariffs and quotas that would be fixed, that would be beneficial. We would also see international standards being applied in the absence of country-specific standards or in the absence of a country-specific standard that was science-based or had a proper risk assessment.

We would be entitled to notice and comment on any proposed trade measures that would be different, or proposed standards by Russia. We could request the scientific basis and the risk assessment for any proposed change.

We could suggest and have the power to change or suggest an alternative to the country-specific standard if we could establish that it would meet or exceed the country-specific standard or provide greater protection, and of course we would have the remedy—in the event that we did not agree—we would have the remedy of going back to a tribunal to basically make a decision about what is fair trade.

If I can just comment on your question to Ambassador Kirk, specifically as it relates to the beef trade, which I know you have an interest in, we would be providing an advantage to the EU, Canada, Australia, and Brazil. This is a market that has exploded in the last couple of years for us. It grew by an astounding 70 percent last year and nearly doubled in the first 4 months of 2012. We are gaining market share. We would potentially lose that if we do not act quickly.

The CHAIRMAN. There is a long list of measures we could take with respect to SPS and helping agriculture. Is there any way to quantify? You started to a little bit in your last statement, but could you quantify the additional gain, potential gain, that U.S. agricultural exporters would have, American farmers would have, with the U.S. granting PNTR?

Secretary VILSACK. Well, I think the experience that we have had with China is instructive. When we got them into a system, we saw an explosion of interest in agricultural products. I can tell you, I was recently in Iowa, and there has been a 1,300-percent increase in Chinese trade since China became a member of the WTO.

So, I mean, it is an extraordinary opportunity for us on a wide variety of products: apples, grapes, raisins, cherries, oranges, grapefruits, nuts, cheeses, whey, soybeans, beef, poultry, pork, soups, breakfast cereals, wine. All of that is going to benefit from this.

The CHAIRMAN. Thank you very much.

Senator Hatch?

Senator HATCH. Well, thank you, Mr. Chairman.

You have all three testified well as far as I am concerned. I respect all three of you. But we have heard several times that the administration has taken steps to ensure that Russia has fully complied with all of its WTO commitments before they joined the WTO.

Now, given my experience on the U.S.-Korea FTA, where the President authorized the South Korean agreement to enter into force, even though Korea was not and is still not in compliance with all of its FTA commitments, I have to say I have my doubts.

Now, Ambassador Kirk, are you willing to certify in writing that Russia has fulfilled all of its WTO commitments, including our bilateral side letters, before Congress is to grant PNTR to Russia?

Ambassador KIRK. Senator, I am happy to confirm that for you, listening to the concerns of this committee, particularly the experience, what some felt, with China. We worked very diligently with Russia to have them put the legislative rules into place to implement their WTO commitments before we would agree to the working part of the report. We have done that, and we will give you the examples of those.

I want to be careful in how we articulate them having the legal regime in place to implement their WTO commitments. Compliance is going to come by continuing to monitor and make sure Russia fulfills both the spirit of what they have done and the practice of that.

But a huge distinction between what we have done here and what we did with China is that we did not give Russia any of the liberal time lines China was given to change their laws, and Russia has put those laws in place.

Senator HATCH. Are there any defensive concerns which arise as a result of Russia's WTO membership?

Ambassador KIRK. Broadly, because most of what we get from Russia is energy-related or extracted materials critical to our steel industry and others, I think we will see much more offensive opportunities than defensive. But particularly in the agricultural industry, we have very serious concerns, and we are going to continue

to push Russia to adhere to international norms, and we will continue to push them to adopt an intellectual property rights regime that is above the de minimis standards included in the WTO.

Senator HATCH. Are you aware that one of Russia's senior trade negotiators indicated to my staff that he believes U.S. trade remedy laws could be vulnerable to challenge due to the use of the U.S. Department of Commerce's non-market economy methodology. Are you aware of that?

Ambassador KIRK. I think we are aware of that, but we feel very strongly that our trade remedy laws are legally sound. We worked with this Congress very recently to address one issue that had been raised, and we feel very comfortable about our ability to defend those.

Senator HATCH. Let me just ask another one. Are you aware of any laws, regulations, or actions that Russia has taken, or is taking, that would be in violation of their WTO commitments since they were invited to join the WTO in December of 2011?

Ambassador KIRK. Senator, I do not know that I am aware of anything specific, but I would say, again, the area where we continue to be most concerned is in the application of their veterinary and agricultural standards, which we will very closely watch.

Senator HATCH. Let me just say, a recently issued European Union Commission report clearly documents a number of violations and potential violations. Now, I would be happy to provide you with a copy of that report, and we look forward to learning about the steps that you plan to take to ensure that any violation by Russia identified in the report negatively affecting our trade is immediately eliminated, if you can.

I just have a few more seconds. Let me just ask you one more question. I understand that the administration has been working on an IPR action plan with Russia. Has that plan been agreed to? If so, has Russia fully complied with all the terms? If it has been agreed to, what mechanisms are in place to guarantee continued adherence to this plan? Is the IPR action plan enforceable in the WTO if we grant PNTR to Russia?

Ambassador KIRK. Senator, we have not completed work on the action plan. We got a commitment from Russia again to work with us on establishing a regime that is in excess of the minimum standards required in the TRIPS agreement and the WTO that more closely resembles the application of our intellectual property rights, and we will be happy to keep you updated on our progress on that.

Senator HATCH. Thank you, sir. I appreciate all three of you.

The CHAIRMAN. Thank you, Mr. Ambassador, very much.

Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Gentlemen, Chairman Baucus has correctly said that what we are talking about this morning are the issues of human rights and American job creation. Now in my view, the Internet is a powerful vehicle for both human rights and job creation, and the evidence suggests that Russia is now engaged in practices that will set back both human rights and American job creation.

So my question for you, Mr. Burns, is this. This past Monday, Reporters Without Borders said that there is increasing evidence

that the Russian government is launching cyber-attacks on independent media websites, pressuring Internet service providers to block websites and force the removal of online content that the Putin regime does not approve of.

Does this concern the Department of State, and do these actions not represent a real threat to the advancement of human rights in Russia?

Ambassador BURNS. Thank you, Senator. Those reports certainly do concern the administration, as I know they concern you. We have long been concerned about restrictions, sometimes severe restrictions, on independent media in Russia. The long list of murdered journalists, where those murders have gone unresolved, I am familiar personally with a number of them.

So, it is an issue to which we attach a very high priority. Certainly we also attach a high priority to open expression and to being able to use the Internet in an open way. A large part of our concern about protecting intellectual property rights has been directed at ensuring the protection of intellectual property, including Internet freedoms as well. So we will continue to make this a very high priority.

Senator WYDEN. Let me turn to you on that point, Mr. Kirk. Did Russia commit to not discriminating against American digital goods and digital services in the U.S.-Russia bilateral agreement that paved the way for Russia's WTO membership?

Ambassador KIRK. Senator, what we got Russia to agree to, particularly in them opening up their services market, is that they would fully comply with all of our disciplines on that as well. The issue of our having the ability, first of all, to compete in that market unfettered is one where we did put pressure on Russia very strongly, and we will continue to monitor them for the behavior that you heard articulated by Secretary Burns.

Senator WYDEN. What I would only say is that, in countries like Russia that take steps to block Twitter, what they do is they quash speech they do not like, so you are talking about a human rights issue. But they are also giving an advantage to a country's domestic micro-blog service, so they are harming the cause of creating jobs in the United States. So, I think we have additional work to do.

I am going to be working with Chairman Baucus and Senator Hatch on at least ensuring that we are monitoring what goes on in Russia with respect to the Internet, which is such a powerful tool for human rights.

I know time is short, Mr. Chairman. I think I will yield back my last minute.

The CHAIRMAN. You bet. Thank you, Senator.

Senator Cardin?

Senator CARDIN. Well first, Mr. Chairman, I want to thank you for your leadership and keeping your eye on the ball here. I think that you have brought up a way in which we can get this done in this Congress, and I applaud you for that, and I thank you for bringing together Senator McCain, Senator Thune, and others so that we can have the best chance to pass the PNTR for Russia.

Secretary Burns, I want to sort of focus on part of your statement, but also to put this in context. When Jackson-Vanik was

passed in the 1970s, I am certain that there may have been some naysayers at the time saying, why are we dealing with human rights on a trade agenda? And I appreciate your statement where you say "Jackson-Vanik has served a noble and historic purpose." I do not know whether your counterpart at that time would have said that, but I think that it clearly has done that.

It is interesting that we were attempting at that time to deal with the problems in the Soviet Union on immigration, and yet the Jackson-Vanik law was global to all non-market economies, recognizing an opportunity to advance human rights.

You point out, and correctly so that, in regards to the Magnitsky tragedy, the administration took action to deny those who perpetrated that human rights atrocity from being able to come to the United States through a visa.

However, the tragedy occurred in November of 2009. We asked for action a lot earlier through letters and following legislation, and it was not until August of last year that the administration took action.

I mention that because of the need for the Congress and the executive departments to work together. That is what the Magnitsky bill attempts to do. It is global. It provides a mechanism for Congress to get engaged with the administration on identifying those who have perpetrated human rights concerns, and it is a lasting legacy as we move away from Jackson-Vanik. Once we do PNTR for Russia, for all intents and purposes Jackson-Vanik is a relic of the past, and a proud historic relic of what we were able to do at the time.

The reason I set this up in this framework is that I want to give you an opportunity, if you want to take advantage of it, to comment as to the chairman's premise. That is, it is certainly my intention, and I think the intention of the chairman, to combine the PNTR vote with the Magnitsky bill. We want to make sure that the administration has an opportunity to comment, if you choose to comment, in regards to that legislation.

Ambassador BURNS. Well, thank you very much. Senator, first I want to express our appreciation for your leadership on this whole set of issues on human rights around the world, but particularly in Russia. We share, as I said in my opening remarks, your concerns and I know the concerns of others on the committee about the situation regarding human rights abuses in Russia.

We very much appreciated the constructive dialogue that we have conducted with you about how best to approach this. We very much appreciate the fact that you have considered some of the concerns that we have expressed, and we look forward very much to continuing that dialogue.

As you know, we have approached these issues, which are both extremely important, on separate tracks. I listened very carefully to what the chairman said, and, as I said, we look forward to continuing the dialogue.

Senator CARDIN. I will take that as you taking advantage of this opportunity to let us know your views before we act.

Mr. Chairman, I have no further questions.

The CHAIRMAN. Thank you, Senator, very much.  
Senator Grassley?

Senator GRASSLEY. Thank you very much. As I indicated to you, I apologize for not hearing your testimony because I had a meeting of the Judiciary Committee I had to go to. Thank you for taking my questions.

Russia's accession package has been finalized, and Russia will soon become a full member of the WTO. Currently, 47 percent of U.S. pork production capacity is banned from exporting to Russia, including 27 percent of my State's capacity. Normally, an agreement on plant equivalency would address these issues, but no agreement was obtained in negotiations with Russia prior to finalizing WTO accession.

In the past, the United States has obtained such equivalency agreements with other acceding countries through bilateral agreement or an exchange of letters. The U.S. obtained this additional discipline on plant equivalency with both China and Vietnam before each of them went into the WTO.

Two questions, and I will ask both of them. This would be to Ambassador Kirk or Secretary Vilsack, or both of you. Can you explain why the U.S. treated accession agreements with Russia differently than with countries like China and Vietnam? And two, is the administration planning to obtain a bilateral agreement with Russia to address this plant issue and other outstanding SPS matters?

But before you answer, about 1 year ago now, we visited the Russian ambassador with the Leahy delegation. About that time, a week later there were a whole bunch of meetings going on in Geneva, and we were led to believe this was all going to be settled before the accession and our agreement to it.

The second thing is, I wanted to tell you that I sent a letter to the President on these issues, signed by 34 Senators, raising these concerns that my questions raise here. So, whichever one or both of you would like to respond, I would appreciate it.

Ambassador KIRK. Senator, the issue of the equivalency is one that continues to concern us, and we will work on it. As I said earlier, the good news is that we learned from our experience in China and insisted that Russia put in place the laws and regulations necessary to implement its WTO commitments beforehand and did not grant them the 10-year period that China had.

The issues around equivalency and SPS standards are those that have frustrated us the most and continue to frustrate us, and we have been very candid with the Russians about that. But we see one of the big benefits of now having them in the WTO is we have more tools to be able to resolve those issues.

But absolutely, we will continue to work with Secretary Vilsack and his team on those issues to make sure that we get access to this important market for beef and pork, and do so according to international standards.

Secretary VILSACK. Senator, what was able to be locked down was a global tariff-rate quota of 400,000 tons for pork, 30,000 tons for pork trimmings, an end quota tariff of zero, and a regime to basically eliminate other tariffs by 2020. Russia gets into a system that now gives us a number of opportunities to work with them within an international system where they have to have science-based rules, risk assessment, et cetera.

The concern that I have about delay is that we would then cede potential market access for our pork products to global competitors, which we do not want to do. We can compete, and we can compete successfully, if we are given the opportunity, but we will not be able to have that opportunity unless you all deal with Jackson-Vanik in a timely way.

Senator GRASSLEY. All right.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cornyn, you are next.

Senator CORNYN. Thank you, Mr. Chairman.

The CHAIRMAN. You bet.

Senator CORNYN. Good morning. Welcome. I have one question. Mr. Burns, maybe you would be the appropriate person, but I would be glad to have others comment as time permits.

My question really boils down to this. Let me state the question, and then I will give you sort of the premises that give rise to the question.

What more would Russia have to do to the United States before the United States would say Russia has demonstrated itself such an adversary of the United States on so many different fronts that it is unworthy of PNTR and WTO accession?

Let me talk about the nature of our relations since 2009 when President Obama announced a reset. It has been 3 years since that reset, and it certainly seems like it has been a 1-sided affair, evidence of the fact that we cannot trust Russia because of its increasingly hostile attitude toward the United States and United States' interests.

The new START treaty might be one place to talk about, given the fact that new START reductions represented unilateral U.S. reductions but did nothing to address Russia's massive numerical superiority and tactical nuclear weapons; then the Civilian Nuclear Cooperation Agreement that has stalled in light of Russia's invasion of Georgia.

Then we see Russian support for despicable regimes like Syria, in the face of mass atrocities that President Assad has committed against his own people and evidence that Russia is arming Assad's regime and murdering innocent Syrians.

Of course, there is Russia's continuing support for Iran's nuclear missile programs, and of course, shielding these regimes, as well as North Korea, from actions by the United Nations Security Council by exercising its veto; objecting to U.S. deployment of NATO missile defense systems in Europe to counter Iranian missile threats, followed by threats from Russian military officials to launch pre-emptive strikes on those sites; continued military occupation of the Georgian territory and its refusal to abide by a 2008 cease-fire agreement; unfair elections, including parliamentary elections that Secretary Clinton called neither free nor fair; a deteriorating human rights record, which I know the chairman and others have already addressed, plagued by arbitrary detentions, politically motivated imprisonments, and a total disdain for the rule of law, for freedom of speech, for freedom of the press, and freedom of assembly. And then there is widespread government corruption and, as

I think, Ambassador Kirk, you mentioned, a very poor record of protecting intellectual property rights.

So I guess the question I would put before all of you broadly is, given the litany of aggressive acts that Russia has taken against the United States and the United States' interests, would giving them permanent normal trade relations status and WTO accession not be a 1-sided bargain?

Ambassador BURNS. Well, Senator, I will start and try to address the concerns in the question that you raised.

First, as I said in my opening comments, the truth is that our relationship with Russia today is a mix of competition and cooperation. The differences that you described, the serious concerns that you described, are very real, whether it is over Georgia, whether it is over Syria, whether it is over human rights or corruption in Russia itself, and we have to be very clear-eyed about all of those.

At the same time, I think it is fair to say that we have found and built upon some areas, objectively, of common ground, in Afghanistan, for example, where most of the U.S. military personnel that move in and out of Afghanistan today, most of the military equipment that moves to Afghanistan, comes across Russia in the northern distribution network.

That is an area of practical cooperation in which we both have a stake. It is not a sentimental interest on the part of Russia; it also has a stake in stability in Afghanistan. We have, I think, worked effectively together on a range of nuclear non-proliferation issues, if for no other reason than the two of us, the United States and Russia, today control more than 90 percent of the world's nuclear weapons.

So it is not only the new START treaty, which I think helped in the area of strategic arms reductions, it is also in the Plutonium Disposition Agreement, where we together agreed to destroy, to eliminate, something like 17,000 tons of weapons-grade plutonium, which I think sets an important example for the rest of the world.

On Iran, we did vote together in Security Council Resolution 1929, which has been the platform in a sense for many of the tougher measures that have been taken by the United States and the European Union since then, and Russia did essentially rip up a billion-dollar contract with Iran for the sale of the S-300 missile.

So I do not mean to minimize any of the differences or the concerns that you raised, but I would simply highlight some of the areas in which I think we have found ways practically to work together and which are important for our interests.

The CHAIRMAN. Thank you, Senator. I am surprised more Senators are not here.

Let me ask you, Mr. Ambassador. We will do a quick second round before the vote. These are very real issues, obviously, that Senator Cornyn raised. I think they are very real issues, and Americans, especially members of Congress, are very deeply concerned about the list.

So, a logical question is: does it help us deal with these serious issues with Russia with the passage of PNTR or not? Let us just focus on human rights, Syria, all the issues that we have been talking about here. Does passage of PNTR help us in dealing with Russia or not help us in dealing with Russia?

Ambassador BURNS. Well, I think what I would say, Senator, is the following. First, as you and a number of other members have said, WTO accession for Russia is a reality so the issue—

The CHAIRMAN. They are there.

Ambassador BURNS [continuing]. So the issue for all of us today is whether or not American business, American workers, can take advantage of the new more favorable terms of trade. If we withhold PNTR, we obviously disadvantage American companies and the potential to create many more American jobs.

I do not believe withholding PNTR adds to our leverage on any of the very real differences that we just talked about. I think we need to push hard against the Russians on a number of those issues and push towards more cooperative approaches on some of them, and that is certainly what we are doing with regard to Syria, for example.

I also think—and this would be my final comment—it is important to bear in mind that this is not just about the Russian government; this is about the evolution of Russian society. The emerging middle class in Russia, I think, is a significant phenomenon today. You saw the people, tens of thousands of people, demonstrating over the last 6 months.

What they are demonstrating for, it seems to me at least, is not just improvements in the standard of living, but imbedding the rule of law in Russia over time, having some certainty about how their property is protected, and having a voice in how political decisions are made.

WTO accession, extending PNTR, is not a magic formula to ensure that all those things happen, but I do believe, over the long term, it is an investment in the kind of Russia that that emerging middle class wants to see, a kind of Russia that is going to have a more open economic and political system, the kind of Russia that can be a better partner for the United States over time. I think that is something we need to bear in mind as well.

The CHAIRMAN. Well, I appreciate that. I was in Russia several months ago, talking to human rights groups and also to Jewish groups. It was clear to me—they were clear to me, and I was a bit surprised, frankly, with their conclusions—that Jackson-Vanik is not leverage at all. They earlier thought it was leverage, maybe in years past, but not now.

They believe that they can advance their causes, human rights groups can advance their causes much better and more quickly with the passage of PNTR. Jewish organizations in Russia said the same thing to me. They said they very much want PNTR.

I also noticed the rising middle class in Russia, with more money in people's pockets. I mean, there is an energy there among the people that I frankly did not suspect I would find. But it is clearly there, at least it is in Moscow and St. Petersburg. But I do think this will help—passage of this—and help in many ways, not just in American jobs. I do not mean to minimize that; it is very much about American jobs, but, in addition, it would help us deal with these other issues.

Senator Hatch?

Senator HATCH. Well thank you, Mr. Chairman. Deputy Secretary Burns, it is easy for me to understand why the Secretary of

State would want you as her deputy. I think you have acquitted yourself very well here. But let me just ask a few other questions just to follow up so we make a record on this.

If Congress attempts to address some of the ongoing challenges with Russia through additional provisions added to the PNTR legislation, will the administration cooperate with us or object?

Ambassador BURNS. Well, Senator, as I said before, the preference expressed by the administration has been to deal with very real human rights concerns that Senator Cardin has been leading an effort on on a separate track, and we very much value the constructive dialogue that we have had on that issue, and we look forward to continuing to pursue it.

Senator HATCH. Well, should we develop a legislative trade package that will grant PNTR to Russia as well as address some of the issues important to Congress? Will the administration support that effort if the Russians threaten to retaliate?

Ambassador BURNS. Well, we are very well aware of some of the statements that have been made about potential retaliation. This is one of those instances where we clearly have a difference over human rights with the current Russian government. We need to be plainspoken about our concerns on human rights.

So as I said, while we are well aware of some of the statements that have been made, this is an area of difference that ought not to in any way inhibit us in expressing our real concerns about human rights. It is a set of differences that we will have to try to manage as best we can.

Senator HATCH. Well, if we reach an agreement in Congress on how best to grant PNTR to Russia, will the administration support us? I guess it depends on what the agreement is.

Ambassador BURNS. Certainly with regard to the legislation that is under consideration in both Houses on the Magnitsky case, as I said, we have had a constructive dialogue. We are going to continue that. We appreciate the fact that some of the concerns we have raised are being considered, but obviously what our ultimate view will be will depend on the shape of the legislation that emerges.

Senator HATCH. All right. The U.S. Ambassador to Russia, Michael McFaul, cites the conclusion of negotiations with Russia for their entry into the WTO as a concrete result of President Obama's reset policy, yet there is no reference to President Obama's reset policy anywhere in your testimony. Now, that creates a little bit of obvious confusion.

So, is the conclusion of negotiations for Russia's entry into the WTO a concrete result of President Obama's reset policy, or is it not?

Ambassador BURNS. Oh, I think it certainly is in the sense that what we have worked hard to do over the last few years, the President and Secretary Clinton, is to be straight about our differences with Russia, but also to identify areas of common ground and build on them. I think expanding opportunities for the United States in trade, investment, and job creation connected to Russia is very much in our interest.

It is also in Russia's interest to become a member of the World Trade Organization. It is the only way—one of the only ways—in

which it can diversify its economy beyond what today is an unhealthy dependence on hydrocarbons exports. So I think it is an area of shared interest through the reset of the last few years. That is what we have tried to build on.

Senator HATCH. Well, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator HATCH. I will yield back my time.

The CHAIRMAN. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. I want to start by thanking you for agreeing to hold this hearing, and Ranking Member Hatch for his tireless efforts to ensure that Republican members of this committee would have the opportunity to raise important issues regarding PNTR directly with administration officials.

I look forward to working with him. There has been no greater advocate for trade than Senator Hatch, and I look forward to his leadership in the next weeks as we move forward with Russia PNTR and try to get a constructive and bipartisan agreement that we can get through here.

We have heard a great deal about the benefits of enacting PNTR for U.S. businesses, farmers, ranchers, and others who are conducting business in Russia currently or would like to access this growing and prosperous market. I have with me a letter today, sent from more than 100 companies, business associations, and other groups, that calls on Congress to enact PNTR as soon as possible, and preferably before Russia joins the WTO in August.

In my view, the economic arguments in favor of enacting PNTR are overwhelming. We are not giving up anything if we enact PNTR because we already grant Russia normal trade relations status on a yearly basis, and we have done so for 20 years. Yet, we have much to gain from PNTR, including better access to the world's 5th-largest agricultural market and the world's 6th-largest economy.

So the question before us today is not so much, should we grant Russia PNTR, but rather, how should we go about doing it in a timely manner? By timely, I mean in a manner that does not put U.S. companies doing business in Russia at a competitive disadvantage.

I was an outspoken critic of the fact that the Obama administration waited more than 2½ years before submitting the free trade agreements with Colombia, Korea, and Panama to Congress.

As a result, trade agreements between Canada and Colombia and between the EU and Korea entered into force before our agreements took effect. That put American soybean and wheat growers, and many other U.S. producers, at a completely unnecessary and self-imposed disadvantage. We should not repeat that mistake.

We should instead do everything we can to ensure that we enact PNTR before Russia joins the WTO in August, lest American agricultural producers and others find themselves at a competitive disadvantage again due to the inability of Congress and the administration to get things done.

That is why I joined with Chairman Baucus and Senators McCain and Kerry to get the PNTR process started now so that we can have a chance to build momentum for PNTR before the August

recess and before we find ourselves in the midst of a presidential election campaign where we know it is going to be difficult for Congress to act.

I believe that Chairman Baucus has outlined a reasonable process for moving forward under which a variety of concerns regarding Russia can be considered and, where appropriate, addressed by amendment.

In my mind, the most pressing non-economic issue appropriate to this debate is how we can foster the rule of law in Russia and help the Russian people combat corruption and human rights abuses. Certainly Russia joining the WTO, a rules-based system, will help in this regard.

But I also want to emphasize to each of you how important I believe it is that a robust version of the Magnitsky human rights legislation that is supported by Senators McCain, Cardin, Kyl, myself, and others be paired with the repeal of Jackson-Vanik.

Advancing the Magnitsky bill in a forum that can continue to enjoy broad bipartisan support is not only essential to the process of enacting PNTR, it will also replace an outdated and ineffective instrument of U.S. foreign policy, Jackson-Vanik, with one that is timely and appropriate given the human rights and corruption challenges facing Russian society.

Chairman Baucus's strong commitment to include a version of the Magnitsky bill supported by its bipartisan co-sponsors, when this committee considers PNTR, was a major reason why I felt comfortable in moving forward as a co-sponsor of Russia PNTR legislation.

I hope the administration realizes that a strong version of Magnitsky is judged by its bipartisan co-sponsors as critical to getting PNTR done in a timely fashion, and I also hope that the administration understands it will need to engage aggressively over the next several weeks with members of Congress—not just those members of the Finance Committee and Ways and Means, but all members—to forcefully make the case for PNTR if we are going to get this done.

I look forward to much more robust and active engagement from the administration on this issue between now and the August recess.

I have a quick question, if I might, for Ambassador Kirk and Secretary Vilsack, and that has to do with concerns I have heard from the agricultural community about Russia's commitment to abide by the sanitary and phytosanitary, or SPS, obligations that they are undertaking, especially with respect to pork, poultry, and meat. It is obviously a very important issue for many agricultural States, and I am wondering if you could speak to that issue.

Ambassador KIRK. I will try to leave plenty of time for Secretary Vilsack, but this is an issue—

The CHAIRMAN. But not too much. We have a vote.

Ambassador KIRK. Yes. We are going to continue to follow that. The important thing is, Russia agreed that they will abide by the WTO principles on SPS standards when they join, but this is an area where we know that we are going to have to really follow and watch them.

Secretary VILSACK. Senator, I would just add that it gives us the opportunity to actually have a forum in which we can adjudicate disputes. Right now we are in a very difficult circumstance. They can do things arbitrarily, not science-based, not rules-based, without any risk assessment, and we have no recourse. This will give us the recourse and the power to basically change their views about things.

I will tell you, if we can compete on an even field, we will win that competition every time, but right now it is not necessarily even.

Senator THUNE. Thank you.

Thank you, Mr. Chairman. I got through it as fast as I could.

The CHAIRMAN. You did a good job.

Senator THUNE. About as fast as I can read. Thank you.

The CHAIRMAN. I was noting that. All right.

Senator THUNE. Thank you.

The CHAIRMAN. Very good.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman. Thank you, gentlemen, for your service.

Ambassador Kirk, intellectual property rights and piracy, particularly in online piracy, continue to be major issues with Russia. The U.S. concerns about copyright infringement, piracy, product counterfeiting, and increasingly IP cyber-crime originating in Russia have been regularly documented in the annual Special 301 reports from the USTR.

While Russia has begun to address some of these issues in their lead-up to WTO accession, there is still a lot of progress to be made. So, here is my question. How do you propose to prevent a replay of our experience with China on IP issues, where years after China joined the WTO we are still waiting—still waiting; I have raised this several times when you have been here—to see substantial IP enforcement?

What metrics will you use at USTR to evaluate Russia's IPR enforcement efforts and to regularly inform Congress on the progress of key action items in this U.S.-Russia IP working group?

Ambassador KIRK. Senator, thank you for your continued interest in this. Thank you and all the members for your support of our efforts to get stronger enforcement of IP around the world. The most important distinction between this and China, Senator, is that, in the case of Russia, we insisted that they put in place their laws to implement the WTO rules before we would allow them to accede to the WTO. In China's case, in many cases, they were granted as much as 10 years to do that. We learned from that.

So one real positive is that, the day Russia becomes a member of the World Trade Organization, they will be required to comply with all of the provisions of the TRIPS agreement. Now, as Secretary Vilsack said, we have to monitor that, and we will continue to use the 301 tool that you referenced in our annual report to Congress, and use all of the disciplines and tools available to us through that to monitor them and report to you.

But second, recognizing this is going to be an issue, Russia agreed to work with us, and we are working with them now, on an

enhanced IPR action plan that will go above what we see as sort of the de minimis standards of the TRIPS agreement in the World Trade Organization.

Senator MENENDEZ. Which brings me to the second question then. The value to U.S. businesses of Russia joining the WTO is only achieved if in fact Russia complies with the rules of the WTO and we are willing to bring cases against Russia when it breaks the rules.

What assurances can you provide that Russian violations would be met with swift action by the USTR so that the Russians, unlike the Chinese in the years following their accession, are held accountable for their violations? Otherwise, all of the commentary of all of the value is fleeting.

Ambassador KIRK. Senator—and I hope this does not sound too boastful—I think if there is any area that the administration has distinguished ourselves in, it is at our very strong elevation of trade enforcement to the same level that we have for opening up new markets. I would invite you to review our record at USTR under President Obama in bringing cases against China, and all other members of the WTO, to secure the hard-earned rights that we have fought for. We will continue to do that.

You will recall that in this year's State of the Union address President Obama stated his intention to create an interagency trade enforcement center so that we have even more resources to do that. The President followed that up by executive order. We are beginning to implement that. So you have my very strong assurance that we will continue the same discipline and record on that.

Senator MENENDEZ. In that interagency process, do you get told by State, really do not pursue something because we are concerned about other issues that we are dealing with with Russia?

Ambassador KIRK. I am rarely told by State. I have the same boss as Secretary Clinton, and I will tell you, this is one case in which we are all of one mind. We have moved forward. I would invite you to look at our record. I do not think we have ever shirked from moving forward on a case against China because of—

Senator MENENDEZ. Which finally brings me to Secretary Burns. I am concerned about the pervasive corruption in Russia. Many American companies have seen their contracts broken and agreements altered by heavy-handed regulations and open-handed bureaucrats.

What will WTO membership do to improve this situation, and what specific remedies do WTO arbitration mechanisms provide to U.S. companies that are asked to bribe government officials in order to get a shipment through Customs or pay kick-backs to a procurement official in order to win a contract?

Ambassador BURNS. Well, Senator, let me start, and I will turn to Ambassador Kirk on the specifics on WTO. You are absolutely right, corruption is a huge problem in Russia. It is deeply in the self-interest of Russians if they want to modernize their economy and diversify it to address this issue more seriously. WTO accession, extending PNTR, in and of themselves, are not a magic cure for that problem.

But I think if Russians employ those steps as part of a broader rule of law framework which ought to include a new bilateral investment treaty with the United States—and Russia recently signed on to the OECD anti-bribery convention, which brings more obligations. I think, taken together, those kind of steps can, over time, help Russians address what is a very real impediment to their economic modernization and growth, and that is corruption.

The CHAIRMAN. Thank you very much, Senator.

Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

We have been talking about human rights and trade this morning. Ambassador Kirk, what I have learned on the trade side over the last few months is that, when trade agreements are negotiated, industry advisors sit in a far stronger position than virtually everyone in the Congress.

For example, an industry advisor from the Motion Picture Association can sit at their desk with a laptop, enter their user name and password, and see the negotiating text of a proposed trade agreement. Virtually no one in Congress—virtually no one in the Congress—has the ability to do that. How is that right?

Ambassador KIRK. Well, Senator, I want to make it plain that it is not just industry, but all of the members of our trade advisory commissions, which are established by this Congress—they are cleared advisors, they have security clearances and they represent a broad range of interests from industry, environmental groups, business groups. It is a broad representation to make sure that we have their views on our trade policy as we go forward.

Every member of Congress—any member of Congress—who wants to see the text of any trade agreement that we are negotiating has the ability to do so, as long as we do so in a secure environment that is private. So, I mean, I would only offer that one clarification, that any elected official in this body has the ability to see those same texts as any of our cleared advisors.

Senator WYDEN. Mr. Ambassador, I do not know of any instance where you go in to trade negotiations, these pivotal negotiations that are key to creating more good-paying American jobs, without the expertise of your staff. As you have correctly noted, these are technical issues, and we are not allowed to do that. That is why I am saying that these advisors are placed in a far stronger position.

I gather you do not think that is a problem. I do. Colleagues here in the Senate on both sides of the aisle do. Senator Burr, colleagues in this committee, Democrats and Republicans, think it is a problem. I know time is short. I just want you to know I am going to stay at it until we get this corrected.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator. And thanks to all the witnesses. We did it by 11, and I am very proud of you all. Thanks. I know you have changed your schedules, all three of you, to do this. This has been very helpful. There will probably be follow-up questions members of the committee might have. I intend to mark up this legislation in July. When we come back after the July recess, sometime in July, we will mark it up.

Oh, Senator Cantwell, you are very speedy here, just under the wire.

Senator CANTWELL. Sorry, Mr. Chairman. Thank you so much for your indulgence here. I was chairing a hearing in the Commerce Committee on the new nominee to be FAA Administrator, so I apologize for that.

I would like to enter into the record a longer statement, if I could, on this hearing and on Jackson-Vanik, and obviously the legacy of Scoop Jackson and the tremendous ability that Jackson-Vanik gave to so many people. So if I could do that, thank you.

[The prepared statement of Senator Cantwell appears in the appendix.]

Senator CANTWELL. And then obviously I am a co-sponsor of my colleague Senator Cardin's legislation. I know that you have indicated that you are going to take that up as a separate but same track kind of process, so I appreciate that.

So I guess my question is, what are we going to do about issues of national security and technology to make sure that we are preserving, as we move forward on PNTR, a sense of making sure that the kinds of technologies that are essential to national security are protected? And I do not know if that is to you, Mr. Burns, or to Ambassador Kirk.

Ambassador KIRK. Well, Senator, what I would say to you, one, is the rules that are in place to protect those technologies that are critical to our national security are not at all compromised or touched by what we do with PNTR. This only addresses the reality that, when Russia becomes a member of the World Trade Organization, all of our exporters, farmers, and ranchers have the full benefits of that. We do nothing, at least in the case of CFIUS, the Committee on Foreign Investment in the United States, nothing that we do on the trade side lessens the disciplines that we have in place relative to protecting our critical national security interests.

Senator CANTWELL. And do you think that list adequately covers the issues that are essential to U.S. technology? Do you think we need to look at that and update that in any way?

Ambassador KIRK. For reasons that are articulated, USTR is not involved in the development of that. I think that is under other agencies, but I would have to defer to my colleagues to respond to that.

Ambassador BURNS. I think, Senator, the current CFIUS process is a strong one, and I think it gives us the tools that we need. It is obviously something that we and other agencies keep under careful review, but I believe right now, just as Ambassador Kirk said, it leaves us in a very strong position, and nothing that happens as a result of extending PNTR in any way undercuts that position.

Senator CANTWELL. All right. Well, I thank you. I am definitely going to be looking at that and reviewing that as we go through this process. Obviously, the Northwest certainly believes in opening up new markets and having access to new markets, but also, as we can see the challenges as we have dealt with piracy issues in China, this is going to be an issue of big concern, and we are going to want to make sure that essential technologies that are used by our Nation, or areas of expertise, are protected. So, I thank you.

Again, Mr. Chairman, I thank you for your indulgence in letting me get the question in, and we will certainly follow up with the witnesses.

The CHAIRMAN. Good. Thank you, Senator. Thank you again.

The hearing is adjourned.

[Whereupon, at 11:07 a.m., the hearing was concluded.]



# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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**Hearing Statement of Senator Max Baucus (D-Mont.)  
Regarding Permanent Normal Trade Relations with Russia**  
*As prepared for delivery*

It's baseball season, and we should remember the old baseball adage "keep your eye on the ball."

The ball here is jobs. Russia's accession to the World Trade Organization this summer will mean thousands of jobs here in the United States – but only if we pass Russia Permanent Normal Trade Relations legislation by August.

As we heard from business and human rights leaders in our March hearing, the economic case for PNTR is clear. Russia is the seventh-largest economy in the world. It is the largest economy currently outside the WTO. Regardless of what we do here in Congress, Russia will join the WTO this summer.

We have a choice. If we do nothing, the 154 other countries in the WTO will gain new access to Russia's growing market. We'll be left on the sideline. American workers, businesses, farmers and ranchers will lose out to their competitors in China and Europe.

But if we do pass Russia PNTR, U.S. exports to Russia are projected to double within five years, and that means thousands of new jobs here at home.

These new jobs come at no cost to us – zero. Unlike a free trade agreement, we do not lower any of our tariffs, and we do not change any of our trade laws. This is a one-sided deal in America's favor, but only if we act.

That's why I introduced Russia PNTR legislation last week with Senators Thune, Kerry and McCain. The bill establishes permanent normal trade relations with Russia, and it removes Russia from the 1974 Jackson-Vanik amendment.

Passing PNTR will ensure U.S. aircraft and automotive exporters benefit from lower Russian tariffs. It will mean U.S. service providers gain access to Russia's telecommunications and banking markets. And it will guarantee U.S. farmers and ranchers greater access to the Russian market, including a generous U.S.-specific beef quota of 60,000 metric tons.

That's why U.S. exporters strongly support PNTR. More than 30 U.S. companies, agricultural groups and trade associations issued statements just last week urging Congress to quickly enact the Russia PNTR bill. I am entering a list of these organizations into the hearing record.

Jewish organizations in both the U.S and Russia also strongly support PNTR. Congress originally passed the Jackson-Vanik amendment in response to the Soviet Union's emigration restrictions on its Jewish citizens.

These restrictions no longer exist, and Russia has fully complied with Jackson-Vanik for nearly twenty years. That's why the American Israel Public Affairs Committee and other leading Jewish organizations have urged Congress to quickly enact our PNTR bill. I am entering a letter from these groups into the record as well.

And I am entering into the record a letter from six former U.S. Trade Representatives of both parties who believe we must enact PNTR – and that we must do so by August.

By keeping the focus on U.S. jobs, I am by no means suggesting we ignore the host of difficult issues we face with Russia. We must address the human rights, democracy and foreign policy concerns. The United States has other tools to address those concerns. And where those tools are not adequate, we should improve them.

That's why I have pledged to support Senator Cardin's human rights bill. The bill would punish those responsible for the death of anti-corruption lawyer Sergei Magnitsky, and others who commit human rights violations, by restricting their U.S. visas and freezing their U.S. assets. Nine Members of the Finance Committee have co-sponsored this important piece of legislation. The Foreign Relations Committee is marking it up next Tuesday.

As I said in a letter to Senators Cardin and McCain last week, I will add the Magnitsky bill to our PNTR bill when we mark it up in this Committee. Passing the Magnitsky bill along with PNTR will help promote the goals of both bills.

Russia's Syria policy also continues to be a problem. Moscow's support for Assad, despite his regime's gross human rights violations, is simply indefensible. But like my colleague Senator McCain said, this issue should be dealt with separately from PNTR. Secretary of State Clinton echoed that yesterday in her op-ed in the Wall Street Journal.

PNTR is no gift to Russia. And for U.S. jobs, we need to keep our eye on the ball. Failing to pass PNTR won't help Syria. It will only harm U.S. exporters and the jobs they create.

The United States also has lingering economic concerns with Russia, including inadequate intellectual property enforcement and restrictions on our agricultural exports. If we pass PNTR however, WTO rules will require Russia to enforce U.S. intellectual property rights and remove barriers to our agricultural exports. And if Russia fails to do so, we can use the WTO's binding legal enforcement procedures. But if

we fail to pass PNTR, we will be stuck with the status quo. None of these additional tools will be available to hold Russia accountable.

America needs the jobs that PNTR will bring. So let us be ready when Russia joins the WTO this summer. Let us not lose out to the competition. Let us remember to keep our eye on the ball and pass PNTR before August.

###

## U.S. Businesses Support Russia PNTR

Thousands of U.S. companies support expanding U.S. exports and creating U.S. jobs



American  
Chamber of  
Commerce in  
Russia

*"[PNTR] will safeguard the competitiveness of American companies, products and services in the huge Russian market and enhance U.S. export and job growth."*



American  
Chemistry  
Council

*"Access to new foreign markets like Russia is increasingly essential for the continued expansion and competitiveness of American chemistry, and it will help the U.S. meet President Obama's stated goal of doubling U.S. exports by the end of 2014."*



AMERICAN  
FARM BUREAU  
FEDERATION®

*"Russia PNTR is a critical step towards ensuring the U.S. benefits from Russia's accession to the WTO and remains competitive in that market."*



American  
Forest & Paper  
Association

*"It is important that the U.S. Congress grant PNTR to Russia so that U.S. business can take full commercial advantage of Russia's entry into the World Trade Organization (WTO), which is expected before summer's end. If Congress fails to act before then, U.S. businesses will not gain the full benefits of concessions that Russia made as part of its WTO accession commitments, putting U.S. businesses at a disadvantage against all other WTO members competing in the Russian market."*



ANSAC

*"Swift and bipartisan action will greatly benefit U.S. manufacturers by allowing them to compete globally on a level playing field and increase business with Russia."*



AEM

*"Currently, the U.S. agriculture and transportation and infrastructure sectors represent hundreds of millions of dollars in exports to Russia, but U.S. exporters pay tariffs applied at rates up to 25 percent. Once Congress repeals the Jackson-Vanik amendment, Russia is committed to reducing or eliminating many of the tariffs on machinery."*



BOEING®

*"Congress must establish permanent normal trade relations with Russia and graduate Russia from the requirements of the 1974 Jackson-Vanik Amendment."*



*"This is no time to discourage U.S. exports; that's why Congress and the President should act with a sense of urgency to approve PNTR before the August recess."*



*"The legislation introduced by Senators Baucus, Thune, Kerry, and McCain is an important show of bipartisan support that will allow the US technology industry to benefit from Russia's WTO membership. We urge the Senate and House to swiftly pass this legislation."*



*"Since no other WTO member has a law similar to Jackson-Vanik, all of Russia's trading partners except the United States will immediately benefit when Russia joins the WTO, which is expected to happen by mid-summer. If Congress fails to enact PNTR with Russia before then, U.S. industry will be on the sidelines of Russia's market, at a disadvantage for lucrative contracts, and without the full tools provided by a WTO relationship."*



*"Citi applauds the introduction of legislation which would allow the United States to provide Permanent Normal Trade Relations status to Russia."*



*"U.S. services exports to Russia grew 70% between 2006 and 2010. If Congress does not pass legislation that grants Russia PNTR before the August recess, U.S. services companies will be unable to build upon this success and reap the benefits from a more open Russian marketplace."*



*"Russia PNTR is vital for the U.S. distilled spirits industry to make further inroads into this rapidly growing market... We urge the Senate to act quickly on this legislation."*



*"Any further delay in granting this important status to Russia could place American workers and companies at a significant disadvantage versus our foreign competitors."*



*"The U.S. Congress needs to provide permanent normalized trade relations for Russia, and we encourage them to act swiftly to ensure a level playing field for U.S. companies."*



*"This legislation is necessary to ensure that U.S. companies are on a level playing field when competing with other global companies in this important market."*



*"To ensure that U.S. exporters and all segments of the U.S. economy receive the full benefits of Russia's accession, the U.S. Congress must act quickly to pass this legislation."*



*"This legislation is critical to the ability of US companies to obtain the full benefits of Russia's WTO commitments and compete on a level playing field in this market with our global competitors."*



*"Establishing permanent trade relations with Russia is an important step for job creation and economic strength in the United States."*



*"We urge Congress to move forward with passing this legislation as soon as possible as Russia is set to join the WTO in August."*



*"The National Center for APEC urges the Administration and Congressional leadership to continue to work together to ensure the expeditious passage of Russia PNTR."*



*"The U.S. poultry industry encourages swift action on this legislation to establish PNTR before Russia joins the WTO."*



*"Congressional passage of PNTR with Russia and repeal of the Jackson-Vanik amendment with respect to Russia is necessary to ensure that we are able to fully avail ourselves of the strong WTO accession package negotiated by the United States with respect to agricultural trade with Russia."*



*"The U.S. poultry industry encourages swift action on this legislation to establish PNTR before Russia joins the WTO."*



*"PhRMA urges the U.S. Congress to quickly extend Permanent Normal Trade Relations (PNTR) with Russia to protect and bolster U.S. biopharmaceutical jobs and exports."*



*"We urge Congress to move quickly and pass this legislation."*



*"SPI and its member companies urge quick Congressional action to pass the proposed legislation so as not to cost U.S. manufacturing additional market opportunities from any further delays."*



*"We call on Congress to do everything in their power to level the playing field. We ask them to move quickly on this important legislation."*



*"Unless Congress moves quickly to approve Russia PNTR, American workers, farmers, and companies won't get the full benefits of these reforms."*



*"Passage of the bill, which would repeal the 1974 Jackson-Vanik amendment, is necessary for American businesses to capitalize on new market access opportunities in Russia under the terms of its WTO accession."*



*"We are pleased to see this action by a bipartisan group of Senators. This will help ensure that U.S. businesses benefit fully from Russia's pending WTO accession."*



*"We urge the Senate Finance Committee to act on this issue without further delay, followed by swift Senate passage."*

June 6, 2012

The Honorable Max Baucus  
Chairman  
Committee on Finance  
219 Dirksen Office Building  
United States Senate  
Washington, D.C. 20510

Dear Senator Baucus:

We are writing as representatives of the organized American Jewish community to express our support for the graduation of the Russian Federation from the Jackson-Vanik Amendment.

We do so because of Russia's 20-year record of free emigration and the expansion of opportunities for the Russian Jews. Russia has satisfied the requirements of the two areas central to the Amendment's intent: Jews are free to emigrate, in accordance with the Helsinki Final Act and established principles of international law; and those who choose to remain in Russia can practice Judaism and participate in Jewish culture without reservation.

Jewish community life has flourished since the dissolution of the Soviet Union. Synagogues, community centers and schools serve the community without government interference. Israel and Russia have full diplomatic relations, and even a visa-free travel agreement.

Russia's political leaders have taken concrete steps to demonstrate support for the revival of Jewish life in Russia and publicly stated their opposition to anti-Semitism. The official bodies of Russian Jewish community support Russia's graduation from Jackson-Vanik.

A strong bilateral political and economic relationship is in the strategic interest of both the United States and the Russian Federation. We believe that it is the time to graduate Russia from Jackson-Vanik and make Permanent Trade Relations a constituent part of the larger U.S.-Russian relationship.

Our support for Russia's graduation from Jackson-Vanik does not vitiate our continuing concern with the progress of human rights in Russia. We believe that the United States has the appropriate means to deal with these concerns.

Sincerely,



Mark B. Levin  
Executive Director  
NCSJ: Advocates on behalf of Jews in Russia,  
Ukraine, the Baltic States & Eurasia



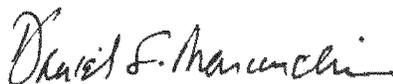
Howard Kohr  
Executive Director  
American Israel Public Affairs Committee



David Harris  
Executive Director  
American Jewish Committee



Abraham H. Foxman  
National Director  
Anti-Defamation League



Daniel S. Mariaschin  
Executive Vice President  
B'nai B'rith International



Malcolm I. Hoenlein  
Executive Vice Chairman  
Conference of Presidents of  
Major American Jewish Organizations



Steve Gutow  
CEO and President  
Jewish Council for Public Affairs



Jerry Silverman  
CEO and President  
Jewish Federations of North America

June 19, 2012

The Honorable John Boehner  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

Dear Speaker Boehner, Majority Leader Reid, Minority Leader Pelosi, and Minority Leader McConnell:

The signatories to this letter are former United States Trade Representatives. We have served in this position under four former U.S. Presidents, Democratic and Republican, including Presidents Ronald Reagan, George H.W. Bush, Bill Clinton, and George W. Bush. We are writing to share our united belief that timely action on legislation to graduate Russia from the Jackson-Vanik amendment and to establish Permanent Normal Trade Relations (PNTR) with Russia is in the national interest of the United States.

Russia is now the largest economy outside the World Trade Organization (WTO). It is the world's 9<sup>th</sup> largest economy and roughly one-fifth of its 142 million people are part of a rapidly growing middle class. Russia's accession to the WTO will give American workers, farmers, and businesses a significant new opportunity to expand their exports to Russia and help strengthen U.S.-Russia commercial relations. It is estimated that U.S. exports of goods and services to Russia could double—from \$11 billion in 2011 to \$22 billion in 2017.

Unfortunately, the United States will not be able to fully realize these benefits until Congress passes legislation graduating Russia from the Jackson-Vanik amendment and permanently granting Russia PNTR. Until Congress takes this step, the United States – alone among all WTO Members – will not have the ability to enforce the market opening, intellectual property rights and other WTO commitments that Russia has made.

To be specific, Russia will join the WTO – with or without U.S. approval – on or before August 22. At that time, 150+ other WTO members will enjoy the benefits and protections offered by Russia's WTO accession. The question for the United States now is whether we will join this group by granting PNTR, thereby allowing our workers, farmers, and firms to reap the benefits

of Russia's WTO membership, or will we deny PNTR and handicap our exporters at the very time our country needs increased exports to support jobs and economic growth. If Congress does not pass this legislation, Russia will still become a member of the WTO, but U.S. exporters will be placed at a significant disadvantage relative to their foreign competitors in the Russian market.

When we served as USTR, we each pursued the core U.S. trade and investment objectives of: (1) reducing tariffs on U.S. industrial and agricultural exports; (2) reducing barriers on U.S. services providers; (3) ensuring adequate and effective intellectual property protection for our innovative industries; (4) promoting global standards that are science-based, especially for U.S. agricultural exports; and (5) promoting transparency. We believe that Russia's WTO accession agreement furthers each of these policy objectives. U.S. legislation is, however, needed to lock in Russia's commitments in each of these areas so that they might benefit and be enforceable for U.S. market participants.

For these reasons, we respectfully urge you to act on legislation to graduate Russia from the Jackson-Vanik amendment and establish PNTR with Russia before the August Congressional recess. Timely Congressional action is the essential next step to ensuring that American workers, farmers and businesses will be competitive in the Russian market.

Sincerely,



Susan C. Schwab



Charlene Barshefsky



Michael Kantor



Carla A. Hills



Clayton K. Yeutter



William E. Brock III

**DEPUTY SECRETARY OF STATE WILLIAM J. BURNS  
STATEMENT BEFORE THE SENATE COMMITTEE ON FINANCE  
JUNE 21, 2012**

Chairman Baucus, Ranking Member Hatch, Distinguished Members of the Committee: thank you for inviting me to appear before you today.

This hearing comes at an opportune moment. This summer, Russia will become a member of the World Trade Organization. Before this happens, Congress has a choice: it can extend Permanent Normal Trade Relations (PNTR) to Russia, giving American exporters and workers a level the playing field in one of the fastest growing markets in the world; or it can keep Jackson-Vanik in place, preventing American companies from reaping the benefits of an unprecedented opportunity to boost trade in a large and growing market.

Terminating the Jackson-Vanik Amendment's application is not a favor to Russia. It is a step to help create American jobs. And, as Russia's aspiring democrats have made clear, it is a smart, strategic investment in the kind of country Russia's emerging middle class is striving for -- a Russia that promotes a strong rule of law. This step is in the Russian people's own self-interest and to the practical benefit of American companies and workers.

**I. The Economic Stakes**

At a time when the economic needs of the American people are great, U.S. foreign policy must help American workers and businesses connect to markets abroad to drive our economic recovery at home.

The upside of opening Russian markets to American exporters is clear. From 2009 to 2011, U.S. exports to Russia rose 57 percent, and total U.S.-Russia trade rose over 80 percent. However, U.S. trade with Russia still totals less than one percent of our global trade. Russia may be the world's seventh-largest economy, but it is our 20<sup>th</sup> largest trading partner.

Lifting Jackson-Vanik and extending PNTR does not require the United States to change any of its tariffs, services, market access, or other World Trade Organization (WTO) commitments. It simply makes permanent the treatment we have already extended to imports from Russia every year since 1992 and ensures that the WTO Agreement will apply between us. If the WTO Agreement does not apply between us American companies will be at a disadvantage. While America's competitors will enjoy more liberal treatment for exports of goods and services and

stronger commitments on protection of intellectual property rights, American companies will not. Russia will not have an obligation to apply science-based food safety standards to U.S. exports of meat and poultry or WTO rules on antidumping, leaving American companies vulnerable. Worse still, when our economic competitors from Brazil, Europe and China have grievances in Russia, their governments will be able to turn to a binding WTO dispute mechanism. The United States will not.

## **II. The Strategic Backdrop**

Beyond the benefits to immediate U.S. economic interests, extending PNTR to Russia is a strategic investment in our long-term relationship. Our strategic interests around the world demand that we cooperate with Russia in a number of areas. Russia is a permanent member of the Security Council and a member of the P5+1. Together Russia and the United States hold 90 percent of the world's nuclear weapons. Russia is the single largest source of the world's hydrocarbons. Russia sits astride Europe, Asia, and the broader Middle East, three regions whose geostrategic importance will continue to shape American interests for years to come.

By working together with Russia over the last three and a half years, we have shown that we can achieve tangible results that matter to our own self-interest and national security. We are implementing the New START Treaty. Together, we are disposing of enough weapons-grade plutonium for 17,000 nuclear warheads. Russia joined with other members of the United Nations (UN) Security Council in supporting Security Council Resolution 1929 and voluntarily cancelled the sale of a sophisticated air defense system to Iran, a contract worth over a billion dollars. This week, Moscow hosted international talks to press Iran to comply with its international obligations regarding its nuclear program. Russia also provides critical logistical support to international forces in Afghanistan: many of the supplies that transit the Northern Distribution Network go through Russia and a majority of our troops traveling to Afghanistan transit through Russian airspace -- over 370,000 military personnel in all.

The United States and Russia have achieved gains that extend beyond security and global politics to touch the daily lives of Americans and Russians. Last July, Secretary Clinton and Foreign Minister Lavrov signed an agreement to build trust and transparency on the sensitive issue of inter-country adoption. They also approved a reciprocal visa agreement to make it easier for business people and

tourists to travel between our countries. And through the U.S.-Russia Bilateral Presidential Commission and its 20 working groups, we have built new partnerships and engaged our citizens, businesses and non-governmental organizations in areas such as health care and energy efficiency.

Even as we seek progress on areas of mutual interest, there are also areas of real difference between our countries on issues ranging from missile defense and Georgia to Syria and human rights. We continue to believe that cooperation with Russia on missile defense can enhance the security of the United States, our allies in Europe, and Russia. In pursuing cooperation on missile defense, the United States will not agree to constrain or limit our missile defenses. U.S. support for Georgia's sovereignty and territorial integrity within its internationally recognized borders will not change. On Syria, our message to our Russian colleagues has been clear and consistent. Assad's campaign of terror against his own people is unconscionable. It is past time for action to meet our obligations as UN Security Council members to protect peace and security and allow the Syrian people to pull their country back from the brink and embark on a political transition.

We have serious concerns about democracy and human rights in Russia -- including the unsolved murders of journalists like Paul Klebnikov and the tragic death of Sergey Magnitskiy. In these instances and many others, we have not hesitated to voice our concerns publicly and directly with Russia's leadership. We have also taken action. Thanks to existing authorities and the President's Proclamation on Human Rights last August, we have taken steps to deny visas to those who have committed serious human rights abuses, including those involved in the Magnitskiy case. Through U.S. assistance programs, we are also supporting the Russian people in their efforts to promote transparency, accountable government, and the fair application of the rule of law.

Today, a deeper economic partnership represents one of our greatest opportunities to work to build trust and pursue common interests with Russia. The removal of Jackson-Vanik would give ballast to our overall relationship with Russia and strengthen the case of those who argue that greater cooperation with America is good for the Russian people.

Jackson-Vanik has served a noble and historic purpose. It put American law firmly behind the liberation of hundreds of thousands of Soviet Jews trapped on the wrong side of the Iron Curtain and achieved its goal. Years ago, the National Conference on Soviet Jewry began advocating for an end to Jackson-Vanik. The American Jewish Committee, echoing statements of other Jewish groups, joined

Russian democrats in reaffirming its “support for Russia's graduation from the Jackson-Vanik amendment, a Cold War relic which remains one of the thorns in the side of ties between the U.S. and Russia.”

Keeping Jackson-Vanik in place for Russia also provides political ammunition for those in Russia who argue that the United States is stuck in a Cold War mentality. It puts our companies at a competitive disadvantage and diminishes our ability to hold Russia to its commitments to transparency and increased market access.

### **III. Russia's Changing Landscape**

Two decades ago, many were overly optimistic about how quickly change would come to Russia. The reality is that real political and economic transition in Russia is likely to take decades to complete. However, change is already happening, and the pace is increasing. After a decade of growth, an emerging generation of Russians aspires not just to see their country as a wealthy great power -- but a modern nation in which they have the opportunity to compete and innovate in the global marketplace; a nation in which they have a say in how they are governed and how their taxes are spent.

Young Russians' connections to the world are growing and irreversible: half of Russians over age eighteen are on the Internet today. Three million Russians are blogging. Russians made over thirty-six million trips abroad last year. More Russians received visas to travel to the United States than ever before -- twice as many as came just seven years ago. Russians have become accustomed to and expect basic personal freedoms: the freedom to travel, to shift jobs and residence, to own and convey property, and to express themselves in cyberspace.

The fact that, beginning last December, tens of thousands of Russians have taken to the streets repeatedly to carry out peaceful demonstrations is a vivid reminder that Russians want a political voice and want to help shape their own future. They are a reminder that an empowered middle class, with a demand for accountability and transparency, can also drive political and economic change.

Our goal is to be supportive of efforts made by Russians themselves to modernize their economic and political systems. Russian civil society activists argue that increased trade with the United States would help strengthen this new middle class. They argue that greater transparency and accountability in rules will help attract the investment needed to move Russia's economy away from its dependence on

hydrocarbons and generate new sources of economic growth. They argue that a level playing field, including better legal protections and transparent, predictable rules applied uniformly across Russia's territory, will help provide a hedge against corruption and monopolistic control. Refusing to lift Jackson-Vanik and extend PNTR gives America no leverage over Russia in the areas where we differ. This is why leaders of Russia's political opposition have called on the U.S. to terminate Jackson-Vanik, notwithstanding their concerns about human rights and the Magnitskiy case -- concerns which we share. Similarly, Georgia recognized the benefits of increased trade and, notwithstanding its disagreements with Russia, joined a consensus agreement to support Russia's WTO accession.

Over time, extending PNTR can help Russians achieve their goal of building a modern, successful and prosperous nation. Upon accession to the WTO, Russia will join the United States and others in taking on obligations to increase transparency and predictability in laws and regulations. WTO membership and PNTR alone will not cut the Russian economy free from what Russia's own leadership recognizes are the crippling effects of corruption and weak rule of law. Other complementary measures such as beginning negotiations on a new Bilateral Investment Treaty and Russia's progress toward OECD accession are also important to continue to support Russia's modernization and openness to free trade. While challenges will remain for a long time to come, this long-term strategy of greater economic engagement, grounded in a rules-based system, can help to open up Russia's economy and society and to reinforce rule of law.

Ultimately, the Russian people themselves will have to choose their country's direction. In the meantime, we will support Russians' own efforts to create the kind of country they strive for: an open society that protects fundamental freedoms, property rights, transparency, competition and free trade; and a modern Russia that partners with the United States to promote global security and prosperity.

Navigating relations with Russia in the months and years ahead will not be easy. It will involve a complicated mix of managing cooperation and differences. However, as Russia prepares to join the World Trade Organization, the economic needs of the American people and the Russian people's vision for their own future both point us in the same direction: toward an end to the application of the decades-old Jackson-Vanik Amendment and the beginning of a new chapter in our economic and trade relationship with Russia.

**Questions for the Record Submitted to  
Deputy Secretary of State William J. Burns  
Senate Committee on Finance  
June 21, 2012**

*Questions from Senator Max Baucus*

**Question 1**

There are a host of troublesome issues in the U.S.-Russia relationship, including concerns about human rights, democracy, and foreign policy. But holding up Russia PNTR will not affect Russia one bit. Russia will join the WTO this summer regardless of what we do here in Congress. Failure to pass Russia PNTR only hurts U.S. workers and businesses. Given that PNTR doesn't give us leverage, what other tools do we have to address our foreign policy and other concerns with Russia?

**Answer**

We have real and continuing differences with Russia, and we will continue to push hard in these areas to find a common approach.

We disagree fundamentally with Russia about the situation in Georgia and have reiterated these concerns at the highest levels. On Syria, we are working with the Arab League, the EU, and others in the international community to urge Russia to push the Syrian regime to implement Kofi Annan's six-point plan, end the violence and work with the international community in promoting a serious and rapid political transition that includes Asad's departure. We have consistently and directly stressed our concerns about human rights in Russia. And we have taken steps to address these challenges, including through programs that support rule of law and civil society in Russia. Following the tragic death of Sergei Magnitsky, we imposed restrictions to ensure that no one implicated in his death can travel to the U.S.

It is in America's long-term strategic interest to work with Russia to build common ground in areas where our interests overlap. Already our work together over the past three years has produced significant results, including the New START Treaty to reduce strategic nuclear weapons, an agreement on civil nuclear cooperation, and military transit arrangements to support our efforts in Afghanistan. The establishment of the Bilateral Presidential Commission is another forum through which we can broaden and deepen our relationship across a broad spectrum of mutual interests and create stakeholders who understand the benefit of a stronger cooperative relationship between our two countries. While mindful of the challenges ahead, we will continue to build on our shared interests while still voicing our deep concerns over our disagreements.

Extending PNTR is also an investment in a better partner over the long term for the United States. It is an investment in the more open and prosperous Russia that we would like to see develop. And, as Russia's reformers have made clear, it is a smart, strategic investment in the kind of country Russia's emerging middle class is striving for – a Russia that promotes a strong rule of law.

**Question 2**

When I was in Russia, I met with human rights and democracy activists. They said that keeping Jackson-Vanik on the books undermines Russian activists who are pushing for reforms in their country. They said that repealing Jackson-Vanik is not a gift to Russia. In fact, repealing Jackson-Vanik is a gift to the activists because it takes away an anti-American propaganda tool.

What is your assessment of human rights conditions in Russia? What is the Department of State doing to support these activists and improve human rights and democracy in Russia? Do you think that repealing the Jackson-Vanik amendment will strengthen or hurt human rights activists in Russia?

**Answer**

Our latest Human Right Report details many of the concerns we have about human rights conditions in Russia. We will continue to express publically and privately our well-founded concerns regarding electoral processes, restrictions on fundamental freedoms, weakness of the rule of law, and lack of progress in tragic cases like the deaths of Sergei Magnitsky, Natalia Estemirova, and Paul Klebnikov.

Our democracy and human rights programs support independent media and organizations and activists monitoring elections, exposing corruption, defending human rights, and encouraging other reforms necessary to strengthen democratic governance and the rule of law.

Jackson-Vanik achieved its historic purpose by helping thousands of Jews emigrate from the Soviet Union, but it no longer has a direct role in promoting or protecting human rights in Russia. Moreover, failure to terminate Jackson-Vanik will put our farmers, manufacturers and workers at a disadvantage when competing against other WTO members for market share in Russia.

***Questions from Senator Orrin Hatch***

**Question 1**

Do you think it was a mistake to try and address some of the significant economic, rule of law, and human rights issues with respect to China as part of the law that granted China PNTR?

**Answer**

Although the overall picture of China's actions to implement its WTO policy commitments remains mixed, particularly given a troubling trend in China toward intensified state intervention in the Chinese economy over the last five years, these initial steps unquestionably deepened China's integration into the international trading system, strengthening both China's rule of law and the economic reforms that China had begun in 1978.

Since Congress granted China PNTR and China entered the WTO a year later, China has taken important steps to implement reforms in order to meet its accession commitments, including reducing tariffs, eliminating many non-tariff barriers that denied national treatment and market access for goods and services imported from other WTO members, and making legal improvements in intellectual property protections and in transparency.

The inclusion of human rights concerns into the 2000 PNTR law was an important reflection of the priority we place on human rights as an integral part of the bilateral relationship. The establishment of the Congressional-Executive Commission on China (CECC) as part of the PNTR law has played a significant role in the U.S. government's overall engagement with China on human rights concerns by monitoring human rights and the development of the rule of law in China, and through the submission of their annual report to the President and the Congress.

**Question 2**

Are you aware of, or have you read any reports, that the Russian government has threatened to retaliate against U.S. interests – whether national security, political or economic retaliation – if we do not grant PNTR and revoke Jackson-Vanik? Are you aware of any threats of retaliation from the Russian government should we pass the Magnitsky Act or other legislative provisions with PNTR that seek to address ongoing irritants with Russia? If so, please outline the nature of any such threats.

**Answer**

I am aware of no statements by Russian officials threatening retaliation against U.S. interests if Congress does not grant PNTR and repeal Jackson Vanik. As I have emphasized, failing to lift Jackson-Vanik and extend PNTR will not penalize Russia nor will it provide a lever with which to change the government's behavior. It will only hurt American workers and American companies.

There have been, however, statements made by Russian officials concerning pending Congressional action on Magnitsky legislation though no specific measures have been announced. On June 19, President Putin said, "If there will be restrictions on entry to the U.S. for some Russian citizens, then there will be restrictions for entry to Russia for some Americans," while other Russian officials have said we can expect "a number of additional measures."

We have urged Russian authorities to focus their efforts on investigating, prosecuting, and punishing those responsible for Mr. Magnitsky's arbitrary detention, maltreatment, and death. We strongly support the goals of the Magnitsky legislation – to bring those responsible for his death to justice, but believe that any measures taken should be consistent with best practices regarding U.S. visa laws and financial sanctions. This includes the deterrent value of confidential travel restrictions and high evidentiary standards and due process where asset freezes are concerned.

**Question 3**

Recently, Russia has tried to suppress further political protests against Vladimir Putin by enacting new laws that impose fines of over \$30,000 upon unsanctioned or permit-violating political protesters. Meanwhile, according to the OECD Working Group, Russia imposes no criminal liability for "preparation of a bribe" to foreign officials less than 150,000 Rubles – which is about \$4,600. Moreover, the OECD Working Group has said that Russia's relevant legislation "on its face falls short of the requirements" of the OECD convention on Combating Bribery of Foreign Officials in International Business Transactions. Would you agree that based on Russia's policies that Russia is more interested in silencing political protest than in implementing the Anti-bribery convention?

**Answer**

Corruption remains a significant problem in Russia, but Russia has shown some political commitment to address it, including passing legislation criminalizing bribery of foreign government officials, increasing the penalties imposed on persons convicted of bribery, and significantly extending the statute of limitations for bribery. The OECD Working Group on Bribery recommended that Russia remedy the gap between the description of the offense of preparation for a crime under its Criminal Code and the requirements of the Anti-Bribery Convention itself. The Working Group will re-examine this point in the next peer review of Russia's implementation of the Convention. The United States is also cooperating with a number of Russian civil society organizations attempting to report on and address Russia's corruption problems via the Anti-Corruption Subgroup of the Civil Society Working Group of the Bilateral Presidential Commission.

With regard to the new laws increasing the penalties for individuals participating in demonstrations, we have both publicly and privately expressed concern to the Russian Government about these laws and their potential for stifling political dialogue.

**Question 4**

Two findings in the PNTR bill introduced in the Senate state that: "Russia allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas and free of any tax as a consequence of the desire to emigrate." And that "Russia is in full compliance with the freedom of emigration requirements."

It is my understanding that Russia has found new and arbitrary ways to restrict emigration by denying emigration in cases where arbitrary fines have been imposed, by arbitrarily seizing the passports of opposition leaders as well as ordinary citizens or by denying new passports to civil society activists who have chosen to emigrate, in an attempt to force them to return to Russia.

Given these facts, do you still believe Russia allows for freedom of emigration?

**Answer**

We have received no such information. All current information indicates that the emigration laws and practices of the Russian Federation continue to satisfy the criteria set forth in Sections 402(a) and 409(a) of Title IV of the Trade Act of 1974, in particular the requirements that the Russian Federation does not: deny its citizens the right or opportunity to emigrate; impose more than a nominal tax on emigration or on the visas or other documents required for emigration, for any cause or purpose whatsoever; or impose more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire to emigrate.

Legal guarantees of the right to emigrate are enshrined in Russia's constitution and in law, and that right is respected in practice. Russian law details the procedures for obtaining travel documents and stipulates instances where such documents can be refused. Close relatives who depend on a potential emigrant for material support are required by law to give their concurrence before the potential emigrant is permitted to depart. In addition, the law gives the government the right to deny permission to travel abroad for periods of up to 10 years to Russian nationals who have had access to classified material. Russian law also grants the state the right to refuse travel abroad to individuals who are the subject of legal proceedings, convicts who have not served their sentences, and those who have evaded financial obligations imposed by a court.

Russian law provides a measure of transparency by requiring that any denial of exit permission (to include emigration) on secrecy grounds (i.e., pertaining to access to classified material) must: (1) specify reasons for and duration of the restriction and (2) indicate the full name and legal address of the organization that requested the restriction. It also formalizes the status of an interagency commission that hears appeals of Russian nationals refused permission to travel based on secrecy grounds.

Since January 1, 2011, this commission has held nine meetings, during which it reviewed 212 cases, and in 140 of them it allowed the appellant to depart. In 52 cases the restrictions were left in place, and 20 cases were postponed for a second review. The Ministry of Foreign Affairs (MFA) publishes the results of the commission's meetings on the MFA website and issues a consolidated annual report as well as a press release, both of which are publicly available through the internet. Since the inception of the commission in 1995, the annual percentage of decisions to allow departure has fluctuated between lows of 68 percent in 2010 to a high of 91 percent in 1997. This number includes only persons who appealed the decision to restrict their travel to the commission.

Since the early 1990s, a large percentage of Russia's Jewish population has emigrated to Israel or the United States. According to leaders of Jewish communities in Russia, many emigrants from

Russia to Israel now maintain legal residence in both countries. Visa-free travel between Russia and Israel began in the fall of 2008.

**Question 5**

During testimony before the Senate Intelligence Committee in January, Director of National Intelligence James Clapper testified that cyber threats pose a critical national and economic security threat and that among state actors, Russia, along with China, is of “particular concern.” He stated that U.S., counterintelligence reports indicate that “entities within [Russia] are responsible for extensive illicit intrusions into US computer networks and theft of US intellectual property.”

As more and more U.S. companies operate in Russia, won't the risk of Russian intrusion into their networks increase commensurately? What is the U.S. government doing to protect U.S. companies against cybercrime, industrial espionage and other illicit intrusions into their networks in Russia?

**Answer**

We are concerned about hacking and cyber intrusions everywhere, including in Russia. Along with the Department of Homeland Security and other agencies, we are committed to working with U.S. companies to help them protect their networks and IT systems and make them aware of threats, while at same time working to address the issue in a more systemic manner.

**Question 6**

This December in Dubai, the U.N. International Telecommunications Union's World Conference on International Telecommunications will revise its International Telecommunications Regulations for the first time in almost 25 years.

Both Republican and Democratic Members of Congress and Administration officials have expressed grave concern about a Russian proposal to give the ITU control of basic Internet architecture and functions. This Russian proposal is backed by many of the world's least democratic and most theocratic states, and many fear that Russian Prime Minister Putin will use his close relationship with ITU Secretary General Touré to secure approval of the Russian proposal.

Given the close ties between Putin and Touré, the Russian ITU proposal's broad support among authoritarian governments, and the voting structure of the ITU, how does the Administration plan to ensure that the proposal is rejected by the ITU?

**Answer**

The U.S. State Department – and the entire U.S. Government – is actively engaged with our global partners in a variety of international fora on telecommunications issues, including the ITU, and remains committed to working with all Internet stakeholders to defend and strengthen the open, interoperable, secure, reliable, and innovative Internet. In 2011, President Obama

released his International Strategy for Cyberspace, which stated that “[p]reserving, enhancing, and increasing access to an open, global Internet is a clear policy priority.” This strategy has provided our government with clear direction to support the multi-stakeholder model of Internet governance while resisting attempts to create intergovernmental mechanisms of control.

With respect to the ITU, the United States’ delegation went to the most recent ITU Plenipotentiary meeting in Mexico in October 2010 with the aim of maintaining and, where appropriate, strengthening the ITU’s important functions. We also went to Mexico with the strong intention of dissuading national administrations from seeking to expand the ITU’s remit beyond useful limits, and especially from asserting additional claims to a privileged policy position or outright justification over Internet issues.

We succeeded. The conference affirmed the importance of the practical Internet-related technical and developmental assistance the ITU is rendering its members and it defined the ITU’s appropriately limited place in the Internet architecture. As to the latter, the Plenipotentiary called for “greater collaboration and coordination between the ITU and the relevant organizations” (including but not limited to) the Internet Corporation for Assigned Names and Numbers, the Regional Internet Registries, the Internet Engineering Task Force, the Internet Society, and the World Wide Web Consortium. We believe that this reflects an accurate statement of the ITU’s place. It is one among many, and the majority of the others are a reflection of the multi-stakeholder universe that has advanced and sustained the Internet’s development. The Plenipotentiary resolution that contained this language recognizes that it would be inappropriate to assign the ITU a role beyond the bounds of its technical competence, let alone assign it responsibilities for the Internet’s evolving architecture or mechanisms for economic integration.

Many other governments joined with the United States in securing this outcome. Unsurprisingly, democratic nations around the world are among those most anxious to prevent the Internet from falling under intergovernmental control.

In December of this year, 193 nations will gather at the World Conference on International Telecommunications (WCIT) in Dubai to revisit the International Telecommunication Regulations. One year ago, there was concern that WCIT would be a battle over investing the ITU with explicit authority for Internet issues, and that the U.S. would be confronting wholly new, stand-alone draft treaty texts proposing Internet governance provisions. In response, the US Government developed a detailed WCIT position that sought to use the existing ITRs as the basis for treaty negotiations and – within the more narrowly subscribed scope and focus of those existing provisions – achieve further deregulation and liberalization of international telecommunications markets.

By any measure, the U.S. was successful in pressing this issue in 2011. The existing ITRs have been accepted as a framework for negotiations. There are no pending proposals to vest the ITU with direct Internet governance authority. Instead, thus far, traditional telecom issues such as roaming and fraud have taken center stage. Based on formal filings made thus far, and informal proposals being considered by various ITU regions, much of the world seems to be saying that

practical telecom issues should be the focus of WCIT to address the many issues relating from wireline to wireless communications.

Most ITU Member States are in agreement with the U.S. view that any revisions to the International Telecommunications Regulations should have no adverse impact on the existing, highly successful multi-stakeholder and decentralized model of Internet governance. The U.S. government will continue to reach out to key ITU member states in the coming months to underscore the stake each of them has in a secure, stable, reliable and open Internet.

**Question 7**

You testified that Russia's WTO accession was a concrete result of President Obama's "reset" policy towards Russia. This causes me concern that, in order to advance political goals, the U.S. did not negotiate the best deal possible. For example, it would appear that many concerns raised as early as 2005 have still not been adequately addressed prior to the Obama administration agreeing to Russia's WTO accession or as part of the WTO accession itself. Were these concerns overlooked in an effort to quickly conclude WTO accession to advance President Obama's reset policy?

**Answer**

The United States, and other WTO Members, worked for 18 years to negotiate Russia's WTO accession package, a process that received new impetus under the "reset." The resulting accession protocol is over 600 pages (excluding annexes) and describes Russia's revised trade regime, in addition to setting forth detailed commitments. Russia's membership in the WTO will lower tariffs, hold the Russian government accountable to a system of rules governing trade behavior, and provide the means to enforce those rules. Russia is opening its services market in sectors that are priorities to American companies, including audio-visual, telecommunications, financial services, computer and retail services. In addition, Russia agreed to significant commitments on a variety of other WTO issues, including Sanitary and Phyto-Sanitary provisions (SPS), Intellectual Property Rights (IPR), customs valuation, import licensing, and increased transparency, to name only a few. While Russia's membership in the WTO will not end all of our bilateral trade disputes, it will give us better tools with which to address them.

***Questions from Senator Jon Kyl***

**Question 1**

You gave the following quote to the Russian press in February of last year: "Trade and investment, as I mentioned before, are increasing between the United States and Russia, and I hope very much that that continues, but it's also important for us – both of us – to address the obstacles in the path of that expansion and questions that arise. In the case of Yukos, for example, there's another very practical reason that Americans are concerned, and that is that there are a number of American investors in Yukos with several billion dollars' worth of investments at stake."

It is my understanding that the State Department has not yet acted on a petition for the administration to espouse the rights of U.S. investors and pension funds that lost billions when the Russian government expropriated Yukos Oil Company. How is the administration planning to protect these American shareholders? If the administration will not stand up for U.S. interests in this case, how can we have any confidence that the administration will vigorously enforce a bilateral investment treaty if we are ever able to successfully negotiate one with Russia, or for that matter, whether the U.S. will be willing to enforce Russia's WTO obligations?

**Answer**

Promoting the rights of U.S. investors is one of the State Department's top priorities in Russia and worldwide. The Department is monitoring closely the significant claims brought by Yukos investors from many different countries in international court and arbitration proceedings. We expect these decisions to shed light on many of the complex legal issues at stake in this matter and recognize that such decisions may have the potential to strengthen the claim of the American investors to compensation. In the meantime, U.S. officials have raised the American investors' claims with the Russian Government, both in public and in private, and will continue to stress the interest of the USG in seeing these claims addressed in a manner consistent with customary international law protections for foreign investments. Administration and Department officials have also met several times with representatives of the American investors to discuss their claims and the range of options available in seeking a resolution to this important dispute.

With regard to enforcement of WTO obligations, the United States takes its trade obligations very seriously and expects all WTO Members to do the same. The Administration has a strong record of taking enforcement actions where necessary to ensure compliance with WTO rules. And with the creation of the new Interagency Trade Enforcement Center, we will have an even more focused approach to enforce those obligations. We will be vigilant with regard to ensuring that Russia plays by the rules and implements all of its WTO commitments. However, we will not be able to use the mechanisms of the WTO to enforce Russia's rules-based commitments unless the WTO Agreement applies between us, which requires Congress to extend Permanent Normal Trade Relations to Russia.

A bilateral investment treaty would afford important investor protections, improve transparency and predictability, and provide investors with the opportunity to resolve investment disputes through international arbitration. We remain interested in continuing talks with Russia on a bilateral investment treaty.

**Question 2**

In The Wall Street Journal on July 20, Secretary Clinton suggested that the leaders of the Russian opposition support lifting Jackson-Vanik "despite their concerns about human rights and the Magnitsky case." Mr. Burns, you made a similar statement in your written testimony. I am sure you are aware that this omits a material fact – that these opposition figures believe strongly that Jackson-Vanik should be replaced with other human rights legislation, namely the Magnitsky Act.

Isn't it true that the opposition supports replacing Jackson-Vanik with the Magnitsky bill?

Your testimony and Secretary Clinton's op-ed suggest that opposition leaders agree with the administration's position on Jackson-Vanik. Asking the question in reverse, does the administration agree with the opposition that Jackson-Vanik should be replaced with the Magnitsky Act?

Has the State Department asked for a delay in any committee markup of the Magnitsky legislation, or participated in talks designed to weaken penalties in the bill or avoid publicly identifying individuals determined to have committed gross human rights violations?

**Answer**

A number of opposition politicians and human rights activists support both Russia's graduation from Jackson-Vanik and the enactment of legislation related to the Magnitsky case. Consensus in Russia and the United States is that Jackson-Vanik has served its purpose. Some of those same individuals have strong concerns about human rights and democracy in Russia, and support passage of legislation to address the Magnitsky case.

The Administration has been in ongoing dialogue with Senator Cardin and the Senate Foreign Relations Committee on the Magnitsky legislation since the bill was introduced in June 2011. In those discussions, we have made it clear that we share concerns about the tragic death of Sergei Magnitsky and that the Administration is already taking action on this issue. As a result of our concern over the events surrounding the death of Sergei Magnitsky, we have taken important steps – using the existing authorities of the Immigration and Nationality Act, as well as the expanded powers provided by the President's 2011 proclamation – to ensure that no one implicated in Mr. Magnitsky's death can travel to the United States.

The Administration is firmly committed to calling out human rights violations wherever they occur. The United States already bars admission to the United States to aliens who have engaged in torture and extrajudicial killings. President Obama, Secretary Clinton and other senior Administration officials have publicly and privately raised matters of concern in Russia, from human rights violations to the erosion of democracy, and legal injustices and will continue to do so. Senior Administration officials have issued over 100 public statements about Russian human rights violations and transgressions of the rule of law and democratic principles.

**Question 3**

Mr. Burns, in response to questions about bribery and corruption in Russia, you mentioned that the Russian Federation agreed recently to join the OECD Anti-Bribery Convention.

(a) It is my understanding that the convention deals only with bribery of foreign public officials in international business transactions, and not bribery or corruption of Russian officials on Russian soil?

(b) Given that Russia ranked last of the 28 largest economies in Transparency International's 2011 Bribe Payers Index, meaning that Russian companies are most likely to bribe when doing business overseas, do you expect a dramatic improvement solely because Russia enacted a domestic law against bribery of foreign officials? If so, what gives you that confidence? What will the administration do specifically to ensure that Russia is fully compliant under the convention and vigorously enforces its laws?

**Answer**

(a) The Anti-Bribery Convention does obligate Russia to prohibit bribery of foreign public officials; however, Russia is also obligated to address bribery and corruption of Russian officials. For example, in Article 9 of the Convention, states parties are obligated to provide "prompt and effective legal assistance" to other parties to the Convention, without regard to the jurisdiction in which any alleged offense may have occurred. Russia is a party to the United Nations Convention Against Corruption (UNCAC), which requires criminalizing the bribery of national public officials, as well as the solicitation and acceptance of bribes by national public officials.

(b) As a party to the Anti-Bribery Convention, Russia is subject to regular peer reviews of its performance. The United States, as a party to the Convention, will continue to participate in the regular peer reviews. In fact, the United States will be one of two lead examiners for Russia's upcoming Phase Two review under the Anti-Bribery Convention. We expect Russia to honor its obligations under the treaty.

***Questions from Senator Richard Burr***

**Question 1**

I am aware that there are a number of concerns about Russia's human rights record, and I wanted to raise one specific issue with you. On Tuesday of this week, the State Department released its 2012 Trafficking in Persons Report. I am encouraged to learn that more than 42,000 victims of trafficking were rescued by authorities in 2011, up from approximately 33,000 in 2010, but I know that this represents only a fraction of the victims. Russia has remained on the Tier 2 Watch List for the past eight years due to the government's failure to adequately address human trafficking. What is the State Department doing to address this issue?

**Answer**

The Department has made outreach to Russia on combating human trafficking a priority over the past several years and will continue efforts to engage with Russia on this important issue. Ambassador Luis CdeBaca of the Department's Office to Monitor and Combat Human Trafficking has traveled to Russia three times in an effort to build a partnership and strengthen outreach. He has also served as co-chair of the migration and anti-trafficking sub-working group under the U.S.-Russia Bilateral Presidential Commission's Civil Society Working Group. Over the past two years, the Department has arranged several U.S. study tours for Russian officials

and NGOs to share U.S. experiences and best practices on combating human trafficking. In November 2011, the U.S. Embassy in Moscow, in coordination with Ambassador CdeBaca, hosted a forum in Moscow for Russian officials and NGOs to jointly address human trafficking. We will continue to make this a priority in our discussion with Russian officials.

**Question 2**

Your testimony highlights Russia's changing landscape and notes that young Russians desire a more democratic and transparent society. What specifically is the State Department doing to support these individuals who want to see a Russia that allows open political expression, holds criminals responsible for their crimes, and has free and fair elections?

**Answer**

The United States supports the efforts of all Russians, inside and outside of government, who strive to develop democratic governance and respect for universal values. Through our diplomatic efforts and assistance programs, the U.S. Government seeks to work with Russian partners to foster democracy and respect for human rights by pursuing the complementary objectives of encouraging transparent and accountable government and strengthening civil society. The Obama administration has developed a strategy of pursuing these goals through simultaneous engagement with both governmental and non-governmental actors to advance democratic development and human rights. This democracy strategy specifically focuses on: (1) government-to-government engagement on issues of democracy and human rights; (2) participation with Russia in the Open Government Initiative; (3) making statements in support of Russian democratic development and critical of human rights abuses; (4) taking action against human rights abusers; (5) engaging directly with Russian civil society; (6) financially supporting civil society in Russia; (7) promoting the modernization of civil society; and (8) fostering peer-to-peer dialogue between American and Russian civil society leaders.

Human rights are a regular part of our conversation with Russian officials, including at the most senior levels, and we seek to engage Russian civil society at every opportunity. Secretary Clinton raised human rights concerns with Foreign Minister Lavrov following a roundtable with St. Petersburg civil society activists during her most recent visit to St. Petersburg. We have not only raised these concerns in private, but have also publicly condemned abuses of human rights and shortcomings in democratic governance in Russia. Our ambassador in Moscow, Michael McFaul, has frequently engaged with members of Russia's political opposition and with leaders of the human rights community on ways in which the U.S. government can help support their efforts.

We are also working to engage Russia actors at the working level through the Bilateral Presidential Commission (BPC). The BPC has helped to structure and facilitate routine contacts and discussions between our two governments and our civil societies on issues of governance, and rule of law. The Civil Society Working Group, for instance, facilitates ongoing cooperation and exchanges between U.S. and Russian civil society organizations working in the areas of Child Protection, Migration, Prison Reform, and Anti-Corruption. In April, we welcomed

Russia to the Open Government Partnership (OGP), which seeks to advance good governance and enhance civil society's relationship with government.

While welcoming positive steps by Russia on its civil society front, we also continue to express our concerns over negative actions. U.S. Government officials have privately and publicly condemned abuses of human rights and democratic governance in Russia, while also providing encouragement to Russian actors who take steps to address these abuses. Those concerns are reflected in over 100 public comments and statements by administration officials since 2009.

Moreover, we have taken concrete steps to ensure that human rights violators from Russia do not receive U.S. visas. The United States has and will continue to use the full range of legal measures to impose consequences on those involved in gross human rights abuses in Russia. Consistent with the Immigration and Nationality Act (INA) and the President Obama's "Proclamation on the Suspension of Entry as Immigrants and Non-immigrants of Persons Who Participate in Serious Human Rights Abuses and Humanitarian Law Violations and Other Abuses," the Administration has restricted travel to the United States of those in Russia involved in human rights abuses.

Parallel to this engagement, USAID, the Department of State and the Department of Justice maintain robust programming focused on rule of law, human rights, anti-corruption efforts, civil society, independent media, good governance, and democratic political processes. We also work to foster direct communication and linkages between American and Russian non-governmental organizations and policy experts to confront common challenges and learn from our respective experiences.

**Senator Maria Cantwell  
Senate Finance Hearing  
Russia Permanent Normal Trade Relations  
June 21, 2012**

Mr. Chairman, thank you for holding this important hearing.

Senator Henry "Scoop" Jackson, whose Senate seat I am proud to now hold, was one of the most effective and accomplished Senators of his generation.

Scoop not only had a deep compassion and concern for the well-being of his constituents, but he was also dedicated to helping people on issues that went well beyond those of his state or nation.

This is evident in the Jackson-Vanik amendment we are discussing here today.

This amendment to the 1974 Trade Act was the result of several years of work by Senator Jackson. An accomplishment all the more impressive because it was vigorously opposed by President Nixon and then-Secretary of State Henry Kissinger. And of course the Soviets.

But they were no match for the legislative skill of Senator Jackson, who secured 72 cosponsors, and shepherded its passage through the Senate by a vote of 88 to zero.

Scoop did not consider American ideals and self-interest to be mutually exclusive, but rather he saw them as complementary and self-reinforcing.

I think that comes through clearly in the Jackson-Vanik amendment.

That's why, while I am a strong supporter of increasing trade export opportunities, I do not take the repeal of Jackson-Vanik lightly.

Like my predecessor, I am concerned with some of the human rights issues in Russia that have been raised. Like in Soviet times, incidents of politically motivated torture, abuse, and violence are all too common in Russia today.

Reports of serious election violations last March, and the return of Vladimir Putin to the Presidency reminds many Americans of the abuses of the Soviet Union.

It is with these concerns in mind that I have decided to cosponsor the Sergei Magnitsky Rule of Law Accountability Act, which has been introduced by my colleague Senator Cardin.

The Magnitsky legislation limits visas and blocks the assets of individuals responsible for gross violations of human rights in Russia.

I believe it is important that the Magnitsky bill be incorporated into the Russia Permanent Normal Trade Relations authorizing legislation.

Russia is not a perfect trading partner.

It still struggles in its protection and enforcement of intellectual property rights and has been inconsistent in its application of agricultural standards that are based on science.

However, I believe these battles can be more effectively fought within the World Trade Organization by utilizing its dispute settlement mechanisms.

Failure to grant Russia PNTR status would deny the United States the ability to bring a trade dispute with Russia before the WTO. And it would deny the U.S. the benefits of the new commitments made in Russia's accession agreement on intellectual property and market access for service industries.

With respect to intellectual property, as soon as Russia ascends to the WTO, it must comply with all of the obligations of the WTO which protect and enforce IPR.

Additionally, Russia's accession agreement incorporates key lessons from China's experience with IPR enforcement. That includes key rules for combating piracy and counterfeiting occurring on a commercial scale.

Our companies will not be able to benefit from these important concessions unless we grant Russia Permanent Normal Trade Relations.

Jackson-Vanik was a vital policy tool to protect human rights in the former Soviet Union and permit free and unrestricted emigration of its citizens.

However, since the fall of the Soviet Union, we have granted Permanent Normal Trade Relations status to several former communist countries such as Albania, Bulgaria, Cambodia, the Czech Republic, Estonia, Georgia, Hungary, Latvia, and Lithuania. We have even granted PNTR to China.

Since 1994, every President has determined that Russia was in full compliance with Jackson-Vanik.

It is important that we work with Russia to address some of these key issues and concerns. However, it will be more challenging to address these concerns outside of an international forum for dispute resolution.

Therefore, I think it is important that we strive to productively engage with Russia to ensure our products and companies are getting fair treatment when trading with Russia.

But like Senator Jackson, we must not forgo our ideals for commercial interests. It is better to promote both, and that's where the Magnitsky bill comes in. The Magnitsky bill helps achieve the correct balance and honors the legacy of the landmark Jackson-Vanik bill.

Thank you, Mr. Chairman.

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**STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER  
U.S. SENATE COMMITTEE ON FINANCE HEARING OF JUNE 21, 2012  
RUSSIA'S WTO ACCESSION: ADMINISTRATION'S VIEWS  
ON THE IMPLICATIONS FOR THE UNITED STATES**

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, delivered the following opening statement today at a committee hearing examining the accession of Russia to the World Trade Organization (WTO):

Mr. Chairman, thank you for agreeing to hold this hearing. We will hear two major arguments from the Administration today.

First, we must pass PNTR or our workers will be disadvantaged when Russia joins the WTO this summer.

Second, most civil society groups, including many groups who initially supported the Jackson-Vanik amendment, support removing Russia from that statute.

Since neither of these points is in dispute, I hope we can quickly move beyond these stale talking points. The issue is not whether Congress should grant Russia PNTR and remove them from the Jackson-Vanik amendment. The question is whether this is, in itself, enough. Both the Chairman and I know that it is not. There is already a written commitment that this will not be a clean bill and that there will be legislation beyond PNTR included in it. We also know that members on both sides of the aisle have already raised numerous economic and non-economic issues that need to be addressed if this process is to be successful.

Every day, newspaper headlines further document Russia's disregard for the rule of law, human rights, and democracy. Tens of thousands of Russian citizens have taken to the streets to protest the illegitimate Putin regime at great risk to themselves and their families.

Russia's efforts to reestablish its regional hegemony, including through military occupation of regions within Georgia, are well known. Russia publicly seeks to undermine the U.S. missile defense system in Europe, through military means if necessary. Russia's military support for the Assad regime in Syria and warm relations with Iran run counter to U.S. efforts to secure regional peace and stability.

And, just this week, press reports detailed plans by Syria, Iran, Russia, and China to engage in the largest joint war games ever conducted in the Middle East. These military exercises will include the use of Russian atomic submarines, warships, and aircraft carriers.

The commercial environment in Russia continues to be among the worst in the world. Long-standing commercial disputes, including issues related to the expropriation of Yukos, remain unresolved. Bribery and corruption in Russia are endemic. The 2011 Transparency

International Corruption Perception Index ranks Russia at 143 out of 183 countries, just barely ahead of North Korea and Somalia. Similarly, the World Bank's Doing Business Index ranks Russia 120 out of 183 countries. Russia repeatedly fails to abide by its international commitments. They have yet to fulfill commitments related to intellectual property rights protection and access for U.S. agriculture products made over six years ago. And of course, despite U.S. ratification, Russia never ratified the U.S.-Russia Bilateral Investment Treaty — another clear example of their failure to deliver on their economic promises.

Despite this panoply of problems and Russia's proven record as a rogue regime, the Obama administration has not articulated a clear and coherent strategy regarding Russia. Instead, they ask Congress to simply pass PNTR and remove Russia from long-standing human rights law, while ignoring Russia's rampant corruption, theft of U.S. intellectual property, poor human rights record, and adversarial foreign policies — all for a market that amounts to .05 percent of U.S. exports.

The Obama Administration argues that the U.S. has no leverage over Russia by withholding PNTR. But they fail to acknowledge that it was the Obama Administration that squandered America's leverage when the President decided to invite Russia to join the WTO to augment his failed reset policy. With this leverage now gone, they argue that the myriad of economic problems we confront daily will be resolved through WTO litigation. We know from our experience with China in the WTO that this simply is not enough.

What bothers me most, however, is the President's double standard in dealing with Russia. Three of our closest allies — Colombia, South Korea, and Panama — were forced to wait years for consideration of their trade agreements, while the Administration invented problems that had to be resolved before it would even act on the agreements. Every one of these markets is larger than Russia. The economic arguments for moving each agreement trumped any argument one can make about the immediate economic benefits of having Russia in the WTO, especially when considering that Russia already committed to provide MFN treatment to our exports under the terms of our 1992 Bilateral Trade Agreement.

Yet the President forced our workers and our close allies to wait for years before they could take advantage of our trade agreements. While the President delayed, our workers lost more and more market share to foreign competitors. And, once the President's concerns were addressed, he then demanded that Congress renew a domestic spending program, to the tune of almost a billion taxpayer dollars, before acting on these agreements. All because the President insisted that his trade policy reflect his "core values".

Well, where are those core values now? When it comes to trade with Russia they vanish. When it comes to PNTR, the President asks us to act post-haste. He expects Congress to turn a blind eye to the barrage of bad news that demonstrates on a daily basis the deteriorating political, economic and security relationship between the United States and Russia.

We search in vain for coherence or consistency from the President on the issue of Russia. Despite my best efforts, I cannot discern any consistent principles or values underlying President Obama's trade strategy or unravel the logic underpinning his flawed approach toward Russia.

That is one reason I asked for an opportunity to hear directly from the Administration. These serious issues with Russia matter. They cannot be swept under the rug so the Administration can continue to appease the Russians in a vain effort to salvage the thin remains of a flawed reset policy. Congress, and this Committee, have a right to hear from the Administration. And, when there are policy gaps that harm our economy, national security, or strategic interests, Congress has an obligation to act, with or without the Administration's blessing.

With all due respect to our witnesses today, I would be remiss if I failed to express my disappointment that neither Secretary Clinton nor Secretary Panetta could testify today. They were both in the Senate recently to testify in favor of the Law of the Sea Treaty, a fatally-flawed document which has been debated ad nauseam for over 20 years and will not come for a vote in the Senate anytime soon; so my hope was that they could have participated in today's hearing.

I expect that we will hear today that Jackson-Vanik is a relic of the cold war, appropriate for its time but not today. That may be true, but one fact remains — Russia continues to see itself and act as a military, strategic, and economic counterweight to the United States. They view every aspect of their relationship through this lens, including their membership in the WTO. An Administration reset policy toward Russia that ignores this reality and consciously seeks to separate these interrelated issues is naïve, dangerous, and doomed to failure. We should support the ability of American workers to try and take advantage of Russia's impending membership in the WTO, but in so doing Russia must be held accountable for its policies.

If the Administration is not willing or able to do that, then Congress will.

Again Mr. Chairman, I thank you for agreeing to hold today's hearing, and I look forward to hearing from our witnesses today.

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**Statement of Ambassador Ron Kirk  
United States Trade Representative  
Before the Senate Finance Committee  
June 21, 2012**

Chairman Baucus, Ranking Member Hatch, Members of the Committee, thank you for the opportunity to testify.

Under President Obama's leadership, the Administration has worked with this Committee and Congress as a whole to bring U.S. trade policy into greater balance with the needs and concerns of American businesses, workers and families. Market-opening measures such as new trade agreements with Korea, Colombia, and Panama, coupled with stronger enforcement of U.S. trade rights, have helped to secure a more level playing field for U.S. exporters to sell more U.S. products and services to consumers worldwide. These efforts have clearly contributed to economic recovery. The Commerce Department estimates U.S. exports supported at least 1.2 million additional American jobs from 2009 to 2011.

Continuing cooperation between Congress and the Administration is essential to provide the American people with additional job-supporting trade opportunities. Last time I was here in March to discuss the President's 2012 trade agenda, we talked about Russia's impending membership in the World Trade Organization (WTO) and I underscored the President's priority for legislation to ensure that U.S. workers and businesses -- including farmers, ranchers, manufacturers, and service providers -- will enjoy the same benefits of Russia's membership that their international competitors will soon have.

Specifically, since we concluded the 18-years long multilateral negotiations on Russia's WTO accession package last year, the President and members of the Administration have repeatedly urged Congress to terminate application of the Jackson-Vanik amendment and authorize the President to provide Permanent Normal Trade Relations (PNTR) to Russia before it joins the WTO later this summer.

Russia will take the last step in its long journey toward WTO membership this summer, when it ratifies its WTO accession protocol. On June 7, the Government of Russia submitted legislation

to the Duma to do so. And when I was in Moscow earlier this month, first Deputy Prime Minister Igor Shuvalov assured me that Russia would notify the WTO that it had completed its domestic procedures to join the WTO by the July 23 deadline. Thirty days after the WTO receives Russia's notification, Russia will -- automatically -- become a Member of the WTO. In other words, we can expect that Russia will be a Member of the WTO no later than August 22.

Terminating application of Jackson-Vanik and authorizing the President to provide permanent normal trade relations is not a gift to Russia. Rather, taking such action will ensure that the WTO Agreement will apply between the United States and Russia, and that U.S. businesses and workers will have the opportunity to enjoy all of the benefits of Russia's membership in the WTO. If, however, the WTO Agreement does not apply between us, then U.S. exporters and investors will be put at a competitive disadvantage in Russia. We do not want that to happen, especially now when we are trying to do everything possible to spur economic growth and job creation. That is why the Administration has strongly and repeatedly urged Congress to act on these measures in order to ensure that U.S. workers and businesses will reap the full range of benefits from Russia's WTO membership – benefits that U.S. trade negotiators have worked hard over many years, on a bi-partisan basis, to secure.

#### *Russia Today*

The Russia that joins the WTO this summer is significantly different from the Russia that started the negotiations 18 years ago. In 1994, Russia was still coming out of the chaos of a deep economic crisis following the collapse of the Soviet Union, with a 50 percent decline in GDP and industrial output. Russia was the 16<sup>th</sup> largest economy in 1994 at \$277 billion (based on the current exchange rates), just ahead of Switzerland and only 4 percent the size of the U.S. economy. Real GDP had dropped nearly 13 percent in 1994, and Russia's economy continued to decline for the next 3 out of 4 years. At that time, per capita GDP was only \$1,865.

Today, Russia is the 7<sup>th</sup> largest economy in the world, its GDP is \$1.9 trillion and its per capita GDP is nearly \$13,000– the highest among the BRICS countries. Real GDP growth was above 4 percent for the past two years, and is forecasted to continue at around 4 percent for the next 5 years. But Russia is only our 20<sup>th</sup> largest trading partner, with \$42.9 billion in two-way trade in goods in 2011.

We therefore see significant opportunity for increasing exports of U.S. goods and services to Russia. From 2010 to 2011, our exports increased by nearly 40 percent. In fact, in April, U.S. goods exports to Russia reached a record \$1.1 billion. The Department of Commerce reports that every \$1 billion of U.S. exports of goods and services supported over 5,000 jobs in 2011. And these are well-paid jobs-- jobs supported by goods exports pay roughly 13 percent to 18 percent more than the national average.

The Russia that will become a WTO Member in August is an expanding market with a vibrant middle class that is demanding better products and services. In addition, the highest levels of Russia's government recognize that Russia needs to diversify its economy away from its dependence on extractive industries, primarily oil and gas. Both of these factors suggest that there will be significant new demand in Russia for exports of U.S. goods and services.

That is why our priority is for Congress to terminate the Cold-War era Jackson-Vanik amendment as it applies to Russia in a clean bill that enables us to maintain our competitive edge. We do not pretend that terminating Jackson-Vanik and having Russia as a WTO Member will resolve all of our differences with Russia. But maintaining the application of Jackson-Vanik to Russia offers no leverage with Russia over areas of disagreement.

*Why Terminate Application of Jackson-Vanik*

The message I have today is the same as it was in March, and is one I understand you have repeatedly heard from the American business community in the intervening months. The key benefits of Russia's WTO membership are clear and fall into two major categories: improved market access for exports of U.S. goods and services, and Russia's implementation of established, enforceable, multilateral rules.

U.S. businesses and workers will not, however, be able to reap many of the benefits of Russia's WTO membership if the WTO Agreement does not apply between us.

***Improved Market Access******Tariffs***

One of the most obvious benefits of Russia's accession is that Russia has "bound" every one of its more than 11,000 tariff lines, and in many cases agreed to a bound rate below its current applied rate. As a WTO Member, Russia will no longer be able to suddenly and arbitrarily raise its tariffs above its bound rate in order to protect a particular domestic industry.

Today, for industrial and consumer goods, Russia's average tariff rate is about 10 percent. When all of its tariff commitments are phased in, the average bound rate will be under 8 percent. U.S. negotiators pushed particularly hard for tariff reductions in sectors of importance to U.S. businesses, such as wide body aircraft, combine harvesters, wine, medical equipment, chemicals and construction equipment. Russia will also implement the Information Technology Agreement (ITA), ensuring duty-free treatment for U.S. exports of all IT products covered under this important plurilateral agreement.

In agriculture, Russia established a 430,000 ton duty-free global tariff rate quota (TRQ) for pork, a 60,000 ton U.S.-specific TRQ for beef, and a U.S.-specific definition for high-quality beef (HQB) which is separate from the TRQ.

Although our current bilateral Agreement on Trade Relations provides that these lower tariff rates should apply to our exports, unless the WTO Agreement applies between Russia and the United States, our exporters will not have the certainty that Russia will not suddenly raise its tariffs -- as it has done in the past -- without providing compensation. Of more immediate impact, if the WTO Agreement does not apply between us, we will not have access to the non-MFN country-specific parts of Russia's tariff commitments, such as the U.S. specific TRQ on beef or to the U.S.-specific definition for HQB.

***Non-Tariff Barriers***

As part of its WTO accession negotiations, Russia has already repealed or revised many of its rules and requirements that have presented obstacles to U.S. exports in the past, including, for instance, onerous import licensing requirements on consumer electronic products and distilled

spirits. Unless the WTO Agreement applies between us, however, U.S. exports will not be protected against these and other non-tariff barriers.

#### *Services*

Russia is undertaking enforceable commitments to open its services sectors in unprecedented ways, particularly in sectors of significance to U.S. service providers. These sectors include audio-visual, telecommunications, distribution, express delivery, energy, and financial services (including insurance, banking and securities). The United States enjoys a global trade surplus in services, and securing strong commitments in Russia was a priority for a broad array of U.S. industries. But if the WTO Agreement does not apply between us, Russia will not have to grant this new access to U.S. service providers.

#### *Playing by the Rules*

Let me mention just a few areas where Russia's compliance with WTO rules will help U.S. exports and exporters:

#### *Intellectual Property Rights*

An area of particular concern to the Committee is the protection and enforcement of intellectual property rights (IPR). On day one as a WTO Member, Russia must comply with all of the obligations of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as well as specific additional commitments in its Working Party Report.

It is important to note that Russia has already put in place a revised legislative framework to protect and enforce IPR. Russia amended its Civil Code and other relevant laws to modernize its legal regime for IPR protection, including providing rights called for in the TRIPS Agreement, improvements in civil enforcement of IPR, and elements of the legal framework for implementing the World Intellectual Property Organization Internet Treaties. In addition, amendments to the Criminal Code strengthened the authority of Russia's Government to take down infringing websites. Changes to Russia's customs law, along with the Customs Union Customs Code, implemented TRIPS provisions on the protection of IPR at the border, including

granting customs officials *ex officio* authority to act on their own initiative to take action against infringing products at the border. All of these measures -- which we fought hard to achieve -- are already in force in Russia.

Of course, how these laws and regulations are applied will be critical. But if the WTO Agreement does not apply between us, Russia will not be required to apply the stronger commitments on IPR protection and enforcement to U.S. rights holders, and we will not have the WTO tools to ensure that Russia complies with the stronger commitments in its terms of accession.

#### *Sanitary and Phytosanitary Measures*

On day one as a WTO Member, Russia must comply with its WTO obligations on sanitary and phytosanitary measures (SPS). Russia's Working Party Report contains extensive commitments on how Russia will comply with the WTO's SPS rules, including disciplines to protect against requirements that are not based on science and a risk assessment; procedures to recognize the equivalence of SPS measures; and requirements to harmonize its SPS measures with international standards.

Our negotiators worked with Russia to ensure that the Customs Union and Russia adopted the legal framework necessary for Russia to comply with its SPS obligations. Thus, as is the case with its IPR regime, Russia has the legal framework in place to apply the WTO SPS rules to U.S. exports. But we will not be able to ensure that Russia complies with the WTO SPS rules and its commitments unless the WTO Agreement applies between us.

#### *State-owned Enterprises*

Because the State remains active in parts of Russia's economy, our negotiators insisted that state-owned or -controlled companies must be subject to the WTO rules. Accordingly, on day one as a WTO Member, Russia will ensure that its state-owned or -controlled enterprises (SOEs) as specified in its Working Party Report, when engaged in commercial activities, will operate based on commercial considerations, such as price, quality, availability, and marketability. In addition,

these SOEs must provide U.S. and other WTO Member companies adequate opportunity, in line with customary business practices, to make purchases from and sales to these enterprises.

However, if the WTO Agreement does not apply between us, Russia has no obligation to treat U.S. businesses or exports in a non-discriminatory manner.

#### *Transparency*

Transparency is a core principle of the WTO. In addition to the notifications that Russia will need to provide to WTO Members and the review of Russia's measures that will take place in various WTO committees and councils, Russia will have obligations to provide notice to the public on the full range of trade-related issues. For example, through the course of the accession negotiations, our negotiators worked with Russia to ensure that laws, regulations and other measures on WTO-related matters will be published before they are enforced, and are subject to "notice and comment" procedures. Compliance with these rules will not only give interested persons (e.g., U.S. producers and exporters) an opportunity to provide input into the rules governing international trade, but will also ensure advance notice of any changes.

If the WTO Agreement does not apply between us, however, Russia will not be required to give U.S. interested persons the opportunity to participate in the rule-making process.

#### *Dispute Resolution*

Rules and obligations are only as good as the right and ability to enforce them.

The Administration is working on a variety of fronts to enforce U.S. trade agreements to ensure that other countries are "playing by the rules" so that U.S. businesses and workers face a level playing field. We will continue to work with Russia on issues of concern, and we will remain vigilant.

Fortunately, the WTO has strong mechanisms, starting with review and work in the committees, consultations and, in appropriate cases, dispute settlement, to enforce those rules. As this Committee is aware, the Administration has a strong record of taking enforcement actions where necessary to ensure compliance with WTO rules. And this effort will only become more robust with the establishment of the new Interagency Trade Enforcement Center announced by

President Obama. The United States has aggressively enforced the rules with our trading partners – large and small. You can rest assured that we will be equally vigilant with regard to ensuring that Russia plays by the rules and implements all of its WTO commitments.

But we cannot use the mechanisms of the WTO to enforce Russia's commitments unless the WTO Agreement applies between us.

***Conclusion***

Again, I appreciate the Committee's invitation to testify on this important issue. Terminating application of the Jackson Vanik amendment and providing PNTR to Russia is a priority for this Administration, it is a priority for American businesses, and I know it is a priority for many of you. I urge this committee to move quickly on legislation to give American businesses a level playing field to grow their businesses in Russia and expand jobs here at home.

**Finance Committee Hearing**  
**“Russia’s WTO Accession – Administration’s Views on the**  
**Implications for the United States”**  
**June 21, 2012**  
**Questions for the Record for Ambassador Ron Kirk**

*Questions from Senator Baucus*

1. Urgency of Congressional Passage

Russia was invited to join the WTO in December. Reports indicate that Russia will complete its ratification process as early as July 4. This means Russia could be a WTO member as early as August 4.

Can you please explain how U.S. exporters will be impacted if we don’t pass PNTR by the time Russia joins the WTO?

**Answer:**

- As a WTO Member, Russia will have enforceable commitments providing improved market opportunities for our services providers, including sectors that are priorities for the United States, such as audio-visual, telecommunications, financial services, energy services, computer services, and retail services. Russia will also have obligations with respect to rules for business visas for executives and professionals and allow service companies to transfer vital employees to their operations in Russia. These commitments would not apply to U.S. services exporters or U.S. invested suppliers in Russia.
- When Russia becomes a WTO Member it must comply with all provisions of the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and commitments in its Working Party Report, including obligations related to IPR enforcement generally and to IPR protection and enforcement in the digital environment. If the United States is not able to apply the WTO Agreement to Russia, Russia would not be required, for example, to meet the stronger requirements for enforcement of IPR held by American creators and inventors.
- U.S. exporters of agricultural products would also be adversely affected if the WTO Agreement does not apply between us. Russia made extensive commitments on how it will comply with WTO rules on sanitary and phytosanitary (SPS) measures, including disciplines to protect against trade restrictions that are not science-based; procedures to recognize equivalence of SPS measures; and harmonization with international standards. These commitments would not apply to U.S. exporters of meat and other agricultural products, if we do not apply the WTO to Russia.
- If the United States is not able to apply the WTO Agreement to Russia, we will not have recourse to WTO dispute resolution procedures, if Russia restricts market access or

imposes discriminatory rules on services in ways not consistent with its scheduled commitments. We will be at a distinct disadvantage with respect to other WTO Members which will be able to use WTO mechanisms, including in appropriate cases dispute settlement, to challenge Russia's measures and how they are applied.

While the United States will be able to claim certain rights under our Bilateral Commercial Agreement (BCA) that entered into effect in 1992, many of the benefits of Russia's accession to the WTO will not be available to U.S. exporters. The United States will continue to have limited means to address trade issues that arise with Russia, and U.S. manufacturers, farmers, ranchers, workers, service providers, creators and exporters will be at a disadvantage compared to their counterparts from other WTO Members.

## 2. Jobs

Russia has the seventh largest GDP in the world and its economy is growing rapidly. When I went to Russia in February, I saw great potential for U.S. farmers, ranchers, and companies to expand their business there.

How will Russia's joining the WTO help U.S. exporters expand their exports and create jobs here at home? Which sectors have the greatest potential for job growth?

**Answer:** As you note, Russia's WTO membership will create new market opportunities in one of the world's fastest growing markets. The major benefits of Russia's membership in the WTO will be improved market access for U.S. exports of goods and services, and Russia's implementation of established, enforceable, multilateral trade rules. For example, Russia will "bind" all of its more than 11,000 tariff lines, creating certainty for our exporters. Russia is also opening its services market in sectors that are priorities to American companies, including audio-visual, telecommunications, financial services, computer and retail services. The terms of Russia's accession contain extensive commitments on how Russia will implement and comply with WTO rules on sanitary and phytosanitary (SPS) measures, providing U.S. exporters of agricultural products with an enforceable set of disciplines against trade restrictions that are not science-based. Importantly, Russia's membership in the WTO will give us the tools to hold the Russian government accountable to a system of rules governing trade behavior, and provide the means to enforce those rules. Russia's membership in the WTO will generate more exports for American manufacturers and farmers, which in turn will support well-paying jobs in a wide variety of industry sectors across the United States.

### *Questions from Senator Hatch*

1. Do you believe it will be important to monitor and enforce Russia's WTO commitments should we grant PNTR?

**Answer:** The Administration has a strong record of taking enforcement actions where necessary to ensure compliance with WTO rules. To continue that policy, the President has devoted additional resources to ensure enforcement of our trade agreements, most recently with the creation of the International Trade Enforcement Center. The ITEC will draw expertise from various agencies to focus on monitoring and enforcement and pursue trade issues with more resources than previously available. The ITEC will bolster the resources available to track Russia's compliance with its WTO commitments.

Why didn't USTR insist on Russia agreeing to an annual review by the WTO within the WTO of Russia's compliance with its terms of WTO accession, as we negotiated with China before allowing them to join the WTO?

**Answer:** China's protocol of accession established a "transitional review mechanism" to review China's implementation of its WTO commitments. In light of the transition periods that Members agreed to provide China for implementation of several critical commitments, the United States and other WTO Members believed they could justify the time and resources needed to monitor jointly China's efforts to implement its commitments. As can be seen in Annex 1A to China's WTO accession protocol, achieving greater transparency was an important objective for the transitional review mechanism.

The status of Russia's efforts to implement the obligations that it will assume as a WTO Member is far different than that of China just before it became a WTO Member. The United States and other Members insisted that Russia and the Customs Union take action *before* Russia became a WTO Member to put the legal framework in place so that it could comply with its WTO obligations. The rationale for having a transitional review mechanism for China does not apply in the case of Russia. We will monitor Russia's application of this legal framework to ensure that it complies in practice with its obligations. Whether the United States has the right to take action if problems arise in Russia's implementation of its obligations depends on whether the United States is able to apply the WTO Agreement to Russia.

2. In a letter dated June 12th, 2012, Chairman Baucus indicated his commitment to marking up legislation to repeal Jackson-Vanik and grant PNTR to Moldova at the same time the Senate Finance Committee considers similar legislation regarding Russia.

Does the Administration support including PNTR for Moldova as part of the Russia PNTR legislation?

**Answer:** Since 1997, we have found Moldova to be in compliance with Jackson-Vanik emigration requirements, and the current Administration has extended to Moldova conditional normal trade relations. The Administration supports terminating the application of Jackson-Vanik and extending PNTR to Moldova because 1) Moldova has satisfied all the freedom of emigration requirements of Jackson-Vanik and 2) extending PNTR to Moldova will ensure that U.S. exports enjoy the benefits of Moldova's WTO

membership. Vice President Biden delivered a message of support for extending PNTR to Moldova while in Chisinau in March 11.

The Administration has stated that Jackson-Vanik is a relic of the Cold War that no longer serves a purpose, does the Administration support revoking Jackson-Vanik altogether?

**Answer:** Our immediate focus is on terminating its application to those countries who are already WTO Members, or about to be WTO Members, specifically Russia and Moldova. I would be glad to consider and discuss the broader question with the Committee at a later date.

3. On January 30th, 2012 President Obama expressed his interest in pursuing a free trade agreement with Georgia. Given the President's strong interest in this issue, what steps has the administration taken to consult with Congress about this proposal?

Do you support legislation to provide the President with Trade Promotion Authority to negotiate a free trade agreement with Georgia?

**Answer:** The United States-Georgia High-Level Dialogue on Trade and Investment was launched following the January 30, 2012 meeting between President Obama and Georgian President Saakashvili, and the April 20, 2012 meeting between United States Trade Representative Ron Kirk and Georgian Prime Minister Nikoloz Gilauri. In May, senior officials convened the Dialogue and discussed a range of options for increasing bilateral trade and investment, including the possibility of a free trade agreement, an updated investment agreement, and other measures that could facilitate trade and investment. USTR looks forward to continuing to work together with the Committee to explore concrete ways to boost our trade and investment with Georgia.

4. You testified that, in an effort to address Russia's woefully inadequate IPR regime, the Administration was engaged in negotiations in an attempt to gain Russia's agreement on an "IPR Action Plan." You also testified that this "IPR Action Plan" has not yet been agreed to.

Is the Administration's "IPR Action Plan" going to be concluded by the time Congress considers legislation to grant PNTR to Russia? Once any such "IPR Action Plan" is agreed to, will it be enforceable in the WTO upon Russia's accession should Congress grant PNTR to Russia?

**Answer:** We continue to work closely and expeditiously with Russia on an IPR Action Plan, which addresses priority issues such as piracy over the Internet and IPR enforcement generally, as identified in USTR's 2012 Special 301 Report. If the WTO Agreement does not apply between the United States and Russia, however, USTR will not be able to enforce our rights under the TRIPS Agreement.

We expect that the Action Plan would enumerate actions over-and-above Russia's TRIPS Agreement commitments, and it would reaffirm Russia's commitment to strong IPR protection and enforcement.

5. You testified that “We got a commitment from Russia again to work with us on establishing a regime that is in excess of the minimum standards required of the TRIPS Agreement in the WTO; that more closely resembles the application of our intellectual property rights.”

Is it your contention that Russia is presently meeting its obligations under the WTO TRIPS Agreement? Given that Russia is presently on the USTR Special 301 Priority Watch list, do you anticipate that Russia will be removed from this list upon Russia’s WTO accession?

**Answer:** Russia has already put in place a revised legislative framework to protect and enforce the WTO TRIPS Agreement obligations. As explained in the 2012 Special 301 Report, Russia has enacted significant IPR-related legislative reforms, that provide critical IPR protections for U.S. creators and innovators, pursuant to Russia’s TRIPS Agreement obligations.

Serious concerns remain, however, which are the central focus of our bilateral IPR engagement with Russia, including through the United States-Russia IPR Working Group. These concerns include piracy over the Internet and IPR enforcement generally. Any decision regarding Russia’s status on the Priority Watch List will be based on the concrete actions Russia takes to address these remaining concerns, as identified in the Special 301 Report.

***Questions from Senator Nelson***

1. When it comes to our trade agreements, much of the attention goes to automobiles, agriculture, and intellectual property. But the reality is that one of our greatest national exports is tourism. What, if anything, will Russia’s accession to the WTO do to promote greater travel to the United States from Russia? And more broadly, what can we do to better incorporate tourism and travel promotion into future trade agreements?

**Answer:** The Administration recognizes the importance of tourism as a vital export that supports businesses both large and small throughout the United States. Russia has undertaken enforceable commitments to open its markets for tour operators, agencies and guides. Not only will these commitments allow U.S.-based tourism companies to sell their services to U.S. visitors to Russia, but they will also give U.S. companies legal protections in establishing their business in Russia for purposes of promoting the United States as a tourist destination, and in supplying their tourism services to Russian consumers. Russia has agreed to remove, within seven years after accession, its current requirement that businesses in Russia offering overseas tours to Russian consumers be 50 percent owned by Russians, and has further agreed to grandfather any foreign companies currently operating in Russia which may have less than 50 percent Russian ownership. Additionally, Russia has agreed not to favor Russian companies in selling overseas tours to Russian consumers. Finally, and of ever-increasing importance, Russia has agreed not to place any restrictions on Internet-based sales of tourism services. We will not be able

to enforce Russia's commitments in this sector if the United States does not apply the WTO Agreement to Russia.

2. The WTO's dispute settlement process should help the United States hold Russia accountable for its trade policy commitments. However, the dispute settlement process may also expose the United States to potential enforcement actions by the Russia government. Have you or your staff asked Russian officials which U.S. trade laws, regulations, or practices, in their view, violate WTO commitments? Which U.S. trade laws, regulations, or practices do you believe the Russian government is likely to challenge after it becomes a full member of the WTO?

**Answer:** The Russian government has not shared with us any specific U.S. laws, regulations or practices that it might challenge in the WTO. The United States takes our WTO obligations seriously, and we are confident that our laws, regulations and practices are consistent with our WTO obligations.

3. Has the Administration reviewed how Russia's membership in the WTO will impact overall U.S. employment? If so, what are the results of the Administration's review?

**Answer:** Every billion dollars of U.S. goods and services exports support more than an estimated 5,000 U.S. jobs. U.S. jobs supported by goods exports pay 13-18 percent more than the national average. Russia's WTO membership will create new market opportunities in one of the world's fastest growing markets. The major benefits of Russia's membership in the WTO will be improved market access for U.S. exports of goods and services, and Russia's implementation of established, enforceable, multilateral trade rules. Each export means more revenue for our companies and supports more jobs for Americans.

4. In what ways do you anticipate Russia's membership in the WTO will influence the current Doha round of multilateral trade negotiations? In the context of these multilateral negotiations, how will Russia's trade interests align with U.S. trade interests? In what ways could Russia's trade interests diverge from U.S. interests?

**Answer:** Trade Ministers made a collective assessment at the WTO Ministerial Conference last December that the Doha Round is at an impasse and that it is time to consider new approaches to making progress in the WTO. The United States has been active in working with other countries since the Ministerial Conference to advance key priorities, such as negotiations on trade facilitation, expansion of the Information Technology Agreement, and exploration of a plurilateral services agreement. It is too early to tell what Russia's positions will be on these initiatives, but we will welcome its constructive engagement in advancing new approaches in the WTO.

5. With regard to market access for citrus and citrus-based goods, how do Russia's WTO commitments compare with Russia's current practices, including but not limited to tariff levels and quotas? To what extent do you anticipate an increase in citrus-related exports from the United States to Russia?

**Answer:** Russia's consumption of fresh fruit from the United States is growing, with imported oranges and mandarins becoming increasingly popular. Russian imports of fruit from the United States increased 21 percent from 2009 to 2010. As part of its WTO accession commitments, Russia's maximum tariff on citrus will be bound at 5 percent. In addition, Russia has committed to a final bound tariff of 5 percent for key orange juice products. There are no quotas applicable to citrus or citrus-based goods.

6. What steps is the Administration taking to ensure that small- and medium-sized U.S. businesses successfully capitalize on the opportunities afforded by Russia's accession to the WTO?

**Answer:** The Administration, through the Export Promotion Cabinet, is working to develop and implement a government-wide export promotion effort to make it easier for America's small businesses to compete, export, and grow. Under the National Export Initiative, the Administration places a special emphasis on helping small businesses overcome the hurdles to entering new markets.

Russia's WTO membership, once the Agreement applies between us, helps American small businesses by providing significantly improved market access to this market of 145 million customers. Russia has a complex web of rules and regulations to follow that present challenges to SME exporters, in particular. The increased predictability and transparency that comes with WTO Membership will benefit SMEs and make the growing Russian market more accessible.

7. A report released just this month by the European Commission concluded that Russia "is not currently fully living up to its future obligations" as an imminent WTO member and "still deserves close scrutiny as one of the most frequent users of trade-restrictive measures." Specifically, the report criticized: draft legislation to create government procurement preferences for domestic auto producers, new seasonal import duties on sugar, and new restrictions on the trade of fresh water fish, as well as numerous other trade-distorting measures. To the best of your knowledge, is Russia currently in compliance with the commitments it made to the United States as part of its WTO accession? In your view, are any of the issues identified in the European Commission's Ninth Report on Potentially Trade Restrictive Measures with respect to Russia cause for concern?

**Answer:** During the 18 years of negotiations to join the WTO, Russia amended or adopted innumerable laws, decrees, orders, regulations, decisions, and other measures to weave the WTO rules and its specific commitments into its domestic legal regime. In addition, because certain aspects of Russia's WTO commitments fall under the competence of the Customs Union (CU) of Russia, Belarus and Kazakhstan or the Eurasian Economic Community (EurAsEC), some CU and EurAsEC treaties, decisions, regulations and other measures also had to be amended or adopted to conform with Russia's WTO commitments. As a result, Russia has in place the legislative framework to apply the WTO Agreement to U.S. exports.

We have been aware of many of the issues listed in the European Commission's report, and have consulted with industry where necessary. We have already raised our concerns with the Government of Russia on some issues, and will continue to monitor these, and other, issues to ensure that Russia complies with its WTO obligations.

***Questions from Senator Kyl***

1. Ambassador Kirk, when do you believe the United States will have the most leverage with Russia in negotiating a bilateral investment treaty, before or after we grant PNTR to Russia? If you believe we will have greater leverage after granting PNTR, please describe in detail the leverage the U.S. will have at that point.

**Answer:** Extending PNTR to Russia is inherently in the interest of the U.S. business community, including U.S. investors in Russia. A bilateral investment treaty with Russia would enhance the benefits of Russia's WTO membership by providing U.S. investors important protections, such as an assurance of non-discriminatory treatment. The Administration is in the early stages of engaging with Russia in talks toward a possible BIT. We do not believe that delaying the extension of PNTR will aid this process, nor be in the interest of U.S. investors.

2. Are you aware of a single instance in which Russia has paid a claim it owed to another country after an arbitration under an investment treaty? If so, could Russian compliance with an adverse decision be described as rare?

**Answer:** We do not have detailed information about all possible arbitral claims brought against Russia under its investment treaties or about the disposition of any such claims.

3. As you know, when China joined the WTO, the United States gave China 10 years to sign onto the Government Procurement Agreement, and China missed that deadline. In your testimony before the Ways and Means Committee on July 20, you said "we learned our lesson" by requiring Russia to join the GPA within four years. With all due respect, it seems the lesson we should have learned is that assigning a deadline to untrustworthy trading partners is no guarantee that they will actually meet the deadline. Why does it matter whether the term of years is four or 10, if a country can simply violate a deadline without any meaningful consequence? Also, what tools will the United States have to enforce such a deadline?

**Answer:** In its protocol of accession, China agreed to initiate negotiations for membership in the Agreement on Government Procurement (GPA) "as soon as possible". We did learn a lesson from China and obtained a specific deadline for starting negotiations with Russia on joining the GPA. With an actual deadline, we will have increased leverage to start the negotiations.

*Questions from Senator Roberts*

1. Russia is joining the WTO as a part of a Customs Union with Kazakhstan and Belarus. The Customs Union will enforce customs regulations, including SPS certificates. It's been noted that there are distinct differences between Russia's SPS related regulations and the more stringent regulations of the Customs Union.

- What differences remain?
- What steps are being taken to harmonize the SPS regulations with the WTO SPS Agreement and with internationally accepted standards?

**Answer:** Where the Customs Union is responsible for SPS matters, such as requirements for export certificates, Russia's WTO commitments bind the Customs Union authorities as well as Russia's authorities. In addition, as part of ensuring that the other Parties to the Customs Union, i.e., Kazakhstan and Belarus, had common obligations, all three countries signed a Customs Union Treaty that has the effect of making Russia's WTO obligations part of the Customs Union legal framework and applicable to all Customs Union Parties. U.S. negotiators insisted that Russia and the Customs Union adopt a legislative framework necessary for Russia to be able to meet its WTO obligations on day one of its membership to the WTO. In addition, Russia has agreed to ensure that future actions taken by the Customs Union or domestically are consistent with its WTO obligations. Kazakhstan and Belarus are also in negotiations to join the WTO and we are working with them to ensure that their national regimes comply with WTO requirements, including on SPS matters.

On day one of Russia's membership in the WTO, Russia will be required to have implemented the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), and the commitments in its Working Party Report, including harmonization of SPS measures with international standards, basing measures on science, conducting risk assessments in accordance with international standards, and implementing the mechanism for recognizing the equivalence of WTO Members' SPS measures. The United States will monitor Russia's application of its new SPS regime to ensure compliance with WTO SPS obligations and to ensure that trade flows as smoothly as possible.

2. Russia has a record on demanding only imported meats shipped from facilities on their government's approved list of facilities that meet Russia's standards. Compliance is costly, burdensome, and unnecessary given our robust system of food safety standards.
  - What steps have been taken to ensure that Russia accepts U.S. processing facilities' safety standards as equivalent to their own?
  - Is there the possibility of any sort of side letter to identify resolve the outstanding concerns?

**Answer:** The United States has a bilateral agreement with Russia that recognizes the authority of the USDA's Food Safety and Inspection Service (FSIS) to inspect and

authorize facilities as eligible to export to Russia. In addition, through the negotiations on Russia's accession, U.S. negotiators worked with Russia to draft new Customs Union regulations that allow the Customs Union veterinary services to accept the guarantees of third countries' competent authorities and to recognize exporting countries' food safety systems as equivalent. The United States pushed hard to codify key WTO Sanitary and Phytosanitary disciplines in Russia's legal framework, including requirements to harmonize SPS measures with international standards; base SPS measures on sound science; and conduct risk assessments in accordance with international standards. At our insistence, Russia also created a mechanism for recognizing the equivalence of WTO Members' SPS measures and implemented public notice and comment procedures that require a minimum 60-day comment period for Customs Union and Russia's SPS measures.

Russia has committed to establish transparent and detailed criteria and procedures for inspection of U.S. meat establishments based on international standards, recommendations, and guidelines. These commitments are critical wins that give the United States the tools to counter Russian measures, such as the arbitrary delisting of U.S. establishments or onerous audit procedures of U.S. establishments that have crippled U.S. meat exports in the past.

3. Efforts to set an international MRL (maximum residue limit) for Ractopamine, a feed additive, have not met success for the past several years at the CODEX and has become a political football in these meetings. Ractopamine is once again one of the issues to be addressed in the upcoming CODEX meeting in July.
  - Does Russia have an MRL for ractopamine?
  - Has Russia been cooperative in the past regarding U.S. efforts to set an MRL?
  - Given Russia's membership in CODEX, what have you done to reach out and secure support for setting an MRL based on the well-established science and not politics?

**Answer:** Currently, Russia does not have a maximum residue level (MRL) for ractopamine. In its WTO accession package, Russia committed to adhere to the WTO SPS disciplines, specifically basing SPS measures on international standards or, when international standards do not exist, basing SPS measures on science and a risk assessment conducted in accordance with international standards. Now that Codex has adopted the proposed MRLs for ractopamine, the United States will continue to work with Russia bilaterally to accept the international standard for ractopamine. The United States provided Russia the data from international scientific studies to demonstrate ractopamine's safety. Senior officials throughout the U.S. Government have been raising the issue of ractopamine and the need for science-based measures at all levels of the Russian government.

*Question from Senator Burr*

1. The 2011 USTR Report on Sanitary and Phytosanitary Measures states: "Russia's application of apparently unwarranted SPS measures has had a significant negative effect on U.S. exports." What is USTR doing to address these barriers to trade? If Congress repeals the Jackson-Vanik Amendment, is USTR prepared to take advantage of the WTO trade remedies should Russia violate its WTO commitments? Please explain what actions you would take.

**Answer:** Russia's membership in the WTO, where it will be held to WTO rules, will give us more effective means to address and challenge the misuse of SPS measures. We will continue to review carefully Customs Union measures and monitor whether measures applied in Russia, whether by the national government or the Customs Union, are consistent with Russia's obligations as a WTO Member. If Russia takes unjustified actions against our exports, we will aggressively pursue all options available to us, including the dispute settlement mechanism.

**Testimony of Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
Before the U.S. Senate Committee on Finance  
Washington, DC  
Thursday, June 21, 2012**

Mr. Chairman, members of the Committee, I am pleased to appear before you today. I welcome the opportunity to discuss the benefits to U.S. agriculture of ending the application of the Jackson-Vanik Amendment and authorizing permanent normal trade relations (PNTR) for Russia. The U.S. Department of Agriculture strongly supports establishing PNTR with Russia and ensuring Russia remains one of our top export markets as it joins the World Trade Organization (WTO). American agricultural exports remain a bright spot in our nation's economy, supporting more than 1 million American jobs in communities across our country.

PNTR is not a favor to Russia. It is a significant opportunity for America's farmers, ranchers, and producers. It will provide improved, predictable access to Russia's 140 million consumers and an expanding middle class that has grown by more than 50 percent in the last decade.

By granting Russia PNTR, the United States will not provide additional market access to our domestic market for Russian agricultural imports. We will simply make permanent the market access treatment we have been extending to Russia on an annual basis since 1992. By not granting Russia PNTR, U.S. farmers, ranchers, and producers will face an uneven playing field. Their competitors in the European Union, Brazil, Argentina, and WTO member countries around the globe will benefit from Russia's guaranteed tariff treatment and obligation to apply science-based sanitary and phytosanitary standards.

U.S. agricultural exports to Russia in fiscal year 2011 were nearly \$1.4 billion, contributing significantly to our agricultural trade surplus. The United States imported only \$25

million of agricultural products from Russia last year. This impressive performance by U.S. exporters has been accomplished in spite of Russia's imposition of non-science-based sanitary and phytosanitary measures and unjustified technical barriers to trade.

Russia's membership in the WTO means:

- U.S. farmers and exporters will have more certain and predictable market access as a result of Russia's commitment to avoid raising tariffs on any products above the negotiated rates and to apply non-tariff measures in a uniform and transparent manner;
- Russia will be obligated to apply its trade regime in a manner consistent with WTO rules, including those governing sanitary and phytosanitary measures and technical barriers to trade, limiting its ability to impose arbitrary measures that disrupt trade; and
- Russia will be obligated to follow detailed rules governing transparency in the development of trade policies and measures. Unlike today, this will include requiring the notification of draft rules and opportunities for public comments on rules prior to their adoption; and
- Russia's compliance with its obligations will be enforceable through use of the WTO dispute settlement process.

Russian consumers value the quality of U.S. food and agricultural products. While U.S. exports of meat and poultry to Russia have remained strong over the past few years, we have seen growing diversification of the products we export. In fact, in fiscal year 2011, U.S. exports of live animals, eggs and egg products, tree nuts, fresh fruits, seafood, and other consumer food products reached new records. Consumer trends in Russia are resulting in greater demand for

higher-value products. For example, Russia's packaged food market has an estimated value of \$100 billion and is experiencing double-digit growth.

**Benefits of Russia's WTO Accession for U.S. Agricultural Market Access**

As part of its WTO accession agreement, Russia's agreed to reduce tariffs on a number of imported agricultural products. For soybeans, tariffs will be bound at zero, and for soybean meal, tariffs will be cut in half to 2.5 percent. Maximum bound tariffs on most cheeses will drop from 25 percent to 15 percent within 3 years. Russia's duties are already relatively low for many fruits and tree nuts, but those rates will be bound and, in many cases, reduced substantially within a few years of accession.

Russia also applies tariff-rate quotas (TRQs) on a variety of U.S. agricultural imports. Russia is the world's largest importer of beef on a quantity basis, with a total of nearly \$4 billion of beef and offal products last year. Upon WTO accession, Russia will implement a U.S. country-specific TRQ of 60,000 tons of frozen beef with an in-quota tariff of 15 percent. The United States will also have access for high-quality beef outside of the TRQ at a 15 percent tariff.

Russia is the world's fifth-largest importer of pork and offal products, at \$2.5 billion last year. Russia's WTO membership will lock in the current applied global TRQs for pork. Immediately upon accession, Russia will eliminate the in-quota 15 percent tariff and significantly lower the out-of-quota tariff.

Reduced TRQ access for poultry products has resulted in Russia falling to the fourth-largest global importer of poultry at \$900 million last year. Despite the decline, the United States has reclaimed its place as the top supplier, providing 50 percent of Russian poultry imports. Russia's WTO accession will lock in the current applied global TRQ quantities for frozen bone-in chicken cuts and increase access for both frozen boneless chicken and turkey.

I know Senate Finance Committee members recognize the ability of U.S. agricultural exporters to seize market opportunities. For example, entrepreneurial Montanans have shipped more than \$20 million in live cattle and bovine genetics to Russia in the past two years. And, as the Committee heard earlier this year in testimony from a representative of the Montana Stockgrowers Association, Russia is an excellent market for cattle, genetics, and USDA Choice and Prime cuts. PNTR paves the way for our entrepreneurs to significantly increase their exports to Russia.

Exports of apples, pears, and cherries from the Pacific Northwest states to Russia now exceed \$20 million annually. Exports of all fresh and dried fruit have grown more than tenfold over the past decade to more than \$55 million last fiscal year. Tree nut exports, which reached nearly \$90 million in FY 2011, have seen similar growth. The Pacific Northwest tree fruit industry views Russia as an emerging market and supports PNTR.

With Russia striving to grow its domestic livestock and poultry industries, U.S. feed suppliers are poised to capitalize. Russian tariffs on soybean meal and other animal feeds will fall. The American Soybean Association cites PNTR with Russia as “critical to our ability to increase soybean exports.”

Russia is the world’s largest importer of dairy products, but the United States has been generally shut out of the market since late 2010. A critical market access barrier for U.S. dairy exports will be removed, as a list of Russian-approved foreign suppliers will no longer be required. Both the National Milk Producers Federation and U.S. Dairy Export Council have noted that granting PNTR to Russia is critical to helping U.S. dairy companies re-enter this market on workable trading terms.

Russia’s WTO accession will also result in improved market access for American agricultural equipment exporters, who have faced substantial markets access barriers in Russia.

After full implementation of its WTO accession commitments, U.S. exports of combine harvesters and threshers will have a final bound tariff rate of 5 percent, down from 15 percent. Russia is the 4th largest market for U.S. agricultural equipment exports, a sector that employs over 56,000 workers in the United States.

Tireless and determined USDA and USTR negotiators have worked with the U.S. agricultural community to overcome unpredictable Russian market access hurdles for decades. Our recent efforts have resolved issues crucial to Russia's WTO accession. With the help of the U.S. Congress, U.S. agriculture can soon reap the benefits of improved market access and Russia's obligations in a rules-based system.

**Conclusion**

Mr. Chairman and members of the Committee, in closing, I would like to note that U.S. agriculture continues to be a bright spot in America's economy and a driving force behind export growth, job creation, and our nation's competitiveness. We need to give our farmers, ranchers, and food exporters every tool possible to keep that positive record moving forward. Just a few weeks ago, USDA forecast 2012 farm exports to reach the second-highest level on record, \$134.5 billion, making the past three years the strongest collective period of export performance in our nation's history. Every \$1 billion in farm exports supports roughly 7,800 jobs in the United States. Establishing PNTR with Russia will further enhance opportunities for U.S. agriculture and none of us doubts the ability of U.S. agricultural exporters' ability to compete.

This concludes my statement. I look forward to answering any questions you may have. Thank you.

**Finance Committee Hearing**  
**“Russia’s WTO Accession – Administration’s Views on the**  
**Implications for the United States”**  
**June 21, 2012**  
**Questions for the Record for Secretary Tom Vilsack**

*Questions from Senator Baucus*

**Question 1**

**U.S. ranchers and farmers produce top-quality products that are in demand around the world. Exports of U.S. beef are now back to their pre-BSE levels, thanks to new markets like Russia. And we must continue to meet our export potential.**

**What are the key market access benefits of Russia’s accession package for U.S. agricultural producers?**

**Answer**

Russia’s membership in the WTO will provide significant commercial opportunities for U.S. farmers, ranchers, and exporters. U.S. exporters will have more certain and predictable market access as a result of Russia’s accession, Russia will bind its tariffs on all products commitment and apply non-tariff measures in a uniform and transparent manner. Specifically, U.S. beef exporters will have increased market opportunities under a U.S.-specific definition for high quality beef with a 15 percent tariff and no quantitative limits as well as a U.S. country-specific tariff rate quota (TRQ) of 60,000 tons on frozen beef with an in-quota tariff of 15 percent. Russia has agreed, at the insistence of Administration negotiators, to a global TRQ of 400,000 tons for fresh/chilled/frozen pork and a separate global TRQ of 30,000 tons for pork trimmings. Both TRQs will have zero in-quota rates. Additionally, as of January 1, 2020, Russia will adopt a tariff-only regime for pork with a bound duty of 25 percent. For poultry, Russia will maintain a 250,000 ton TRQ for chicken halves and leg quarters with an in-quota tariff rate of 25 percent and separate TRQ access for commercially important turkey products with in-quota tariff rate of 25 percent. Russia is the world’s largest importer of dairy products, but the United States has been generally shut out of the market since late 2010. A critical market access barrier for U.S. dairy exports will be removed, as a list of Russian-approved foreign suppliers will no longer be required. Russia has also committed to reduce and bind tariffs for high-valued agricultural products, such as live animals, bovine semen, grains, pears, grapes, and tree nuts at 5 percent. Soybean exports to Russia will be duty free immediately upon accession.

**Question 2**

**Russia’s WTO accession will create new opportunities for U.S. ranchers and farmers. But Russia has a mixed record on agriculture. We’ve seen many of our ag exports expand**

**quickly, only to collapse when Russia imposed unscientific SPS barriers. Without PNTR, we've had limited tools to hold Russia accountable.**

**What new tools will PNTR give us to overcome those SPS barriers? Will you commit to use those tools aggressively to ensure that U.S. ranchers and farmers get the full benefit of Russia joining the WTO?**

**Answer**

Through the accession negotiations, U.S. negotiators successfully pushed to codify key WTO Sanitary and Phytosanitary disciplines in Russia's legal framework, including requirements to harmonize SPS measures with international standards; base SPS measures on sound science; and conduct risk assessments in accordance with international standards. At our insistence, Russia also created a mechanism for recognizing the equivalence of WTO Members' SPS measures; and, implemented public notice and comment procedures that require a minimum 60-day comment period for Russia's SPS measures. The Administration is ready to use the tools available through the WTO to ensure that U.S. farmers and ranchers receive the full benefits of Russia's membership. However, without extending PNTR, the United States will not be able to leverage the WTO mechanisms, including the WTO Dispute Settlement Process, to enforce the extensive commitments Russia has taken with regard to its market access commitments and its compliance with the WTO rules on sanitary and phytosanitary measures. Without the WTO framework behind us and the coalition-building that comes with having the WTO Agreement apply between our countries, we will be hamstrung and hard-pressed to overcome the challenges of the past.

***Question from Senator Hatch***

**Question**

**Over the years, many of our challenges with regard to Russia have revolved around non-tariff barriers. SPS issues have been a particular concern, with Russia engaging in arbitrary SPS actions that lack scientific justification. Yet the United States still does not have an SPS equivalency agreement with Russia.**

**Why didn't the administration negotiate this as a condition of Russia's WTO accession? What leverage do you have to get Russia to agree to an SPS equivalency agreement now, and how do you plan to reach an agreement?**

**Answer**

On day one of Russia's membership in the WTO, Russia will be required to implement the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), and the commitments in its Working Party Report, including implementation of the mechanism for recognizing the

equivalence of WTO Members' SPS measures. Administration negotiators insisted that Russia, through the Customs Union with Kazakhstan and Belarus, adopt a new regulation that allows for equivalence determinations. Prior to this measure being adopted by the Customs Union, Russia did not have the legal mechanism to recognize equivalence of another country. USDA and USTR will work with Russia to pursue an equivalence determination for the U.S. food safety system.

*Questions from Senator Roberts*

**Question 1**

**Russia is joining the WTO as a part of a Customs Union with Kazakhstan and Belarus. The Customs Union will enforce customs regulations, including SPS certificates. It's been noted that there are distinct differences between Russia's SPS related regulations and the more stringent regulations of the Customs Union.**

**What differences remain?**

**Answer**

Where the Customs Union is responsible for SPS matters, such as requirements for export certificates, Russia's WTO commitments bind the Customs Union authorities as well as Russia's authorities. In addition, as part of ensuring that the other Parties to the Customs Union, i.e., Kazakhstan and Belarus, had common obligations, all three countries signed a Customs Union Treaty that has the effect of making Russia WTO obligations part of the Customs Union legal framework and applicable to all Customs Union Parties. Kazakhstan and Belarus are also in negotiations to join the WTO and we are working with them to ensure that their national regimes comply with WTO requirements, including on SPS matters.

**What steps are being taken to harmonize the SPS regulations with the WTO SPS Agreement and with internationally accepted standards?**

**Answer**

On day one of Russia's membership in the WTO, Russia will be required to implement the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), and the commitments in its Working Party Report, including harmonization of SPS measures with international standards, basing measures on science, conducting risk assessments in accordance with international standards, and implementing the mechanism for recognizing the equivalence of WTO Members' SPS measures. The Administration will monitor Russia's application of its new SPS regime to ensure compliance with WTO SPS obligations and to ensure that trade flows as smoothly as possible.

**Question 2**

**Russia has a record on demanding only imported meats shipped from facilities on their government's approved list of facilities that meet Russia's standards. Compliance is costly, burdensome, and unnecessary given our robust system of food safety standards.**

**What steps have been taken to ensure that Russia accepts U.S. processing facilities' safety standards as equivalent to their own?**

**Answer**

The United States has a bilateral agreement with Russia that recognizes the authority of the USDA's Food Safety and Inspection Service (FSIS) to inspect and authorize facilities as eligible to export to Russia. In addition, through the negotiations on Russia's accession, our negotiators worked with Russia to draft new Customs Union regulations that allow the Customs Union veterinary services to accept the guarantees of third countries' competent authorities and to recognize exporting countries food safety systems as equivalent. Russia has committed to establish transparent and detailed criteria and procedures for inspection of U.S. meat establishments based on international standards, recommendations, and guidelines.

The Administration pushed hard to codify key WTO Sanitary and Phytosanitary disciplines in Russia's legal framework, including requirements to harmonize SPS measures with international standards; base SPS measures on sound science; and conduct risk assessments in accordance with international standards. At our insistence, Russia also created a mechanism for recognizing the equivalence of WTO Members' SPS measures; and, implemented public notice and comment procedures that require a minimum 60-day comment period for Russia's SPS measures.

These commitments are critical wins that give the United States the tools to counter Russian measures, such as the arbitrary delisting of USDA inspected meat and poultry establishments or onerous audit procedures of U.S. plants that have crippled U.S. meat exports in the past.

**Is there the possibility of any sort of side letter to identify and resolve the outstanding concerns?**

**Answer**

U.S. negotiators insisted that Russia commit to establish transparent and detailed criteria and procedures for inspection of U.S. meat establishments based on international standards, recommendations, and guidelines. The Administration will work with Russia on establishing the procedures and will closely monitor their implementation.

**Question 3**

**Efforts to set an international MRL (maximum residue limit) for Ractopamine, a feed additive, have not met success for the past several years at the CODEX and has become a political football in these meetings. Ractopamine is once again one of the issues to be addressed in the upcoming CODEX meeting in July.**

**Does Russia have an MRL for ractopamine?****Answer**

On July 5, 2012, Codex Alimentarius Commission adopted a standard for ractopamine. Currently, Russia does not have a maximum residue level (MRL) for ractopamine. In its WTO accession package, Russia committed to adhere to the WTO SPS disciplines, specifically basing SPS measures on international standards.

**Has Russia been cooperative in the past regarding U.S. efforts to set an MRL?****Answer**

Russia was not supportive of the establishment of an MRL for ractopamine at the July 2012 CODEX meeting. The Administration raised its concerns at high levels requesting that Russia support the adoption of MRL's for ractopamine based on the acceptance of sound science and provided Russia the data from the scientific studies to demonstrate ractopamine's safety. Codex Alimentarius Commission adopted a standard for ractopamine.

**Given Russia's membership in CODEX, what have you done to reach out and secure support for setting an MRL based on the well-established science and not politics?****Answer**

The Administration's outreach efforts were critical in securing adoption of a standard for ractopamine by the CODEX Alimentarius Commission. The Administration's outreach included providing the data from scientific studies to demonstrate ractopamine's safety to Russia and numerous other CODEX members.

COMMUNICATIONS

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**DISTILLED  
SPIRITS  
COUNCIL  
OF THE  
UNITED  
STATES**

UNITED STATES SENATE

COMMITTEE ON FINANCE

HEARING ON RUSSIA'S WTO ACCESSION – ADMINISTRATION'S VIEWS ON THE  
IMPLICATIONS FOR THE UNITED STATES

JUNE 21, 2012

STATEMENT OF THE DISTILLED SPIRITS COUNCIL  
OF THE UNITED STATES, INC.

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A FACT ABOUT ALCOHOL CONTENT:



UNITED STATES SENATE  
COMMITTEE ON FINANCE

“Russia’s WTO Accession – Administration’s Views on the Implications for the United States”

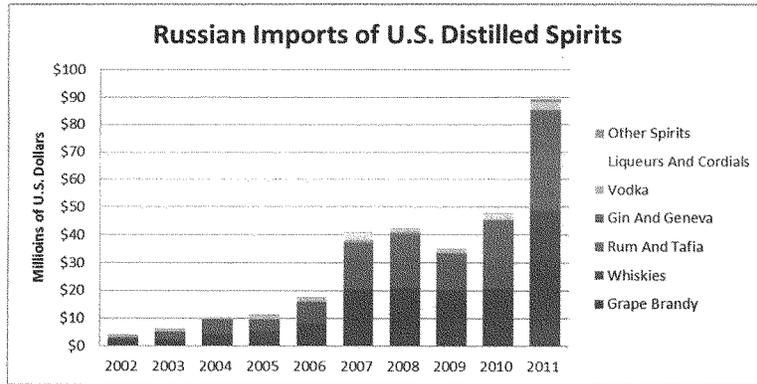
June 21, 2012

The following statement is submitted on behalf of the Distilled Spirits Council of the United States, Inc. (Distilled Spirits Council) for inclusion in the printed record of the Committee’s hearing on the extension of permanent normal trade relations (PNTR) to Russia in light of Russia’s upcoming accession to the World Trade Organization (WTO). The Distilled Spirits Council is a national trade association representing U.S. producers, marketers and exporters of distilled spirits products. Its member companies export spirits products to more than 130 countries worldwide, including to Russia.

I. OVERVIEW

U.S. distilled spirits exports have expanded rapidly over the past several years, reaching a record \$1.34 billion in 2011. This was the fifth consecutive year that exports of American-made spirits exceeded \$1 billion. The majority of U.S. spirits exports are comprised of whiskeys, including Bourbon and Tennessee Whiskey, which are distinctive products of the U.S. However, exports of rum and other spirits also make a significant contribution to the U.S. economy. As of 2008, the distilled spirits industry supported 676,000 direct employees. Continuing to expand exports supports current and future employment in the industry.

One of the industry’s key growth markets in the past decade has been Russia. Since 2002, Russia’s reported imports of U.S. distilled spirits have increased by an astounding 2,254 percent, reaching \$89.2 million in 2011. American whiskeys account for 55 percent of this total, while rum accounts for an additional 41 percent.



According to a recent report by McKinsey, beverage alcohol products are the most popular luxury items in Russia, accounting for 45% of all luxury goods purchases in 2011. Purchases of luxury goods increased 17% compared to the previous year to reach \$5.3 billion. With a population of over 138 million, a growing middle class, and one of the world's largest economies, our member companies see opportunities for continued strong growth in U.S. spirits exports to Russia. As such, U.S. spirits companies have invested significant resources in the market to compete with the wide range of international and domestic spirits products.

Despite these successes and opportunities, Russia remains a challenging market for U.S. spirits companies in many respects. The current regulatory framework for beverage alcohol imports into Russia places numerous burdens on U.S. companies, making the Russian market a costly and sometimes unpredictable place to do business. For example, Russian authorities have at times erected discriminatory regulatory barriers that have negatively impacted U.S. spirits companies' ability to operate in the Russian market. Often, such regulatory measures are adopted without prior consultation or advance notice. Moreover, U.S. exporters do not have the opportunity to provide feedback regarding such proposed regulations in a formal manner prior to implementation. However, Russia's accession to the WTO provides essential tools to address market access barriers as they arise, and will ensure that Russia is bound by the international rules-based trading system.

For all of these reasons, the U.S. distilled spirits industry strongly supports Russia's WTO accession, and extending PNTR to Russia is our top legislative trade priority.

## **II. BENEFITS OF RUSSIA'S WTO ACCESSION TO U.S. DISTILLED SPIRITS EXPORTERS**

Throughout Russia's WTO accession process, U.S. negotiators have insisted on securing strong market access commitments from Russia. As a result, the U.S. distilled spirits industry will enjoy many important benefits from Russia's upcoming WTO membership, provided that the U.S. extends PNTR to Russia. The benefits of Russia's WTO accession to the U.S. spirits industry include:

### Tariff Reductions

Russia will reduce its tariffs from 2 Euros per liter to 1.4 Euros per liter for all whiskey imports over a three year phase-in period. This represents a 30% tariff reduction on the U.S.' largest spirit export category to Russia. Additionally, Russia will reduce the tariff on other spirit categories by 25% from 2 Euros per liter to 1.5 Euros per liter, also over three years. This reduction will be very positive for U.S. rum exports, which is another key export category.

### Working Party Report Commitments

The Working Party report on Russia's WTO accession, which is the official record of negotiations and concessions made by Russia, contains many references to beverage alcohol. In particular, Russia has committed to transparent and fair licensing procedures for beverage alcohol warehouses, a non-discriminatory excise tax regime, reasonable bank guarantee requirements, and streamlined import licensing procedures. All of these commitments will help prevent trade blockages and ensure a level playing field for U.S. spirits on the Russian market.

#### Transparency Regarding Technical Trade Barriers

As a WTO member, Russia must notify the relevant WTO committees of proposed regulations that may act as barriers to trade in order to permit affected stakeholders an opportunity to review and comment on such measures. In many key export markets for U.S. spirits, and in Russia in particular, the industry has noticed that these regulatory measures can cause significant market access issues and even, in some cases, costly commercial disruptions. In general, as noted above, U.S. distilled spirits exporters are not provided advance notice of these measures in Russia. Moreover, when drafts are provided, industry is not currently able to submit comments on proposed regulations directly to the Russian government. In addition to notification, Russia must provide a “reasonable interval” between publication and entry into force, and to provide industry with sufficient time to comply with the new procedure. Russia must also ensure that its regulations do not discriminate against imported products.

The WTO’s committees, including the Sanitary and Phytosanitary (SPS), Technical Barriers to Trade (TBT), and Import Licensing Committees, in particular provide another opportunity for the U.S. government to raise concerns on behalf of U.S. industry about regulatory measures that pose trade barriers. In the past, these committees have been a very useful forum for addressing potential and current trade barriers, building support from other trading partners, and working to resolve complex regulatory obstacles. These commitments will be vital to ensuring that the Russian market remains open for U.S. distilled spirits exports.

#### Enforcement of Intellectual Property Rights

In bilateral negotiations, the U.S. insisted that Russia adhere to international intellectual property rights (IPR) norms and enforce its own legislation. As a result, Russia has made changes to its domestic legislation to adhere to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Russia’s enforceable IPR commitments will be of key importance to U.S. distilled spirits companies in terms of addressing concerns with respect to counterfeit products and protection of trademarks and trade dress, which are critical to protecting internationally-trade U.S. spirits brands.

#### Recourse to Dispute Settlement Process

As a WTO member, Russia will be subject to the dispute settlement process. The WTO’s dispute settlement process, or even the threat of a dispute settlement case, is an important tool in ensuring that WTO member adhere to principles of non-discrimination, science-based international standards, and the use of measures that are least restrictive to trade. The U.S. spirits industry has greatly benefitted from the use of this process in the past, which has addressed discriminatory taxes on imported spirits in Japan, Korea, Chile, and the Philippines. Should Russia fail to adhere to any of its WTO commitments, the U.S.’ ability to raise such non-compliance in the context of the dispute settlement process will be crucial.

### **III. THE NEED TO EXTEND PNTR TO RUSSIA**

As Members of the Committee are aware, the U.S. must extend PNTR to Russia and end the application of the Jackson-Vanik Amendment with respect to Russia in order for U.S. industry,

including spirits exporters to take advantage of the benefits listed above. In particular, the U.S. would likely not be able to raise Russian trade barriers at the SPS, TBT, and other WTO committees. Even more troubling, the U.S. would not be able to initiate a WTO dispute settlement case against any Russian trade barriers. This deprives U.S. exporters of essential tools to ensure that Russia applies fair and equitable international trade rules to U.S. products.

Failure to pass legislation extending PNTR to Russia will therefore put U.S. spirits exports at a distinct disadvantage to competitive products from Europe and elsewhere.

#### **IV. CONCLUSION**

In summary, passage of legislation extending PNTR to Russia is absolutely vital to address the types of trade barriers that impede U.S. exports of distilled spirits to this important growing market. The Distilled Spirits Council, therefore, strongly supports swift congressional approval of this legislation. Failure to do so will leave U.S. spirits exporters at a serious competitive disadvantage vis-à-vis domestic producers and other imported spirits in the Russian market. We stand ready to cooperate closely with Congress in seeking the swift approval of PNTR, and in working with the Administration to ensure that Russia adheres to its WTO commitments.

Thank you very much for your consideration.

Written Statement of:

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**TESTIMONY OF THE NATIONAL MILK PRODUCERS FEDERATION &  
THE U.S. DAIRY EXPORT COUNCIL  
TO THE SENATE FINANCE COMMITTEE  
REGARDING RUSSIAN ACCESSION TO THE WORLD TRADE ORGANIZATION  
June 21, 2012**

The National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council appreciate the opportunity to express the views of America's dairy farmers on the importance of bringing Russia fully into the global trading system on terms that will provide U.S. dairy exports the same rights and advantages that Russia will afford to dairy products from other WTO member nations. This will only be possible if the U.S. provides to Russia Permanent Normal Trade Relations (PNTR) and graduates that nation from the provisions of the Jackson-Vanik amendment.

The National Milk Producers Federation (NMPF) develops and carries out policies that advance the well being of dairy producers and the cooperatives they own. The members of NMPF's 31 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 40,000 dairy producers on Capitol Hill and with government agencies. The U.S. Dairy Export Council (USDEC) is a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, proprietary processors, dairy cooperatives, and export traders. The Council was founded in 1995 by Dairy Management Inc. (DMI), the farmer-funded marketing, promotion and research organization, to build global demand for U.S. dairy products and assist the industry in increasing the volume and value of exports.

While historically the U.S. dairy industry had not been heavily dependent on exports, our foreign sales have been on a strong upward trend for the past several years. In fact, the U.S. dairy industry has become a significant player in the world market, and these markets are playing a greater role in determining prices for dairy products in the United States. Last year the U.S. exported a record \$4.8 billion, accounting for roughly 13% of U.S. milk production. As exports have become more important to our industry, so have unfair trade barriers – and the legal tools available to address them.

Throughout Russia's almost two decade long WTO accession process, U.S. administrations have worked very hard to strengthen commitments Russia would be required to undertake in order to be admitted to the organization. The process was completed this past December when all 155 current members of the WTO approved Russia's membership.

As part of Russia's new trade obligations, it reduced tariffs in the agricultural sector and accepted commitments to operate sanitary and phytosanitary (SPS) measures in a manner consistent with WTO rules. The latter is particularly important given the many SPS challenges that a range of agricultural commodities, including dairy, have experienced with Russia over the years.

**The following are some details relevant to U.S. dairy exports that were included in Russia's accession commitments:**

Tariff Commitments

- Russia will establish a TRQ of 15,000 metric tons for whey products, with a 10 percent in-quota duty, for lines of commercial interest to U.S. dairy suppliers. The over-quota rate will be 15 percent.
  - In addition, Russia will reduce the duty from 15 to 10 percent after 3 years on two other commercially significant whey products.
- Russia is reducing its maximum tariff bindings on cheese from 25 to 15 percent with most reaching the final bound rate within 3 years.
- Despite EU attempts to craftily monopolize access to certain tariff lines, the United States succeeded in securing a commitment that product descriptions in Russia's tariff schedule that include geographical names for cheese should not give rise to enforcement of geographical indications at the border.
  - Further, any tariff concessions negotiated by other countries for particular cheese, e.g., with product descriptions that include geographical names, will apply to all cheeses, addressing the possibility that the EU (or others) could negotiate access for a cheese tariff line for themselves alone. (These provisions all also apply to wines.)
  - This was an important accomplishment in the face of strong EU efforts to restrict the ability of other suppliers to ship a given type of product to Russia under preferential tariff provisions.

SPS Commitments

- Russia has undertaken commitments on how it will comply with the SPS Agreement and its other commitments affecting trade in agricultural products. These commitments will provide U.S. exporters of dairy products with an enforceable set of disciplines against trade restrictions that are not based on science and a risk assessment.
- Russia has also agreed to strong rules on harmonizing its SPS measures with international standards.
- Although the Customs Union that Russia is a member of has adopted a common set of veterinary requirements and common veterinary certificates, it also has adopted measures that allow it to negotiate country-specific veterinary certificates that vary from the common requirements. These variances will be critical in the United States' ability to negotiate certificates with Russia.
  - This is particularly important for the dairy industry given our lack of market access to Russia since September 2010 when lack of agreement on a certificate led Russia to announce the closure of its market to U.S. dairy products until an agreement could be reached.
- In addition, Russia has committed to abolish its requirement that exporting countries provide a list of approved establishments in order to be permitted to ship product there, a requirement that had proved to be a key sticking point in past U.S.-Russia dairy market access discussions.

Once Russia completes its accession process by passing legislation to adopt the accession protocols, which is expected to happen by August, it will become a full WTO member automatically 30 days later.

The choice now before Congress is whether our exporters will be afforded the opportunity to take advantage of the commitments so arduously negotiated over the past 19 years. The failure of Congress to approve full PNTR for Russia will not alter Russia's entry into the WTO, nor even impact its timing. Nor will Congressional inaction on PNTR penalize Russia. Rather, it risks penalizing U.S. sectors hoping to gain new access to that growing market by allowing Russia to withhold trade benefits it will be providing to products of our competitors.

In the dairy sector, the U.S. has been working to restore access to the Russia dairy market since its abrupt closure in 2010 due to a disagreement over certificate and inspection requirements, as mentioned above. Russia is one of the world's largest dairy importers, purchasing over \$2 billion worth of dairy products in 2011. U.S. sales hit a record \$81 million in 2010, before the market closed.

**NMPF and USDEC are hopeful that ongoing negotiations with Russia and its Customs Union partners will prove successful in restoring access to that market and we believe SPS-related undertakings by Russia as part of its accession protocol will be helpful in that process.** The binding nature of those commitments will be undermined in our dairy negotiations if the U.S. fails to grant Russia PNTR, is thus forced to continue to invoke the WTO "non-application" clause, and thereby loses the right to challenge WTO-illegal Russian measures.

We urge Congress to repeal Jackson-Vanik and extend full PNTR to Russia without delay in order to ensure that U.S. exporters are able to hold Russia to its commitments once it joins the WTO this summer.

July 3, 2012



The Honorable Max Baucus  
Chairman  
Senate Finance Committee  
219 Dirksen Senate Office Building  
Washington, DC, 20510

Submitted by:

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***RE: Senate Finance Hearing on Russia's Accession to the World Trade Organization and Granting Russia Permanent Normal Trade Relations***

The National Pork Producers Council (NPPC) hereby submits comments for consideration by the Committee on Ways and Means with regard to their hearing on Russia's Accession to the World Trade Organization and Granting Russia Permanent Normal Trade Relations. This document is submitted for inclusion in the printed record of the hearing.

NPPC is a national association representing a federation of 43 state producer organizations, representing the federal and global interests of 67,000 U.S. pork operations that annually generate approximately \$15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,000 domestic jobs, of which 110,000 jobs are generated directly by U.S. pork exports, and generates more than \$97 billion annually in total U.S. economic activity.

The U.S. pork industry is highly dependent on exports as a revenue source. Nearly twenty-seven percent of the pork produced in the United States in 2011 was exported, compared to about eight percent ten years ago. In 2011 the United States exported 2.3 million metric tons of pork, valued at \$6.2 billion.

The United States remains, on average, the low cost producer of pork in the world. It is no coincidence that the United States is also the number one pork exporter in the world. The vast majority of demand for pork in the world today is outside the United States. In order to remain successful, the U.S. pork industry needs to continue to expand overseas sales, by removing unfair barriers to U.S. pork exports.

**I. The Russian Market for U.S. Pork**

Over the last three years, while Russia worked to conclude its negotiations with the United States and other World Trade Organization (WTO) members on the terms of Russia's accession to the WTO, U.S. exports of meat products to Russia have unfortunately dwindled in size. The table below shows the decline in the value of U.S. meat sales to the Russian market since the peak year of 2008, and Russia's rank as an export market for the U.S. in 2008 and 2011.

*The Global Voice for the U.S. Pork Industry*

	2008	Market Rank	2011	Market Rank
Poultry	\$ .825 billion	1	\$250 million	4
Pork	\$ .414 billion	3	\$213 million	7
Beef	\$.090 billion	10	\$249 million	5
<b>Total Meat</b>	<b>\$1.329 billion</b>		<b>\$712 million</b>	
Total U.S. Exports to Russia	\$9.335 billion		\$8.285 billion	
Meat as Percent of U.S. Exports	14.2%		8.6%	

The decline in U.S. meat sales to Russia took place not because of market factors, but a series of import barriers that Russia imposed on U.S. pork and other meat products during the 2008-2011 period. This included Russia's unilateral reduction in the size of tariff rate quota for imports of pork and other meat products, and a long list of completely unjustifiable health and sanitary restrictions on U.S. pork that severely impeded U.S. pork export sales.

As one of its WTO accession commitments, Russia agreed to establish a tariff rate quota for pork that we believe will be beneficial to the U.S. pork industry. We are deeply grateful to U.S. negotiators for their success in the area.

Unfortunately however, and in spite of the best efforts of our negotiators, Russia will very likely retain upon its WTO accession a series of sanitary and phytosanitary (SPS) measures with the potential to do serious damage to U.S. pork exports to Russia. We are deeply concerned that, in spite of the market access opening created through Russia's WTO pork TRQ, the United States will be unable to take advantage of this concession because of the many Russian SPS barriers that will remain in place.

Following is a list of unjustifiable Russian SPS barriers to U.S. pork imports that will likely remain in place after Russia accedes to the WTO. We believe that all of these policies are in likely conflict with WTO rules, which require that Members base their SPS measures on risk assessments and sound science, and recognize the equivalence of other Members' SPS measures if these measures achieve an appropriate level of SPS protection.

#### *Pork Plant Approval Policy*

Russia has for the last four years maintained plant approval and delistment policies that have resulted in the arbitrary removal of many U.S. pork plants from shipping to the Russian market. Reasons for delistment range from failure to comply with Russia's unjustifiable zero tolerance policy for the antibiotic tetracycline (see details below), to minor administrative errors by U.S. plants in filling out Russian plant approval forms. At present, U.S. pork plants representing over 50 percent of U.S. pork production capacity are prohibited from shipping to Russia. Russia's arbitrary delistment of U.S. pork plants violates the terms of a 2006 U.S.-Russia Agreement on plant approvals.

Russia did make a commitment as part of its WTO accession to undertake an equivalence review of meat plant inspection and approval systems of all WTO members expressing an interest. But in light of Russia's recent behavior on plant delistments and SPS issues in general, we have no confidence that such a review will lead to recognition of equivalence for U.S. pork plants.

It should be noted that both China and Vietnam provided the United States with bilateral commitments in the context of their WTO Accession, granting equivalence to the U.S. meat inspection and approval process. The United States has amply demonstrated to the Russian government through years of discussion the efficacy of our plant inspection and approval systems in protecting consumer and animal health, and there is no reason why Russia should not recognize the U.S. system as equivalent to its own.

#### *Zero Tolerance for Tetracycline*

Russia maintains an effective zero tolerance policy for the presence of tetracycline in pork products. The United States has sought Russian adoption of either the *Codex Alimentarius* recommended standard or the U.S. standard for maximum residue levels (MRLs) for the antibiotic tetracycline. The use of tetracycline in animal feed has been recognized as safe by the U.S. Food and Drug Administration, the *Codex Alimentarius*, and almost all U.S. trading partners. Numerous U.S. pork plants have been delisted, and shipments rejected, because of Russia's zero tolerance policy for tetracycline. Russia's recent "risk assessment" on tetracycline, which it used to justify maintaining its effective zero tolerance policy, has been reviewed by U.S. experts, who found that it was not really a risk assessment at all, and that the conclusions were not based on science. There are reports that Russia has intensified its testing for tetracycline in recent months, even as it prepares to accede to the WTO.

#### *Zero Tolerance for Pathogens*

Russia maintains an effective zero tolerance policy for pathogens on meat products including pork. No country in the world, including Russia, is able to meet this requirement. The United States has requested that Russia adopt *Codex Alimentarius* standards or the U.S. MRL for pathogens on meat. As with the zero tolerance policy for tetracycline, many U.S. pork plants have been delisted, and shipments rejected, because of Russia's unfounded zero tolerance policy for pathogens.

#### *Trichinae Testing Policy*

Russia requires that all U.S. fresh and chilled pork be tested for the presence of trichinae, or frozen as a mitigation measure. Consumption of uncooked pork harboring trichinae can cause disease in humans. Trichinosis has effectively been eliminated from the U.S. commercial herd - there has not been a detected case in the U.S. herd in over a decade. The possibility of a U.S. consumer getting trichinosis from the consumption of U.S. pork is therefore negligible, and estimated by experts at one in three hundred million. Russia's trichinae related testing requirements are not science-based and significantly limit U.S. pork exports.

#### *Possible Ractopamine Ban*

Many U.S. pork producers make use of ractopamine, a protein synthesis compound, as a way of improving production efficiency. Recent reports from Moscow indicate that

Russia is considering imposing a ban on the use of ractopamine in pork production, possibly even before it accedes to the WTO. Russia has already reportedly taken action against Brazil, related to its use of ractopamine in pork production. The U.S. Food and Drug Administration, along with regulatory authorities in many other countries, have approved ractopamine for use in livestock production. The Joint Expert Committee on Feed Additives (JECFA), the scientific arm of the *Codex Alimentarius*, has also found the product safe for use in animal production. If Russia were to implement a ractopamine ban it would seriously disrupt U.S. pork sales to Russia.

## **II. Concluding Comments**

Unfortunately, Russia has taken action after action in recent years to disrupt pork imports from the United States, even as it worked to accede to the WTO. The Russian government has clearly played to the sentiments of Russian pork producers, even though the actions Russia has taken are inconsistent with basic principles contained in the WTO SPS Agreement. U.S. pork producers are heavily reliant on potentially large overseas markets like Russia for their profitability, and want to ensure that as a WTO member, Russia abides by all of its WTO obligations, including those contained in the WTO SPS Agreement.

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