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**A Relic of the Cold War: Is It Time to Repeal Jackson-Vanik for Russia?**

Mr. Chairmen, I appreciate the opportunity to join you in today's very timely discussion of the Jackson-Vanik amendment. It is hard to think of another piece of legislation with such an honorable past that has sunk into a comparable state of purposelessness and confusion.

No one has a monopoly on this confusion. I have encountered eminent journalists who are taken aback to learn that the amendment is still on the books; senior officials of the Executive Branch who believe that the president blocks the application of its terms to Russia by sending Congress an annual waiver (he does not); and knowledgeable businessmen, in both countries, who believe that it limits the growth of trade between Russia and the United States (it does not). In my experience, there are even Members of Congress who are a little fuzzy about the exact legal status of the Jackson-Vanik amendment. And it is entirely possible that some of the witnesses assembled here today (I definitely include myself) will make their own mistakes in describing its origins, its current meaning, and how it should be handled in the future.

Confusion about the amendment's continuing value or relevance in no way detracts from its historic achievements. During the Cold War it gave concrete and much-needed expression to American concerns over Soviet human rights violations, and eventually facilitated the free emigration of many hundreds of thousands of people. But all this was a long time ago. It has been almost sixteen years since Bill Clinton reported to Congress that Russia was in full compliance with the terms of Jackson-Vanik. (To put this span of time in perspective, the amendment actually restricted trade with the Soviet Union for only fifteen years, between the time when it first took effect in 1975 and

President Bush's decision to waive its application in 1990.) Each subsequent Administration has supported President Clinton's assessment.

Today this legislation remains in force for reasons that have nothing to do with free emigration -- which Russia has allowed for years -- and everything to do with trade. Russia's long negotiations to join the World Trade Organization seem to be drawing to an end. And some Members of Congress believe -- incorrectly, to my mind -- that by keeping the amendment on the books they can assure better treatment of American products in the Russian market. The unhampered movement of human beings was your concern in the past. Now it is the unhampered movement of frozen chicken.

For many who were associated with human rights struggles over the years, this is dispiriting. A great tool for the advancement of human rights has become, as Natan Sharansky complained two years ago, "a weapon of the U.S. agricultural lobby." Having done hard time in the gulag for his desire to emigrate to Israel, Sharansky is entitled to his criticism. But there is no avoiding the fact that the Jackson-Vanik amendment is now inextricably intertwined with disputes about meat and poultry. No proposal for how to deal with it will succeed unless it also takes commercial interests into account.

The most obvious -- and certainly the easiest -- way to address this historical anachronism is to do nothing until Russia's accession talks with the WTO are concluded. Once accession is done, and the concerns of every nation in that organization have been satisfied, Members of Congress -- perhaps of these very subcommittees -- can then hold a final round of hearings on Jackson-Vanik. After that they will presumably bring a resolution to the floor that "graduates" Russia -- that is, declares that the amendment no longer applies to it. In this way, Russia and the United States will finally establish "permanent normal trade relations" (PNTR) with each other.

Since the end of the Cold War, most Administrations have eventually been led to this strategy, and chances are that the Obama Administration will do so as well. Yet there are drawbacks to waiting for the WTO to finish the job. After all, while most Administrations have settled on this approach, they have not yet made it succeed.

For Congress, the principal drawback of waiting for the WTO is that it actually fails to make use of leverage available to this body. Members feel that they are exercising influence on the Administration's negotiation position, but this is largely an illusion. No matter what the details are of Russia's accession to the WTO, when a resolution to "graduate" Russia is finally introduced in the Congress, there is no chance that it will fail. You may think that you are reserving for yourselves the last word on WTO accession by holding on to Jackson-Vanik. The reality is different. You will simply be rubber-stamping the result.

Waiting for the WTO to act has potential drawbacks for American business as well. Russia's accession has been an almost unimaginably long process, and the longer it takes the longer American exporters will be vulnerable to arbitrary restrictions imposed on them by the Russian bureaucracy. (To take just one example, I note the April 8, 2010 letter to President Obama from the National Pork Producers Council, which complained that Russian treatment of American pork exports is incompatible with the WTO's Sanitary and Phytosanitary Agreement. When Russia finally joins the WTO, our exporters will be able to have such practices struck down through the organization's dispute-resolution procedures.)

Finally, waiting for WTO accession to produce "graduation" dodges one of the most important tasks that the U.S. government will face after "graduation" -- how to think, talk, and act to advance the original goals of the Jackson-Vanik amendment. In one way or another, Russia's domestic evolution remains a concern for all states that have relations with it. It has been a large part of American policy for many decades, but today this element of our policy is badly in

need of modernization. We should be thinking about the problem now. Congress – which contributed long ago by passing the amendment -- can play a role in creating a new policy.

It is completely understandable that Congress is reluctant to act on “graduation” at this time. The Russian government has done too much in the last year to undermine confidence in its handling of trade issues. From the continuing imposition of new protectionist measures against American agricultural products to Prime Minister Putin’s peculiar announcement last June that Russia would try to join the WTO jointly with the other members of its new customs union, Russia has given few reasons for other governments to meet it halfway in these negotiations. But this may be changing. Today a very senior delegation of Russian economic policymakers is in Washington to meet with American officials, and one of the reasons for its presence may be a recognition that Russian policies have been unsustainable and counter-productive. If the next few months bring signs of a new Russian approach to trade issues, Congress should be prepared to devise a new approach as well. Its goal should be to advance both American commercial interests as well as the original concerns of the Jackson-Vanik amendment. Here’s how it might do so:

- A new approach would, of course, have as its basic ingredient a willingness to “graduate” Russia from the coverage of the law, just as Congress has done with other post-Soviet states. (I should note that, despite the title of today’s hearing, such a vote would not “repeal” Jackson-Vanik.)
- Before voting, Congress might also require – perhaps in the form of side-letters from the president or secretary of state – a full explanation of the Administration’s view of remaining accession problems. Congress will naturally want firm and specific commitments about how the Administration intends to address these problems.
- As a third ingredient of its approach, Congress should also require – before agreeing to vote on “graduation” – that the Administration present in some detail its future strategy for addressing issues of human rights, democracy promotion and engagement with Russian civil society.
- Fourth, the resolution that “graduates” Russia from Jackson-Vanik should specify that PNTR will come into force between Russia and the United States only with Russia’s full accession to the WTO.
- Fifth, Congress might give itself the option of a final vote on the matter by requiring a further report by the secretary of state when the terms of Russian WTO accession have been agreed. If Congress objected to these terms, it would have the right – within a specified period of time – to vote a resolution of disapproval of the secretary’s report. If passed by both chambers, this resolution would restore a version of the status quo. That is, “normal trade relations” – what we have now between Russia and the U.S. -- would be automatically renewed each year unless the President reported that Russia was no longer in compliance with the terms of the Jackson-Vanik amendment.

Compared to the current strategy of waiting for the WTO to complete the process of accession, this approach would serve American interests in three important respects.

First is a possible economic payoff. Russian-American trade is already recovering from last year’s sharp downturn, but the action by Congress that I have described might help regain lost ground more quickly. By confirming that PNTR would take effect automatically with WTO accession, it would add to Russian incentives to drop the neo-protectionist measures it adopted last year in the depths of the economic crisis.

An early “graduation” vote by Congress at this time might have a second, political payoff as well. President Medvedev has emphasized how much he looks for economic benefits from the so-called “reset” of Russian-American relations. The formula described above would make no unilateral concessions to Moscow, but it would set out a mechanism for removing Russia from the coverage of the Jackson-Vanik amendment, probably without any further Congressional votes. This would surely be viewed positively in Russia -- at no real cost to the integrity of American policy. It would also highlight how little Russia has done, by comparison, to put aside the pre-occupations of the Cold War.

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Third, this approach would focus the attention of both Congress and the Administration on the key issue that led to the adoption of Jackson-Vanik amendment in the first place – the evolution of Russia’s own political and legal system. Then, as now, how Russia evolves will determine not only its moral standing in the world (this is not the view simply of Russian human-rights activists -- President Medvedev himself has said the same thing), but its viability as an effective partner for the United States.

Yet the fact that this issue remains an American concern thirty-five years after Jackson-Vanik became law does not mean that we can expect to advance our interests in the same way that we did in the 1970’s. We need a modernized strategy – one that reflects both the dramatic changes that have taken place and those that have not. We need to make use of our increased access to Russian civil society while understanding our diminished diplomatic leverage. The Administration has some interesting ideas in this regard, and some of them have already begun to be put into practice. It has initiated a promising line of policy innovations that Congress can help to consolidate and institutionalize, by making them part of the process of “graduation.”

The Jackson-Vanik amendment no longer offers us a viable policy. It provides no shred of usable leverage. Our task – above all, the task of Congress – is to use “graduation” to develop a strategy that re-focuses on the importance of Russia’s continuing democratic evolution.

Mr. Chairmen, I look forward to discussing these issues with you, with the members of your committee, and with the distinguished witnesses you have asked to take part in today’s hearing. Thank you.