

## Calendar No. 552

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 6156**

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 26, 2012

Received; read twice and placed on the calendar

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**AN ACT**

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

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—PERMANENT NORMAL TRADE RELATIONS FOR THE  
RUSSIAN FEDERATION

Sec. 101. Findings.

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

TITLE II—TRADE ENFORCEMENT MEASURES RELATING TO THE  
RUSSIAN FEDERATION

Sec. 201. Reports on implementation by the Russian Federation of obligations as a member of the World Trade Organization and enforcement actions by the United States Trade Representative.

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

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

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

TITLE III—PERMANENT NORMAL TRADE RELATIONS FOR  
MOLDOVA

Sec. 301. Findings.

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

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

Sec. 401. Short title.

Sec. 402. Findings; Sense of Congress.

Sec. 403. Definitions.

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

Sec. 405. Inadmissibility of certain aliens.

Sec. 406. Financial measures.

Sec. 407. Report to Congress.

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

4 **SEC. 101. FINDINGS.**

5 Congress finds the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (a) REPORTS ON IMPLEMENTATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (3) PUBLIC COMMENTS.—

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) REPORT REQUIRED.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **SEC. 301. FINDINGS.**

5 Congress finds the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

4               (2) The Russian Federation—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **SEC. 403. DEFINITIONS.**

15           In this title:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11          (c) FORM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

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

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

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

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

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

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

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

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

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

21 (a) **FREEZING OF ASSETS.**—

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



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

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

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

22 (c) ENFORCEMENT.—

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

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

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

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

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

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

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

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

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

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

Passed the House of Representatives November 16,  
2012.

Attest:

KAREN L. HAAS,

*Clerk.*

Calendar No. 552

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 6156**

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**AN ACT**

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

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NOVEMBER 26, 2012

Received; read twice and placed on the calendar