

NOVEMBER 9, 2012

RULES COMMITTEE PRINT 112-33
TEXT OF H.R. 6156, RUSSIA AND MOLDOVA
JACKSON-VANIK REPEAL ACT OF 2012

[Showing the text of H.R. 6156, as reported by the Committee on Ways and Means, and H.R. 4405 with modifications.]

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

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

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

Sec. 1. Short title; table of contents.

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

Sec. 101. Findings.

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

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

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

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

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

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

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

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

17 (3) The Russian Federation has received nor-
18 mal trade relations treatment since concluding a bi-

1 lateral trade agreement with the United States that
2 entered into force in 1992.

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

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

10 (a) PRESIDENTIAL DETERMINATIONS AND EXTEN-
11 SION OF NONDISCRIMINATORY TREATMENT.—Notwith-
12 standing any provision of title IV of the Trade Act of 1974
13 (19 U.S.C. 2431 et seq.), the President may—

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

16 (2) after making a determination under para-
17 graph (1) with respect to the Russian Federation,
18 proclaim the extension of nondiscriminatory treat-
19 ment (normal trade relations treatment) to the prod-
20 ucts of the Russian Federation.

21 (b) EFFECTIVE DATE OF NONDISCRIMINATORY
22 TREATMENT.—The extension of nondiscriminatory treat-
23 ment to the products of the Russian Federation pursuant
24 to subsection (a) shall be effective not sooner than the ef-

1 fective date of the accession of the Russian Federation to
2 the World Trade Organization.

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

9 **TITLE II—TRADE ENFORCEMENT**
10 **MEASURES RELATING TO THE**
11 **RUSSIAN FEDERATION**

12 **SEC. 201. REPORTS ON IMPLEMENTATION BY THE RUSSIAN**
13 **FEDERATION OF OBLIGATIONS AS A MEMBER**
14 **OF THE WORLD TRADE ORGANIZATION AND**
15 **ENFORCEMENT ACTIONS BY THE UNITED**
16 **STATES TRADE REPRESENTATIVE.**

17 (a) REPORTS ON IMPLEMENTATION.—

18 (1) IN GENERAL.—Not later than one year
19 after the effective date under section 102(b) of the
20 extension of nondiscriminatory treatment to the
21 products of the Russian Federation, and annually
22 thereafter, the United States Trade Representative
23 shall submit to the Committee on Finance of the
24 Senate and the Committee on Ways and Means of

1 the House of Representatives a report assessing the
2 following:

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

8 (i) The Agreement on the Application
9 of Sanitary and Phytosanitary Measures
10 (referred to in section 101(d)(3) of the
11 Uruguay Round Agreements Act (19
12 U.S.C. 3511(d)(3))).

13 (ii) The Agreement on Trade-Related
14 Aspects of Intellectual Property Rights (re-
15 ferred to in section 101(d)(15) of the Uru-
16 guay Round Agreements Act (19 U.S.C.
17 3511(d)(15))).

18 (B) The progress made by the Russian
19 Federation in acceding to, and the extent to
20 which the Russian Federation is implementing,
21 the following:

22 (i) The Ministerial Declaration on
23 Trade in Information Technology Products
24 of the World Trade Organization, agreed
25 to at Singapore December 13, 1996 (com-

1 monly referred to as the “Information
2 Technology Agreement”) (or a successor
3 agreement).

4 (ii) The Agreement on Government
5 Procurement (referred to in section
6 101(d)(17) of the Uruguay Round Agree-
7 ments Act (19 U.S.C. 3511(d)(17))).

8 (2) PLAN FOR ACTION BY TRADE REPRESENTA-
9 TIVE.—

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

1 (B) CLASSIFIED INFORMATION.—If any in-
2 formation regarding a planned action referred
3 to in subparagraph (A) is classifiable under Ex-
4 ecutive Order 13526 (75 Fed. Reg. 707; relat-
5 ing to classified national security information)
6 or a subsequent Executive order, the Trade
7 Representative shall report that information to
8 the Committee on Finance of the Senate and
9 the Committee on Ways and Means of the
10 House of Representatives by—

11 (i) including the information in a clas-
12 sified annex to the report required by para-
13 graph (1); or

14 (ii) consulting with the Committee on
15 Finance and the Committee on Ways and
16 Means with respect to the information in-
17 stead of including the information in the
18 report or a classified annex to the report.

19 (3) PUBLIC COMMENTS.—

20 (A) IN GENERAL.—In developing the re-
21 port required by paragraph (1), the Trade Rep-
22 resentative shall provide an opportunity for the
23 public to comment, including by holding a pub-
24 lic hearing.

1 (B) PUBLICATION IN FEDERAL REG-
2 ISTER.—The Trade Representative shall publish
3 notice of the opportunity to comment and hear-
4 ing required by subparagraph (A) in the Fed-
5 eral Register.

6 (b) REPORT ON ENFORCEMENT ACTIONS TAKEN BY
7 TRADE REPRESENTATIVE.—Not later than 180 days after
8 the effective date under section 102(b) of the extension
9 of nondiscriminatory treatment to the products of the
10 Russian Federation, and annually thereafter, the United
11 States Trade Representative shall submit to the Com-
12 mittee on Finance of the Senate and the Committee on
13 Ways and Means of the House of Representatives a report
14 describing the enforcement actions taken by the Trade
15 Representative against the Russian Federation to ensure
16 the full compliance of the Russian Federation with its obli-
17 gations as a member of the World Trade Organization,
18 including obligations under agreements with members of
19 the Working Party on the accession of the Russian Fed-
20 eration to the World Trade Organization.

21 **SEC. 202. PROMOTION OF THE RULE OF LAW IN THE RUS-**
22 **SIAN FEDERATION TO SUPPORT UNITED**
23 **STATES TRADE AND INVESTMENT.**

24 (a) REPORTS ON PROMOTION OF RULE OF LAW.—
25 Not later than one year after the effective date under sec-

1 tion 102(b) of the extension of nondiscriminatory treat-
2 ment to the products of the Russian Federation, and an-
3 nually thereafter, the United States Trade Representative
4 and the Secretary of State shall jointly submit to the Com-
5 mittee on Finance of the Senate and the Committee on
6 Ways and Means of the House of Representatives a re-
7 port—

8 (1) on the measures taken by the Trade Rep-
9 resentative and the Secretary and the results
10 achieved during the year preceding the submission of
11 the report with respect to promoting the rule of law
12 in the Russian Federation, including with respect
13 to—

14 (A) strengthening formal protections for
15 United States investors in the Russian Federa-
16 tion, including through the negotiation of a new
17 bilateral investment treaty;

18 (B) advocating for United States investors
19 in the Russian Federation, including by pro-
20 moting the claims of United States investors in
21 Yukos Oil Company;

22 (C) encouraging all countries that are par-
23 ties to the Convention on Combating Bribery of
24 Foreign Public Officials in International Busi-
25 ness Transactions of the Organisation for Eco-

1 nomic Co-operation and Development, done at
2 Paris December 17, 1997 (commonly referred
3 to as the “OECD Anti-Bribery Convention”),
4 including the Russian Federation, to fully im-
5 plement their commitments under the Conven-
6 tion to prevent overseas business bribery by the
7 nationals of those countries;

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

11 (E) increasing cooperation between the
12 United States and the Russian Federation to
13 expand the capacity for civil society organiza-
14 tions to monitor, investigate, and report on sus-
15 pected instances of corruption; and

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

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

20 (1) IN GENERAL.—The Secretary of Commerce
21 shall establish and maintain a dedicated phone hot-
22 line and secure website, accessible from within and
23 outside the Russian Federation, for the purpose of
24 allowing United States entities—

1 (A) to report instances of bribery, at-
2 tempted bribery, or other forms of corruption in
3 the Russian Federation that impact or poten-
4 tially impact their operations; and

5 (B) to request the assistance of the United
6 States with respect to issues relating to corrup-
7 tion in the Russian Federation.

8 (2) REPORT REQUIRED.—

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

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

23 (ii) A description of the regions in the
24 Russian Federation in which those in-
25 stances are alleged to have occurred.

1 (iii) A summary of actions taken by
2 the United States to provide assistance to
3 United States entities pursuant to para-
4 graph (1)(B).

5 (iv) A description of the efforts taken
6 by the Secretary to inform United States
7 entities conducting business in the Russian
8 Federation or considering conducting busi-
9 ness in the Russian Federation of the
10 availability of assistance through the hot-
11 line and website.

12 (B) CONFIDENTIALITY.—The Secretary
13 shall not include in the report required by sub-
14 paragraph (A) the identity of a United States
15 entity that reports instances of bribery, at-
16 tempted bribery, or other forms of corruption in
17 the Russian Federation or requests assistance
18 pursuant to paragraph (1).

19 **SEC. 203. REPORTS ON LAWS, POLICIES, AND PRACTICES**
20 **OF THE RUSSIAN FEDERATION THAT DIS-**
21 **CRIMINATE AGAINST UNITED STATES DIG-**
22 **ITAL TRADE.**

23 Section 181(a) of the Trade Act of 1974 (19 U.S.C.
24 2241(a)) is amended—

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

3 (2) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) INCLUSION OF CERTAIN DISCRIMINATORY
6 LAWS, POLICIES, AND PRACTICES OF THE RUSSIAN
7 FEDERATION.—For calender year 2012 and each
8 succeeding calendar year, the Trade Representative
9 shall include in the analyses and estimates under
10 paragraph (1) an identification and analysis of any
11 laws, policies, or practices of the Russian Federation
12 that deny fair and equitable market access to United
13 States digital trade.”.

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

16 The United States Trade Representative shall con-
17 tinue to pursue the reduction of barriers to trade imposed
18 by the Russian Federation on articles exported from the
19 United States to the Russian Federation through ef-
20 forts—

21 (1) to negotiate a bilateral agreement under
22 which the Russian Federation will accept the sani-
23 tary and phytosanitary measures of the United
24 States as equivalent to the sanitary and

1 phytosanitary measures of the Russian Federation;
2 and

3 (2) to obtain the adoption by the Russian Fed-
4 eration of an action plan for providing greater pro-
5 tections for intellectual property rights than the pro-
6 tections required by the Agreement on Trade-Related
7 Aspects of Intellectual Property Rights (re-
8 ferred to in section 101(d)(15) of the Uruguay
9 Round Agreements Act (19 U.S.C. 3511(d)(15))).

10 **TITLE III—PERMANENT NORMAL**
11 **TRADE RELATIONS FOR**
12 **MOLDOVA**

13 **SEC. 301. FINDINGS.**

14 Congress finds the following:

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

22 (2) Moldova has been found to be in full com-
23 pliance with the freedom of emigration requirements
24 under title IV of the Trade Act of 1974 (19 U.S.C.
25 2431 et seq.) since 1997.

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

3 **SEC. 302. TERMINATION OF APPLICATION OF TITLE IV OF**
4 **THE TRADE ACT OF 1974 TO PRODUCTS OF**
5 **MOLDOVA.**

6 (a) PRESIDENTIAL DETERMINATIONS AND EXTEN-
7 SION OF NONDISCRIMINATORY TREATMENT.—Notwith-
8 standing any provision of title IV of the Trade Act of 1974
9 (19 U.S.C. 2431 et seq.), the President may—

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

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

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

1 **TITLE IV—SERGEI MAGNITSKY**
2 **RULE OF LAW ACCOUNT-**
3 **ABILITY ACT OF 2012**

4 **SEC. 401. SHORT TITLE.**

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

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

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

9 (1) The United States aspires to a mutually
10 beneficial relationship with the Russian Federation
11 based on respect for human rights and the rule of
12 law, and supports the people of the Russian Federa-
13 tion in their efforts to realize their full economic po-
14 tential and to advance democracy, human rights,
15 and the rule of law.

16 (2) The Russian Federation—

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

21 (B) has ratified the Convention against
22 Torture and Other Cruel, Inhuman or Degrad-
23 ing Treatment or Punishment, the International
24 Covenant on Civil and Political Rights, and the

1 United Nations Convention against Corruption;
2 and

3 (C) is bound by the legal obligations set
4 forth in the European Convention on Human
5 Rights.

6 (3) States voluntarily commit themselves to re-
7 spect obligations and responsibilities through the
8 adoption of international agreements and treaties,
9 which must be observed in good faith in order to
10 maintain the stability of the international order.
11 Human rights are an integral part of international
12 law, and lie at the foundation of the international
13 order. The protection of human rights, therefore,
14 particularly in the case of a country that has in-
15 curred obligations to protect human rights under an
16 international agreement to which it is a party, is not
17 left exclusively to the internal affairs of that coun-
18 try.

19 (4) Good governance and anti-corruption meas-
20 ures are instrumental in the protection of human
21 rights and in achieving sustainable economic growth,
22 which benefits both the people of the Russian Fed-
23 eration and the international community through the
24 creation of open and transparent markets.

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

7 (6) The Russian nongovernmental organization
8 INDEM has estimated that bribes by individuals
9 and businesses in the Russian Federation amount to
10 hundreds of billions of dollars a year, an increasing
11 share of the country's gross domestic product.

12 (7) Sergei Leonidovich Magnitsky died on No-
13 vember 16, 2009, at the age of 37, in Matrosskaya
14 Tishina Prison in Moscow, Russia, and is survived
15 by a mother, a wife, and 2 sons.

16 (8) On July 6, 2011, Russian President
17 Dimitry Medvedev's Human Rights Council an-
18 nounced the results of its independent investigation
19 into the death of Sergei Magnitsky. The Human
20 Rights Council concluded that Sergei Magnitsky's
21 arrest and detention was illegal; he was denied ac-
22 cess to justice by the courts and prosecutors of the
23 Russian Federation; he was investigated by the same
24 law enforcement officers whom he had accused of
25 stealing Hermitage Fund companies and illegally ob-

1 taining a fraudulent \$230,000,000 tax refund; he
2 was denied necessary medical care in custody; he
3 was beaten by 8 guards with rubber batons on the
4 last day of his life; and the ambulance crew that was
5 called to treat him as he was dying was deliberately
6 kept outside of his cell for one hour and 18 minutes
7 until he was dead. The report of the Human Rights
8 Council also states the officials falsified their ac-
9 counts of what happened to Sergei Magnitsky and,
10 18 months after his death, no officials had been
11 brought to trial for his false arrest or the crime he
12 uncovered. The impunity continued in April 2012,
13 when Russian authorities dropped criminal charges
14 against Larisa Litvinova, the head doctor at the
15 prison where Magnitsky died.

16 (9) The systematic abuse of Sergei Magnitsky,
17 including his repressive arrest and torture in custody
18 by officers of the Ministry of the Interior of the Rus-
19 sian Federation that Mr. Magnitsky had implicated
20 in the embezzlement of funds from the Russian
21 Treasury and the misappropriation of 3 companies
22 from his client, Hermitage Capital Management, re-
23 flects how deeply the protection of human rights is
24 affected by corruption.

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

3 (A) the denial by all state bodies of the
4 Russian Federation of any justice or legal rem-
5 edies to Mr. Magnitsky during the nearly 12
6 full months he was kept without trial in deten-
7 tion; and

8 (B) the impunity since his death of state
9 officials he testified against for their involve-
10 ment in corruption and the carrying out of his
11 repressive persecution.

12 (11) The Public Oversight Commission of the
13 City of Moscow for the Control of the Observance of
14 Human Rights in Places of Forced Detention, an or-
15 ganization empowered by Russian law to independ-
16 ently monitor prison conditions, concluded on De-
17 cember 29, 2009, “A man who is kept in custody
18 and is being detained is not capable of using all the
19 necessary means to protect either his life or his
20 health. This is a responsibility of a state which holds
21 him captive. Therefore, the case of Sergei Magnitsky
22 can be described as a breach of the right to life. The
23 members of the civic supervisory commission have
24 reached the conclusion that Magnitsky had been ex-
25 periencing both psychological and physical pressure

1 in custody, and the conditions in some of the wards
2 of Butyrka can be justifiably called torturous. The
3 people responsible for this must be punished.”.

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

12 (13) The second trial, verdict, and sentence
13 against former Yukos executives Mikhail
14 Khodorkovsky and Platon Lebedev evoke serious
15 concerns about the right to a fair trial and the inde-
16 pendence of the judiciary in the Russian Federation.
17 The lack of credible charges, intimidation of wit-
18 nesses, violations of due process and procedural
19 norms, falsification or withholding of documents, de-
20 nial of attorney-client privilege, and illegal detention
21 in the Yukos case are highly troubling. The Council
22 of Europe, Freedom House, and Amnesty Inter-
23 national, among others, have concluded that they
24 were charged and imprisoned in a process that did
25 not follow the rule of law and was politically influ-

1 enced. Furthermore, senior officials of the Govern-
2 ment of the Russian Federation, including First
3 Deputy Prime Minister Igor Shuvalov, have acknowl-
4 edged that the arrest and imprisonment of
5 Khodorkovsky were politically motivated.

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

22 (15) The tragic and unresolved murders of
23 Nustap Abdurakhmanov, Maksharip Aushev,
24 Natalya Estemirova, Akhmed Hadjimagomedov,
25 Umar Israilov, Paul Klebnikov, Anna Politkovskaya,

1 Saihadji Saihadjiev, and Magomed Y. Yevloyev, the
2 death in custody of Vera Trifonova, the disappear-
3 ances of Mokhmadsalakh Masaev and Said-Saleh
4 Ibragimov, the torture of Ali Israilov and Islam
5 Umarpashaev, the near-fatal beatings of Mikhail
6 Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail
7 Vinyukov, and the harsh and ongoing imprisonment
8 of Mikhail Khodorkovsky, Alexei Kozlov, Platon
9 Lebedev, and Fyodor Mikheev further illustrate the
10 grave danger of exposing the wrongdoing of officials
11 of the Government of the Russian Federation, in-
12 cluding Chechen leader Ramzan Kadyrov, or of seek-
13 ing to obtain, exercise, defend, or promote inter-
14 nationally recognized human rights and freedoms.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that the United States should continue to strongly
17 support, and provide assistance to, the efforts of the Rus-
18 sian people to establish a vibrant democratic political sys-
19 tem that respects individual liberties and human rights,
20 including by enhancing the provision of objective informa-
21 tion through all relevant media, such as Radio Liberty and
22 the internet. The Russian Government’s suppression of
23 dissent and political opposition, the limitations it has im-
24 posed on civil society and independent media, and the de-
25 terioration of economic and political freedom inside Russia

1 are of profound concern to the United States Government
2 and to the American people.

3 **SEC. 403. DEFINITIONS.**

4 In this title:

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

9 (2) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.—The term “appropriate congressional com-
11 mittees” means—

12 (A) the Committee on Armed Services, the
13 Committee on Financial Services, the Com-
14 mittee on Foreign Affairs, the Committee on
15 Homeland Security, and the Committee on the
16 Judiciary of the House of Representatives; and

17 (B) the Committee on Armed Services, the
18 Committee on Banking, Housing, and Urban
19 Affairs, the Committee on Foreign Relations,
20 the Committee on Homeland Security and Gov-
21 ernmental Affairs, and the Committee on the
22 Judiciary of the Senate.

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

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

3 (A) a United States citizen or an alien law-
4 fully admitted for permanent residence to the
5 United States; or

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

10 **SEC. 404. IDENTIFICATION OF PERSONS RESPONSIBLE FOR**
11 **THE DETENTION, ABUSE, AND DEATH OF**
12 **SERGEI MAGNITSKY AND OTHER GROSS VIO-**
13 **LATIONS OF HUMAN RIGHTS.**

14 (a) IN GENERAL.—Not later than 120 days after the
15 date of the enactment of this Act, the President shall sub-
16 mit to the appropriate congressional committees a list of
17 each person who the President determines, based on cred-
18 ible information—

19 (1) is responsible for the detention, abuse, or
20 death of Sergei Magnitsky, participated in efforts to
21 conceal the legal liability for the detention, abuse, or
22 death of Sergei Magnitsky, financially benefitted
23 from the detention, abuse, or death of Sergei
24 Magnitsky, or was involved in the criminal con-
25 spiracy uncovered by Sergei Magnitsky;

1 (2) is responsible for extrajudicial killings, tor-
2 ture, or other gross violations of internationally rec-
3 ognized human rights committed against individuals
4 seeking—

5 (A) to expose illegal activity carried out by
6 officials of the Government of the Russian Fed-
7 eration; or

8 (B) to obtain, exercise, defend, or promote
9 internationally recognized human rights and
10 freedoms, such as the freedoms of religion, ex-
11 pression, association, and assembly, and the
12 rights to a fair trial and democratic elections,
13 in Russia; or

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

17 (b) UPDATES.—The President shall submit to the ap-
18 propriate congressional committees an update of the list
19 required by subsection (a) as new information becomes
20 available.

21 (c) FORM.—

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

24 (2) EXCEPTION.—The name of a person to be
25 included in the list required by subsection (a) may

1 be submitted in a classified annex only if the Presi-
2 dent—

3 (A) determines that it is vital for the na-
4 tional security interests of the United States to
5 do so;

6 (B) uses the annex in such a manner con-
7 sistent with congressional intent and the pur-
8 poses of this Act; and

9 (C) 15 days prior to submitting the name
10 in a classified annex, provides to the appro-
11 priate congressional committees notice of, and a
12 justification for, including or continuing to in-
13 clude each person in the classified annex despite
14 any publicly available credible information indi-
15 cating that the person engaged in an activity
16 described in paragraph (1), (2), or (3) of sub-
17 section (a).

18 (3) CONSIDERATION OF DATA FROM OTHER
19 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
20 TIONS.—In preparing the list required by subsection
21 (a), the President shall consider information pro-
22 vided by the chairperson and ranking member of
23 each of the appropriate congressional committees
24 and credible data obtained by other countries and
25 nongovernmental organizations, including organiza-

1 tions inside Russia, that monitor the human rights
2 abuses of the Government of the Russian Federa-
3 tion.

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

8 (d) REMOVAL FROM LIST.—A person may be re-
9 moved from the list required by subsection (a) if the Presi-
10 dent determines and reports to the appropriate congres-
11 sional committees not less than 15 days prior to the re-
12 moval of the person from the list that—

13 (1) credible information exists that the person
14 did not engage in the activity for which the person
15 was added to the list;

16 (2) the person has been prosecuted appro-
17 priately for the activity in which the person engaged;
18 or

19 (3) the person has credibly demonstrated a sig-
20 nificant change in behavior, has paid an appropriate
21 consequence for the activities in which the person
22 engaged, and has credibly committed to not engage
23 in the types of activities specified in paragraphs (1)
24 through (3) of subsection (a).

1 (e) REQUESTS BY CHAIRPERSON AND RANKING
2 MEMBER OF APPROPRIATE CONGRESSIONAL COMMIT-
3 TEES.—

4 (1) IN GENERAL.—Not later than 120 days
5 after receiving a written request from the chair-
6 person and ranking member of one of the appro-
7 priate congressional committees with respect to
8 whether a person meets the criteria for being added
9 to the list required by subsection (a), the President
10 shall submit a response to the chairperson and rank-
11 ing member of the committee which made the re-
12 quest with respect to the status of the person.

13 (2) FORM.—The President may submit a re-
14 sponse required by paragraph (1) in classified form
15 if the President determines that it is necessary for
16 the national security interests of the United States
17 to do so.

18 (3) REMOVAL.—If the President removes from
19 the list required by subsection (a) a person who has
20 been placed on the list at the request of the chair-
21 person and ranking member of one of the appro-
22 priate congressional committees, the President shall
23 provide the chairperson and ranking member with
24 any information that contributed to the removal de-
25 cision. The President may submit such information

1 in classified form if the President determines that
2 such is necessary for the national security interests
3 of the United States.

4 (f) NONAPPLICABILITY OF CONFIDENTIALITY RE-
5 QUIREMENT WITH RESPECT TO VISA RECORDS.—The
6 President shall publish the list required by subsection (a)
7 without regard to the requirements of section 222(f) of
8 the Immigration and Nationality Act (8 U.S.C. 1202(f))
9 with respect to confidentiality of records pertaining to the
10 issuance or refusal of visas or permits to enter the United
11 States.

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

13 (a) INELIGIBILITY FOR VISAS.—An alien is ineligible
14 to receive a visa to enter the United States and ineligible
15 to be admitted to the United States if the alien is on the
16 list required by section 404(a).

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

23 (c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

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

4 (A) the Secretary determines that such a
5 waiver—

6 (i) is necessary to permit the United
7 States to comply with the Agreement be-
8 tween the United Nations and the United
9 States of America regarding the Head-
10 quarters of the United Nations, signed
11 June 26, 1947, and entered into force No-
12 vember 21, 1947, or other applicable inter-
13 national obligations of the United States;
14 or

15 (ii) is in the national security interests
16 of the United States; and

17 (B) prior to granting such a waiver, the
18 Secretary provides to the appropriate congres-
19 sional committees notice of, and a justification
20 for, the waiver.

21 (2) TIMING FOR CERTAIN WAIVERS.—Notifica-
22 tion under subparagraph (B) of paragraph (1) shall
23 be made not later than 15 days prior to granting a
24 waiver under such paragraph if the Secretary grants
25 such waiver in the national security interests of the

1 United States in accordance with subparagraph
2 (A)(ii) of such paragraph.

3 (d) REGULATORY AUTHORITY.—The Secretary of
4 State shall prescribe such regulations as are necessary to
5 carry out this section.

6 **SEC. 406. FINANCIAL MEASURES.**

7 (a) FREEZING OF ASSETS.—

8 (1) IN GENERAL.—The President shall exercise
9 all powers granted by the International Emergency
10 Economic Powers Act (50 U.S.C. 1701 et seq.) (ex-
11 cept that the requirements of section 202 of such
12 Act (50 U.S.C. 1701) shall not apply) to the extent
13 necessary to freeze and prohibit all transactions in
14 all property and interests in property of a person
15 who is on the list required by section 404(a) of this
16 Act if such property and interests in property are in
17 the United States, come within the United States, or
18 are or come within the possession or control of a
19 United States person.

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

1 (b) WAIVER FOR NATIONAL SECURITY INTERESTS.—
2 The Secretary of the Treasury may waive the application
3 of subsection (a) if the Secretary determines that such a
4 waiver is in the national security interests of the United
5 States. Not less than 15 days prior to granting such a
6 waiver, the Secretary shall provide to the appropriate con-
7 gressional committees notice of, and a justification for, the
8 waiver.

9 (c) ENFORCEMENT.—

10 (1) PENALTIES.—A person that violates, at-
11 tempts to violate, conspires to violate, or causes a
12 violation of this section or any regulation, license, or
13 order issued to carry out this section shall be subject
14 to the penalties set forth in subsections (b) and (c)
15 of section 206 of the International Emergency Eco-
16 nomic Powers Act (50 U.S.C. 1705) to the same ex-
17 tent as a person that commits an unlawful act de-
18 scribed in subsection (a) of such section.

19 (2) REQUIREMENTS FOR FINANCIAL INSTITU-
20 TIONS.—Not later than 120 days after the date of
21 the enactment of this Act, the Secretary of the
22 Treasury shall prescribe or amend regulations as
23 needed to require each financial institution that is a
24 United States person and has within its possession
25 or control assets that are property or interests in

1 property of a person who is on the list required by
2 section 404(a) if such property and interests in
3 property are in the United States to certify to the
4 Secretary that, to the best of the knowledge of the
5 financial institution, the financial institution has fro-
6 zen all assets within the possession or control of the
7 financial institution that are required to be frozen
8 pursuant to subsection (a).

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

12 **SEC. 407. REPORT TO CONGRESS.**

13 Not later than one year after the date of the enact-
14 ment of this Act and annually thereafter, the Secretary
15 of State and the Secretary of the Treasury shall submit
16 to the appropriate congressional committees a report on—

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

19 (A) the number of persons added to or re-
20 moved from the list required by section 404(a)
21 during the year preceding the report, the dates
22 on which such persons have been added or re-
23 moved, and the reasons for adding or removing
24 them; and

1 (B) if few or no such persons have been
2 added to that list during that year, the reasons
3 for not adding more such persons to the list;
4 and
5 (2) efforts by the executive branch to encourage
6 the governments of other countries to impose sanc-
7 tions that are similar to the sanctions imposed under
8 this title.

