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Granting Russia PNTR Will Increase Export and Business Opportunities for U.S. Companies

At the end of August 2012, Russia will accede to the World Trade Organization (WTO), but Soviet-era legal restrictions prevent American businesses from benefiting from Russia's accession. Congress is now considering legislation to repeal the "Jackson-Vanik" amendment and extend permanent Most Favored Nation Status (MFN) or Normal Trade Relations (NTR) to Russia. U.S. businesses seeking opportunities in Russia should remain engaged on this issue.

Background

After 18 years of negotiations, on December 16, 2011, the WTO invited Russia to become a member. After the Russian parliament ratified the country's WTO accession package on July 10, 2012 and the Federation Council gave its approval on July 18, 2012, Russian president Vladimir Putin signed the protocol of accession on July 21. Russia, the sixth largest economy in the world, will officially accede to the WTO 30 days after the ratification's completion.

Russia's accession to the WTO requires the country to bring its trade laws and practices into compliance with WTO rules and other trade liberalization policies. For example, the country will be required to reduce tariffs and set tariff rate limits, apply nondiscriminatory treatment to the import of goods and services, eliminate agriculture export subsidies, enforce intellectual property rights (IPR) and increase transparency. Russia will also be subject to WTO's dispute settlement procedures.

Implications for U.S. Businesses

With more than 140 million consumers, Russia is the last major economy to join the WTO. The President's Export Council estimates that U.S. exports of goods and services to Russia—which rose by 40% in 2011 and is estimated around \$11 billion—could double or triple once Russia joins the WTO. The U.S. Administration has supported Russia's accession to the WTO as benefiting American businesses by increasing export and foreign investment opportunities, a result of lower tariffs, greater predictability, and trade reforms and enforcement mechanisms that will improve investor confidence. That said, as a result of Jackson-Vanik restrictions, the U.S. has been required to invoke the WTO non-application provision for new members against Russia, thereby opting out of its future WTO obligations toward the country, including the extension of NTR.

In order for the U.S. to benefit from trade concessions Russia has made as a result of its impending membership, Congress must provide permanent normal trade relations (PNTR) to Russia prior to its official accession to the WTO. Absent this legislative change, Russia would not be bound to WTO rules as they relate to trade with the U.S.

Jackson-Vanik Restrictions

Extension of unconditional MFN status, or "NTR status" as it is known in the U.S., to fellow members of the WTO is a fundamental membership requirement. In essence, the WTO requires its members to treat the imports of one member no less favorably than that of another.

At present, U.S.-Russia trade relations are regulated under Title IV of the Trade Act of 1974, including the Jackson-Vanik amendment, which prohibits the extension of NTR to any country that restricts freedom of emigration.

NTR can be provided temporarily if the U.S. President verifies that the country is in full compliance with the freedom of emigration conditions outlined in the Jackson-Vanik amendment. The President must renew the full compliance certification twice a year in order for Russia to maintain the NTR status, which has been the case since 1994.

Congressional Consideration

On June 12, 2012, Senator Max Baucus (D-MT), Chairman of the Senate Committee on Finance, introduced a bill to authorize the extension of nondiscriminatory treatment to Russian products. Senator Orrin Hatch (R-UT), ranking member of the Senate Committee on Finance, and other senators have expressed concerns about extending PNTR to Russia without addressing rule of law and human rights issues. To satisfy these concerns, Senator Baucus' legislation now includes language requiring the U.S. Trade Representative (USTR) to report annually on actions it has taken to promote rule of law in Russia and to support U.S. trade and investment in the country by strengthening protections for investors.

Another legislative effort affecting passage of the PNTR bill is the Sergei Magnitsky Rule of Law Accountability Act, introduced by Senator Ben Cardin (D-MD), which would sanction Russian human rights abusers. On July 18, 2012, the Senate Committee on Finance held a markup to consider both Senator Baucus' Russia PNTR bill and Senator Cardin's Russia human rights bill in concert. The combined legislation passed by a vote of 24-0. Senate Majority Leader Harry Reid (D-NV) has expressed a desire to wait until the House passes a bill before allowing the Senate to vote on Russia PNTR.

On July 19, 2012, House Ways and Means Committee Chairman David Camp (R-MI), Ranking Member Sander Levin (D-MI), Trade Subcommittee Chairman Kevin Brady (R-TX) and Trade Subcommittee Ranking Member Jim McDermott (D-WA) announced introduction of a bill that would provide PNTR to Russia. The representatives also announced that the House version of the Magnitsky human rights legislation will be combined with the PNTR bill prior to a vote on the House floor. It is expected that the PNTR legislation will not pass in either chamber unless the Magnitsky human rights legislation is also passed.

Our team at Venable will be monitoring the progress of these bills as they make their way through Congress, and can keep you up to date on any changes that will affect you or your company in the future. For more information on this topic, please contact **Kelly Suzanne Herman** at 202.344.4645, **Ariel S. Wolf** at 202.344.4464 or **Kristin Rosa** at 202.344.4480.