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

The future of the Jackson-Vanik amendment has now become an important issue in U.S. – Russian relations. The reason is that the U.S., having announced a “reset” in U.S. – Russian relations, cancelled an anti-missile system in Eastern Europe, and ignored Russian human rights abuses, all with little positive result, is running out of ways to show its goodwill.

Those who support rescinding the amendment point out that Russia has been in compliance with its provisions for the last 16 years. They argue that it makes no sense to retain a measure that has accomplished its purpose and now only serves to embitter bilateral relations. Unfortunately, however, we are in danger of being too literal. It is true that Russia now allows free emigration. But the Jackson-Vanik amendment was never based on an unbreakable link between trade and emigration. Opponents of the amendment correctly argued at the time that trade has nothing to do with emigration. The purpose of the amendment was to use the economic power of the United States to compel the Soviet Union to respect human rights. In this respect, it is far from obsolete when applied to Russia today.

By any measure, Russia is more liberal and tolerant than the Soviet Union. Russia, however, is almost totally lawless and the absence of secure rights is not an accident. It exists in order to assure the power of a kleptocratic elite which puts its own interests ahead of those of the nation. This creates a parallel with what existed under the Soviet Union. Like the Soviet authorities, the present Russian leaders use a supposed foreign menace to divert the attention of the population from their rightless situation. The target of choice is not Iran or North Korea, which could pose a threat to Russia, but rather the United States.

The Jackson-Vanik amendment, in and of itself, cannot have a decisive impact on U.S. – Russian relations. But in deciding whether to rescind the amendment, it is important to remember that “good relations” with Russia are not an end in themselves. The late Andrei Sakharov pointed out that there was a direct connection between the Soviet Union’s internal repression and its external expansionism. In Russia, massive corruption and lawlessness give rise to policies that frustrate U.S. objectives as a matter of proactive self defense. The object of American policy should be to seek to change this fundamental relationship.

The Jackson-Vanik amendment should not be eliminated to “bury the Cold War,” or “reinvigorate the reset.” It can be rescinded but this should be done only in response to

examples of clear progress in democratic governance, capable of limiting the scope of arbitrary power in Russia and improving the lot of the population.

The following are examples of areas in which improvements could legitimately be tied to the elimination of Jackson-Vanik.

The legal system. The Russian legal system, in the opinion of Russian respondents to a survey is “prejudiced, inefficient, corrupt and ready to defend whoever can pay for it.” At a meeting of a group of state controlled NGOs in the Kremlin in January, 2007, the former Supreme Court judge Tamara Morshchakova argued that judicial independence was non-existent in Russia, stating that, “Any official can dictate any decision in any case.” The situation with the legal system is illustrated by the case of Mikhail Khodorkovsky, a Putin opponent and once Russia’s wealthiest individual. Khodorkovsky, in an echo of Stalin era practices, is on trial for a second time on clearly fabricated charges of stealing virtually the entire production of the Yukos Oil Company. If convicted – and most observers consider conviction a foregone conclusion – he could spend the rest of his life in prison. He was convicted in 2005 of failing to pay taxes on Yukos profits and sentenced to eight years in a labor camp despite the fact that Russian tax authorities and international auditors certified that the taxes had been paid. At that time, there was no indication that the oil on which taxes had allegedly not been paid was stolen. The real reason for the second trial may be to prevent Khodorkovsky from regaining his liberty when his first sentence, which he began serving after his arrest in 2003, ends next year. Another sign of the state of the rule of law in Russia is that Russians file more complaints with the European Court than people from any of the 46 countries that make up the Council of Europe. Most of the thousands of complaints are never heard but almost all of the small number that have been have gone against Russia.

Selective terror. Although there is no mass repression in Russia, journalists and human rights activists risk their lives if their reporting threatens powerful interests. At least 17 journalists have been murdered in Russia since 2000. In not a single case, has the person who ordered the killing been found. In cases such as those of Anna Politkovskaya and Paul Klebnikov where underlings have been charged (only to be acquitted under puzzling circumstances) the alleged participants appear to have a maze of links to the security services themselves. Natalya Estimirova, a single mother who was virtually the only source of information on torture, abduction and murders carried out by the security services in Chechnya, was herself abducted in Grozny and murdered last year after being implicitly threatened by Ramzan Kadyrov, the president of Chechnya and a close ally of Putin. Sergei Magnitsky, a lawyer for Hermitage Capital Management who exposed a \$230 million tax fraud scheme carried out by Russian officials, was accused of corruption and jailed. He then died in a prison medical unit isolation ward after being denied medical care. On the basis of the way he was treated, Magnitsky told the prison staff that someone was trying to murder him. Subsequent events indicate that he accurately foretold his fate.

Anti-American propaganda. Despite the “reset,” the U.S. is depicted in the Russian media, which is largely state controlled, as Russia’s principal enemy. After the 2004 Beslan school massacre, Putin indicated that it was the West, led by the U.S. that

was responsible for the tragedy. In fact, the Russian authorities bear full responsibilities for ordering troops to open fire with flame throwers and grenade launchers on a gymnasium packed with hostages including hundreds of children. At the time of the August, 2008 war in Georgia, Russians were told that a direct conflict between the U.S. and Russia seemed imminent and there were allegations that the U.S. had encouraged Georgia to attack Russia although Russian leaders were aware that the opposite was true. The global financial crisis was blamed in the Russian media on the U.S. and Russian television is replete with “Eurasianist” commentators who interpret world events as a struggle of nations as diverse as China, India, Iran and Venezuela to limit the U.S., which is intent on establishing its hegemony.

The Russian regime reacts badly to U.S. efforts to support Russian democracy but we have an interest in the success of democratic processes in Russia. Democracy in Russia, the world’s second nuclear power, means stability. At the same time, undemocratic Russia is unpredictable. In a crisis, it is too easy to mobilize a rightless population against the U.S.

The Jackson-Vanik amendment will eventually be rescinded with regard to Russia. But this should be done in response to improvements in Russia’s internal situation. In the absence of such improvements, haste in scrapping Jackson-Vanik is simply not necessary.