

CLIENT ALERT

Russian Duma Ratifies WTO Accession; U.S. Congress Delays on PNTR

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On July 10, the State Duma ratified Russia's protocol of accession to the World Trade Organization. The Federation Council, the Russian parliament's upper house, must now pass the measure for President Putin's signature. Both are expected before the July 23 deadline for Russia to notify the WTO of ratification. Russia will officially become a WTO Member 30 days after it informs the WTO of its completion of the ratification process.

However, U.S. businesses, investors, and farmers will not see the full benefit from Russia's membership unless Congress repeals the application to Russia of the Jackson-Vanik Amendment and enables the United States to grant Russia permanent normal trade relations (PNTR). Not only will U.S. firms be unable to take advantage of specific market access and other concessions, they also will find themselves at an immediate disadvantage in competing with firms from other WTO member states.

The Benefits of Accession: Russia's accession offers substantial benefits to foreign exporters, investors, and farmers. Russia will have to implement a number of specific market access commitments, both by lowering bound tariff rates on agricultural and industrial products, and by opening specific services markets to foreign competition. New tariff rates will apply in key sectors including automobiles, civil aircraft, medical devices, and many others. Russia also has committed to join the Information Technology Agreement, which aims to eliminate tariffs on critical IT products. And Russia has committed to opening markets in key services sectors including telecommunications, financial services, and energy services.

Moreover, Russia's accession will mean that Russia is bound by the WTO system of established and enforceable trade rules. Beyond the basic obligations of most favored nation and national treatment, Russia will be required to implement WTO-consistent measures in areas including technical barriers to trade, intellectual property protection, anti-dumping, subsidies, and customs measures. Russia also has taken specific commitments requiring state-owned enterprises to operate on the basis of commercial considerations. The implementation of all these commitments will be subject to binding dispute settlement once Russia becomes a member.

U.S. Firms Disadvantaged: Unless Congress acts to repeal Jackson-Vanik, U.S. companies will only partially benefit from the Russia's accession, and even that benefit will not be assured. While the United States will be entitled to MFN tariff treatment under the terms of an existing bilateral trade agreement, Russia's new commitments on services market access and specific rules will not apply. Russia will be obliged to conform its trade regime to WTO rules, but the U.S. government will not have recourse to the WTO's dispute settlement provisions to compel Russia to implement its commitments.

U.S. companies and investors will find themselves at an immediate disadvantage as their competitors, including China, India, and the European Union, take immediate full advantage of market opening and other benefits that, in many cases, resulted from the efforts of U.S. government negotiators.

Repealing Jackson-Vanik: The White House strongly supports legislation to repeal the application to Russia of Jackson-Vanik. While there is a growing recognition in Congress that U.S. economic interests will suffer unless Jackson-Vanik is terminated,

movement towards an actual vote remains highly uncertain. The dynamics surrounding this issue are further complicated by virtue of proposals linking the repeal of Jackson-Vanik to passage of legislation sanctioning certain Russian officials implicated in the death of Sergei Magnitsky, a prominent whistleblower (the Sergei Magnitsky Rule of Law Accountability Act). Russian officials, including President Putin, have excoriated the Magnitsky Act, which they consider unacceptable meddling in Russia's internal affairs. The Administration opposes the legislation, but is considered likely to accept it if necessary. The net result has been the stalling of efforts to repeal Jackson-Vanik. The Senate Finance Committee reportedly will hold a markup of both bills the week of July 16.

Firms that stand to benefit from Russia's accession may wish to urge their Senators and Representatives to take immediate action to repeal Jackson-Vanik. Failure to do so does not penalize Russia; rather, it disadvantages America by making U.S. firms less competitive in the Russian market and by depriving them of essential tools available to their foreign competitors. Beyond assistance with the immediate fight over Jackson-Vanik, our professionals can assist companies and trade associations in navigating the myriad implications of Russia's WTO accession for their business activities, and ensuring that they get in practice the advantages to which they are entitled.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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