

**Testimony of Ambassador Ron Kirk, U.S. Trade Representative,
before the House Ways & Means Committee,
June 20, 2012**

Chairman Camp, Ranking Member Levin, Members of the Committee, thank you for the opportunity to testify.

Under President Obama's leadership, the Administration has worked with this Committee and Congress as a whole to bring U.S. trade policy into greater balance with the needs and concerns of American businesses, workers and families. Market-opening measures such as new trade agreements with Korea, Colombia, and Panama, coupled with stronger enforcement of U.S. trade rights, have helped to secure a more level playing field for U.S. exporters to sell more U.S. products and services to consumers worldwide. These efforts have clearly contributed to economic recovery. The Commerce Department estimates U.S. exports supported at least 1.2 million additional American jobs from 2009 to 2011.

Continuing cooperation between Congress and the Administration is essential to provide the American people with additional job-supporting trade opportunities. Last time I was here in March to discuss the President's 2012 trade agenda, we talked about Russia's impending membership in the World Trade Organization (WTO) and I underscored the President's priority for legislation to ensure that U.S. workers and businesses -- including farmers, ranchers, manufacturers, and service providers -- will enjoy the same benefits of Russia's membership that their international competitors will soon have.

Specifically, since we concluded the 18-years long multilateral negotiations on Russia's WTO accession package last year, the President and members of the Administration have repeatedly urged Congress to terminate application of the Jackson-Vanik amendment and authorize the President to provide Permanent Normal Trade Relations (PNTR) to Russia before it joins the WTO later this summer.

Russia will take the last step in its long journey toward WTO membership this summer, when it ratifies its WTO accession protocol. On June 7, the Government of Russia submitted legislation to the Duma to do so. And when I was in Moscow earlier this month, first Deputy Prime

Minister Igor Shuvalov assured me that Russia would notify the WTO that it had completed its domestic procedures to join the WTO by the July 23 deadline. Thirty days after the WTO receives Russia's notification, Russia will -- automatically -- become a Member of the WTO. In other words, we can expect that Russia will be a Member of the WTO no later than August 22.

Terminating application of Jackson-Vanik and authorizing the President to provide permanent normal trade relations is not a gift to Russia. Rather, taking such action will ensure that the WTO Agreement will apply between the United States and Russia, and that U.S. businesses and workers will have the opportunity to enjoy all of the benefits of Russia's membership in the WTO. If, however, the WTO Agreement does not apply between us, then U.S. exporters and investors will be put at a competitive disadvantage in Russia. We do not want that to happen, especially now when we are trying to do everything possible to spur economic growth and job creation. That is why the Administration has strongly and repeatedly urged Congress to act on these measures in order to ensure that U.S. workers and businesses will reap the full range of benefits from Russia's WTO membership – benefits that U.S. trade negotiators have worked hard over many years, on a bi-partisan basis, to secure.

Russia Today

The Russia that joins the WTO this summer is significantly different from the Russia that started the negotiations 18 years ago. In 1994, Russia was still coming out of the chaos of a deep economic crisis following the collapse of the Soviet Union, with a 50 percent decline in GDP and industrial output. Russia was the 16th largest economy in 1994 at \$277 billion (based on the current exchange rates), just ahead of Switzerland and only 4 percent the size of the U.S. economy. Real GDP had dropped nearly 13 percent in 1994, and Russia's economy continued to decline for the next 3 out of 4 years. At that time, per capita GDP was only \$1,865.

Today, Russia is the 7th largest economy in the world, its GDP is \$1.9 trillion and its per capita GDP is nearly \$13,000– the highest among the BRICS countries. Real GDP growth was above 4 percent for the past two years, and is forecasted to continue at around 4 percent for the next 5 years. But Russia is only our 20th largest trading partner, with \$42.9 billion in two-way trade in goods in 2011.

We therefore see significant opportunity for increasing exports of U.S. goods and services to Russia. From 2010 to 2011, our exports increased by nearly 40 percent. In fact, in April, U.S. goods exports to Russia reached a record \$1.1 billion. The Department of Commerce reports that every \$1 billion of U.S. exports of goods and services supported over 5,000 jobs in 2011. And these are well-paid jobs-- jobs supported by goods exports pay roughly 13 percent to 18 percent more than the national average.

The Russia that will become a WTO Member in August is an expanding market with a vibrant middle class that is demanding better products and services. In addition, the highest levels of Russia's government recognize that Russia needs to diversify its economy away from its dependence on extractive industries, primarily oil and gas. Both of these factors suggest that there will be significant new demand in Russia for exports of U.S. goods and services.

That is why our priority is for Congress to terminate the Cold-War era Jackson-Vanik amendment as it applies to Russia in a clean bill that enables us to maintain our competitive edge. We do not pretend that terminating Jackson-Vanik and having Russia as a WTO Member will resolve all of our differences with Russia. But maintaining the application of Jackson-Vanik to Russia offers no leverage with Russia over areas of disagreement.

Why Terminate Application of Jackson-Vanik

The message I have today is the same as it was in March, and is one I understand you have repeatedly heard from the American business community in the intervening months. The key benefits of Russia's WTO membership are clear and fall into two major categories: improved market access for exports of U.S. goods and services, and Russia's implementation of established, enforceable, multilateral rules.

U.S. businesses and workers will not, however, be able to reap many of the benefits of Russia's WTO membership if the WTO Agreement does not apply between us.

Improved Market Access

Tariffs

One of the most obvious benefits of Russia's accession is that Russia has "bound" every one of its more than 11,000 tariff lines, and in many cases agreed to a bound rate below its current applied rate. As a WTO Member, Russia will no longer be able to suddenly and arbitrarily raise its tariffs above its bound rate in order to protect a particular domestic industry.

Today, for industrial and consumer goods, Russia's average tariff rate is about 10 percent. When all of its tariff commitments are phased in, the average bound rate will be under 8 percent. U.S. negotiators pushed particularly hard for tariff reductions in sectors of importance to U.S. businesses, such as wide body aircraft, combine harvesters, wine, medical equipment, chemicals and construction equipment. Russia will also implement the Information Technology Agreement (ITA), ensuring duty-free treatment for U.S. exports of all IT products covered under this important plurilateral agreement.

In agriculture, Russia established a 430,000 ton duty-free global tariff rate quota (TRQ) for pork, a 60,000 ton U.S.-specific TRQ, and a U.S.-specific definition for high-quality beef (HQB) which is separate from the TRQ.

Although our current bilateral Agreement on Trade Relations provides that these lower tariff rates should apply to our exports, unless the WTO Agreement applies between Russia and the United States, our exporters will not have the certainty that Russia will not suddenly raise its tariffs -- as it has done in the past -- without providing compensation. Of more immediate impact, if the WTO Agreement does not apply between us, we will not have access to the non-MFN country-specific parts of Russia's tariff commitments, such as the U.S. specific TRQ on beef or to the U.S.-specific definition for HQB.

Non-Tariff Barriers

As part of its WTO accession negotiations, Russia has already repealed or revised many of its rules and requirements that have presented obstacles to U.S. exports in the past, including, for instance, onerous import licensing requirements on consumer electronic products and distilled

spirits. Unless the WTO Agreement applies between us, however, U.S. exports will not be protected against these and other non-tariff barriers.

Services

Russia is undertaking enforceable commitments to open its services sectors in unprecedented ways, particularly in sectors of significance to U.S. service providers. These sectors include audio-visual, telecommunications, distribution, express delivery, energy, and financial services (including insurance, banking and securities). The United States enjoys a global trade surplus in services, and securing strong commitments in Russia was a priority for a broad array of U.S. industries. But if the WTO Agreement does not apply between us, Russia will not have to grant this new access to U.S. service providers.

Playing by the Rules

Let me mention just a few areas where Russia's compliance with WTO rules will help U.S. exports and exporters:

Intellectual Property Rights

An area of particular concern to the Committee is the protection and enforcement of intellectual property rights (IPR). On day one as a WTO Member, Russia must comply with all of the obligations of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as well as specific additional commitments in its Working Party Report.

It is important to note that Russia has already put in place a revised legislative framework to protect and enforce IPR. Russia amended its Civil Code and other relevant laws to modernize its legal regime for IPR protection, including providing rights called for in the TRIPS Agreement, improvements in civil enforcement of IPR, and elements of the legal framework for implementing the World Intellectual Property Organization Internet Treaties. In addition, amendments to the Criminal Code strengthened the authority of Russia's Government to take down infringing websites. Changes to Russia's customs law, along with the Customs Union Customs Code, implemented TRIPS provisions on the protection of IPR at the border, including

granting customs officials *ex officio* authority to act on their own initiative to take action against infringing products at the border. All of these measures -- which we fought hard to achieve -- are already in force in Russia.

Of course, how these laws and regulations are applied will be critical. But if the WTO Agreement does not apply between us, Russia will not be required to apply the stronger commitments on IPR protection and enforcement to U.S. rights holders, and we will not have the WTO tools to ensure that Russia complies with the stronger commitments in its terms of accession.

Sanitary and Phytosanitary Measures

On day one as a WTO Member, Russia must comply with its WTO obligations on sanitary and phytosanitary measures (SPS). Russia's Working Party Report contains extensive commitments on how Russia will comply with the WTO's SPS rules, including disciplines to protect against requirements that are not based on science and a risk assessment; procedures to recognize the equivalence of SPS measures; and requirements to harmonize its SPS measures with international standards.

Our negotiators worked with Russia to ensure that the Customs Union and Russia adopted the legal framework necessary for Russia to comply with its SPS obligations. Thus, as is the case with its IPR regime, Russia has the legal framework in place to apply the WTO SPS rules to U.S. exports. But we will not be able to ensure that Russia complies with the WTO SPS rules and its commitments unless the WTO Agreement applies between us.

State-owned Enterprises

Because the State remains active in parts of Russia's economy, our negotiators insisted that state-owned or -controlled companies must be subject to the WTO rules. Accordingly, on day one as a WTO Member, Russia will ensure that its state-owned or -controlled enterprises (SOEs) as specified in its Working Party Report, when engaged in commercial activities, will operate based on commercial considerations, such as price, quality, availability, and marketability. In addition,

these SOEs must provide U.S. and other WTO Member companies adequate opportunity, in line with customary business practices, to make purchases from and sales to these enterprises.

However, if the WTO Agreement does not apply between us, Russia has no obligation to treat U.S. businesses or exports in a non-discriminatory manner.

Transparency

Transparency is a core principle of the WTO. In addition to the notifications that Russia will need to provide to WTO Members and the review of Russia's measures that will take place in various WTO committees and councils, Russia will have obligations to provide notice to the public on the full range of trade-related issues. For example, through the course of the accession negotiations, our negotiators worked with Russia to ensure that laws, regulations and other measures on WTO-related matters will be published before they are enforced, and are subject to "notice and comment" procedures. Compliance with these rules will not only give interested persons (e.g., U.S. producers and exporters) an opportunity to provide input into the rules governing international trade, but will also ensure advance notice of any changes.

If the WTO Agreement does not apply between us, however, Russia will not be required to give U.S. interested persons the opportunity to participate in the rule-making process.

Dispute Resolution

Rules and obligations are only as good as the right and ability to enforce them.

The Administration is working on a variety of fronts to enforce U.S. trade agreements to ensure that other countries are "playing by the rules" so that U.S. businesses and workers face a level playing field. We will continue to work with Russia on issues of concern, and we will remain vigilant.

Fortunately, the WTO has strong mechanisms, starting with review and work in the committees, consultations and, in appropriate cases, dispute settlement, to enforce those rules. As this Committee is aware, the Administration has a strong record of taking enforcement actions where necessary to ensure compliance with WTO rules. And this effort will only become more robust with the establishment of the new Interagency Trade Enforcement Center announced by

President Obama. The United States has aggressively enforced the rules with our trading partners – large and small. You can rest assured that we will be equally vigilant with regard to ensuring that Russia plays by the rules and implements all of its WTO commitments.

But we cannot use the mechanisms of the WTO to enforce Russia's commitments unless the WTO Agreement applies between us.

Conclusion

Again, I appreciate the Committee's invitation to testify on this important issue. Terminating application of the Jackson Vanik amendment and providing PNTR to Russia is a priority for this Administration, it is a priority for American businesses, and I know it is a priority for many of you. I urge this committee to move quickly on legislation to give American businesses a level playing field to grow their businesses in Russia and expand jobs here at home.