

JACKSON-VANIK: Its Origin and Impact as Russia Nears “Graduation”

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Introduction

As Congress moved in the spring of 2002 to end a quarter-century legislative trade sanction upon Russia—the historic Jackson-Vanik amendment—the leading voice on human rights in the Congress, Representative Tom Lantos (D. – A.) waxed eloquent in praise of the amendment and what it had accomplished. Its “legacy” of using trade for human rights purposes, if at the time “unprecedented,” should serve, he believed, as a frame of reference for future congressional legislation.

Lantos was not alone in according enthusiastic recognition of the amendment’s impact. As early as 1987, an almost forgotten scholarly study by the Twentieth Century Fund of prevailing emigration policies and practices of governments throughout the world, lauded the amendment as “the single most effective step” taken by the United States with what the author called “the new serfdom.”¹ The reference was to the policy and practice of sharp restrictions upon emigration which was especially characteristic at the time of communist states.

But, the Twentieth Century Fund study was scarcely dominant then in policy-making circles. Former President Richard Nixon’s essays in the eighties on foreign affairs were remarkably influential and, he insisted, Jackson-Vanik constituted a monumental blunder. Only “quiet diplomacy,” he maintained, would remove restrictions upon Jewish emigration from the USSR.² Soviet leaders “will give more in private than they will in public.” Not public legislation, but rather private “quiet diplomacy” will produce a positive outcome.

Equally critical and far more influential in foreign policy circles were the views of Nixon’s

National Security Advisor and later Secretary of State, Henry A. Kissinger. In his *Years of Upheaval*, he vigorously argued that Soviet rulers would perceive any public demand by foreign sources for a modification of their domestic practices as “a direct impairment of their authority.”³ In his view, the Kremlin leaders “could not possibly change their policies in response to an act of a capitalist legislature....” Even after hundreds of thousands of Jews and other ethnic groups had emigrated from the Soviet Union and its successor states, Kissinger continued to castigate Jackson-Vanik. In his volume, *Diplomacy*,⁴ published in 1994, he denounced the amendment without, however, repeating his obviously outdated argument in *Years of Upheaval*.

Still, the perspective of the Twentieth Century Fund on Jackson-Vanik was very much the perspective of activist Soviet Jews from the very beginning of the struggle for that amendment. And, a similar attitude was held by American Jews for whom the amendment served as a powerful weapon in their historic struggle on behalf of their brethren held in virtual bondage with respect to emigration. As significant was the perception of the modern world’s greatest humanist, Nobel Laureate Andrei D. Sakharov. He had extended the amendment a unique and unprecedented endorsement as a “policy of principle” that could have extraordinary ramifications.

Yet the enactment of the Jackson-Vanik amendment was by no means quick and easy. It required a two-year legislative struggle involving intense battles with a determined Nixon Administration, bolstered by powerful corporate interests. At the center of the struggle stood Henry M. Jackson, a senior U.S. senator (D.–WA.) who

¹ Alan Dowty, *Closed Borders* (New Haven: Yale University Press, 1987), p. 231.

² Richard Nixon, “Hard-Headed Détente,” *The New York Times*, August 18, 1982, p. A21.

³ Henry Kissinger, *Years of Upheaval* (Boston: Little, Brown and Co., 1982), pp. 250-51, 254.

⁴ Henry Kissinger, *Diplomacy* (New York: Simon & Schuster, 1994), pp. 753-54.

espoused a vigorous civil liberties perspective joined to a pronounced anti-Soviet posture. When Senator Jackson formally introduced his amendment on the Senate floor on March 15, 1973, he specifically referred to Article 13/2 of the Universal Declaration of Human Rights, which holds that “everyone has the right to leave any country, including his own, and to return to his country,” as the principal source of inspiration for the proposed legislation.⁵ The crucial importance ascribed to this right was evident from the three-year study by the United Nations Subcommittee on Prevention of Discrimination and Protection of Minorities. It found that the right is “a constituent element of personal liberty” and a precondition for the exercise of other human rights. Indeed, the principle this right upholds has been the cornerstone of international law since the Magna Carta.⁶

The relevance of the Declaration of Human Rights to the Jackson-Vanik amendment was critical. Sakharov was to underscore it in an “open letter” to the U.S. Congress. In it, he spoke of the appropriateness of the declaration for legislative action in that it would attach a “minimal condition” for the consummation of détente agreements involving trade. The U.S. Congress, after all, reflected “the traditional love of freedom of the American people.” Senator Jackson went beyond this general point to a specific attribute of American tradition, the country’s basic character as a “nation of immigrants,” which justified the introduction of the amendment. It is precisely because of this character, he insisted, that freedom of emigration is “an American issue.” Jackson reminded his colleagues that “I would not be in this chamber today if Norway, the country of my parents’ birth, had practiced the sort of emigration policy that the Soviet Union has today.”

Origins

Jackson’s initiative was sparked by an extraordinary decision of the Soviet government: the enactment, on August 3, 1972, of a decree requiring would-be emigrants who had acquired a higher education to pay a “diploma tax.” On August 14, the decree was reaffirmed by an “order” of the USSR Council of Ministers, directing appropriate Soviet agencies to establish a scale of fees. These were so exorbitantly high that payment by those holding advanced degrees was virtually impossible. Soviet Jewish activists, at an August 15 press conference, warned that the effect of the decree would be the creation of “a new category of human beings—the slaves of the 20th century.”⁷ The diploma tax was but the latest of a massive series of devices created by the Kremlin to stop the drain of talent. Even as the barrier to emigration was lifted in March 1971, and the flow of 13,000 Jews to Israel was increased to 32,000 in 1972, the highly educated and technically trained were compelled to run an obstacle course of prolonged torment.

The Kremlin had not reckoned with the revulsion the tax would generate in the United States. Especially shocked were the scientific and academic communities. Twenty-one Nobel laureates issued a public statement in the fall of 1972 expressing “dismay” at the “massive violation of human rights” by the imposition of “exorbitant head taxes.” At an emergency meeting of the leadership of national Jewish organizations, called for September 26 in Washington, D.C., by the National Conference on Soviet Jewry (NCSJ), it was decided to move from a largely public-relations campaign to a predominantly political one focusing on a particular piece of legislation. Senator Jackson, who had asked to be invited to the gathering, outlined to the 120 participants a legislative proposal tying trade benefits to removal of curbs on emigration.⁸

In part, the Jackson proposal was a response to negotiations for a comprehensive trade agreement that had been carried on between American and Soviet officials since the beginning of August. The provisions of the agreement, as finally signed

⁵ See *Congressional Record-Senate*, Vol. 119, No. 41, March 15, 1973. An earlier version was introduced in the late fall, 1972.

⁶ See William Korey, *The Soviet Cage: Anti-Semitism in Russia* (New York: Viking Press, 1973), pp. 184-86.

⁷ *Ibid.*, pp. 315-17

⁸ Jerry Goodman, “Protecting Human Rights Around the World: The Case of Soviet Jewry.” In Mare Godin, Mark Levine and Sid Schwarz, *Jewish Civics: A Tikkun Olam Manual* (Washington, D.C.: The Institute for Jewish Leadership and Values, n.d.), pp. 71-73. Also see William Korey, *NGOs and the Universal Declaration of Human Rights* (New York, St. Martin’s Press, 1998), pp. 190-202.

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by the two powers in October, were that the United States was to receive from the USSR \$722 million of the enormous lend-lease debt owed it since World War II; in return, the administration pledged to seek congressional authorization for providing to the Soviet Union most-favored-nation (MFN) tariff treatment. By early October 1972, Senators Jackson and Abraham Ribicoff (D. - CONN.) had gathered thirty-two sponsors for their proposal, which they offered as an amendment to an East-West trade bill. Senator Jacob Javits (R. - NY) joined when it was somewhat modified, bringing with him thirty more senators.

The amendment would refuse a “nonmarket economy country” MFN (most favored nation) status, as well as credits, credit guarantees, and investment guarantees, if that country denied its citizens the right to emigrate, or imposed more than a nominal tax on emigration. At the time, observers viewed the Senate action as a show of strength and a warning to the Russians, rather than a serious legislative move.

Early in January 1973, Representative Charles A. Vanik (D. - OH.) had assembled a list of 144 representatives who agreed to sponsor in the House legislation similar to Jackson’s amendment. A massive letter-writing campaign sponsored by the NCSJ and organized Jewry was to evoke a powerful response. Support for the amendment also came from other sources, including the trade-union movement and several religious groups. By early February, 238 representatives, more than a majority of the House, had decided to become cosponsors of the proposed legislation.

The Soviet authorities initially sought to meet congressional action head-on. The major target was to be big business in the United States, which was thought to be most susceptible to Soviet blandishments.⁹ A high-level 15 member Soviet delegation arrived to participate in an American-Soviet trade conference sponsored by the National Association of Manufacturers (NAM). At the

opening session in Washington on February 27, which was attended by 800 businessmen, no less than three powerful Soviet officials served as panel members.

The Soviet panelists quickly learned where Congress stood. Senator Edmund S. Muskie (D. - ME.) told them that Soviet emigration policy constituted a “major roadblock” to expanded East-West trade. An official Soviet response came the next day. Georgy Arbatov, reportedly the Politburo’s principal adviser on American questions, said at a briefing session that if “normalization of trade relations between the U.S. and USSR is frustrated by the Congress,” it would prove “a harmful thing for Soviet-American relations” as a whole. Should the Jackson-Vanik legislation be adopted, Arbatov warned, it would, among other things, “revive anti-Semitism in the Soviet Union.”

The Russians by no means relied exclusively on the Arbatov-type threats. They also focused the softer line of economic inducements on congressmen, with NAM providing the required link to the Hill. On March 12, Deputy Trade Minister Vladimir Alkhimov and two Soviet Embassy economic officials met with fifteen congressmen, among them key Republicans, at a luncheon requested by the Soviet Embassy and arranged by NAM officials to explain the advantages of increased U.S.-Soviet trade.

On March 15, 1973, Senator Jackson formally reintroduced his amendment on the Senate floor. In introducing his amendment, Jackson said its “heart” was the provision making MFN status and U.S. Export-Import Bank credits contingent on periodic presidential reports to Congress on compliance with the free emigration requirements by the country in question. Senator Ribicoff put the issue sharply, warning that Congress was not “bluffing,” and that “the next move is up to the Soviet Union.” Moscow no doubt got the “message” when large majorities in both houses of Congress—75 senators and 272 congressmen—agreed to cosponsor the amendment.

Washington must have received assurances that the USSR would alter, at least in some degree, its emigration procedures. Secretary of the Treasury George P. Shultz had met on March 14 with President Brezhnev and spoke of Soviet leaders showing “willingness to tackle [the emigration problem] in very real terms.” Indeed, only four days after the Shultz visit, Moscow signaled a clearly positive, if limited, response to the pressure

⁹ Details of the overall struggle on Jackson-Vanik are to be found in William Korey, “The Struggle over Jackson-Mills-Vanik,” *American Jewish Year Book, 1974-75* (New York: The American Jewish Committee and The Jewish Publication Society of America, 1975), pp. 199-234. The author, as a professional participant in the policy deliberation of the Jewish community, kept detailed notes of the discussions. When not directly involved in the private policy meetings of the top Jewish leaders with key senators and government officials, he relied on personal oral reports from those leaders about the session. Details from the notes and interviews were recorded in the *Year Book* essay as well as in a subsequent one published the following year.

of Congress.¹⁰ On March 19-20, 1973, the USSR allowed forty-four Soviet Jews who had obtained a higher education to leave without paying the diploma tax. On March 21, the Israeli daily *Yediot Aharonot* published an article by Viktor Louis, a Soviet journalist with close KGB connections, which said the diploma tax "will no longer be enforced."

Senator Jackson, speaking at the National Press Club in Washington, welcomed the Moscow developments as "encouraging signs," but also made it clear that he would continue to press for his amendment to ensure that Moscow did not "relapse into the old patterns" of harassment and taxation to limit emigration. The issue, it was clear, remained the right to leave a country.

The Role of the Jewish Community

The Nixon Administration shifted to the political offensive that would in part seek to neutralize or weaken the Jewish community's support for the amendment, thereby isolating congressional opposition. On April 10, President Nixon sent Congress a comprehensive Trade Reform Act with the stated goal of "creating a new international economic order." The administration followed up with a direct approach to the Jewish community.¹¹ At Nixon's invitation, fifteen prominent Jewish leaders who had long sought a meeting with the president to discuss the totality of the Soviet Jewish problem, but with one exception had been unsuccessful, received invitations from the White House. Now it was the president who sought the meeting, which lasted seventy minutes and ranged over central aspects of the Soviet Jewish problem. Inevitably, the impact on the Jewish participants was powerful, especially since Nixon showed sympathetic understanding of the problem. Most important, he explained to them the profound moral dilemma in which he found himself. On the one hand, he had made a commitment to the Kremlin on MFN status that was perceived as integral to his search for détente. On the other hand, there was the Jackson amendment, which would negate that commitment.

Delivered in a delicate manner, the message was clear. The White House hoped the Jewish

community would reconsider its adamant support of the Jackson amendment. The strategy appears to have temporarily succeeded. After the meeting, Jacob Stein, chairman of the Conference of Presidents of Major American Jewish Organizations; Charlotte Jacobson, vice chair of the National Conference on Soviet Jewry; and Max Fisher, former president of the Council of Jewish Federations and Welfare Funds, issued a statement on behalf of all participants that was as revealing for what it did not say as for what it said. It noted the contents of the Soviet documents concerning eased Soviet emigration practices, and "asked the help of the president for the 100,000 Soviet Jews who had been refused exit visas." The statement's failure to include any reference to the Jackson amendment raised doubts on Capitol Hill about the firmness of the Jewish community's position.

The very ambiguity of the statement stirred a grassroots backlash. Pressure for clarification rapidly mounted among the organizations composing the NCSJ. Parallel and interlocked with this pressure were demands by the amendment's leading sponsors for a strong statement of support, without which their ability to hold congressional supporters in line was open to question.

Jewish leaders were faced with a dilemma that they had sought to avoid. Until their meeting at the White House, they had made every effort to present publicly their support of the Jackson amendment as in no way directed against the president. On the contrary, they had argued, support of the amendment aided the president's "quiet diplomacy" by strengthening his hand in negotiating with the Russians. Now, the leaders felt, they were being pressured into making a choice between support of the White House and support of the Jackson amendment. They were keenly aware that Nixon had been a friend of Israel and continued to aid the Jewish state.

A decisive consideration in resolving the dilemma was the attitude of Soviet Jewry. Just as Soviet Jews had played the key role in sparking the extraordinary American Jewish mass movement in late 1970 on behalf of their emigration rights, so, too, was their opinion key at this juncture. When reports about an apparent ambiguity concerning American Jewish support for the Jackson amendment reached Moscow, Soviet Jewish activists decided to intervene directly. On April 23, 1973, they sent an appeal bearing more than one hundred signatures to American Jewish leaders, urging them to continue backing the

¹⁰ William Korey, "Jackson-Vanik and Soviet Jewry," *The Washington Quarterly*, Winter 1984, pp. 119-20.

¹¹ For the pressure on the Jewish community leadership and the reactions, see Korey, "The Struggle Over Jackson-Mills-Vanik," *op. cit.*, pp. 215-20.

amendment. Their language was strong and designed to remind American Jewry of the Holocaust. The closing paragraph was particularly poignant: "Remember, the history of our people has known many terrible mistakes. Do not give in to soothing deceit. Remember, your smallest hesitation may cause irreparable tragic results."

Clarification of the Jewish community's position was pressed at an enlarged executive committee meeting of the NCSJ on April 26. It reached the decision that a prompt public statement of support for the amendment was essential. Later at a meeting of the Presidents' Conference a statement was hammered out declaring that the Jackson amendment had "contributed" to the alleviation of "the plight of Soviet Jewry, and we continue our support for this legislation."

While the administration was unable to sway Congress, Leonid Brezhnev thought he might try during a scheduled trip to the United States in mid-June. Two days after his arrival, he met with seventeen members of the Senate Foreign Relations Committee and eight members of the House, and outlined the prospects for vast Soviet-American trade. After some time, he emphasized rather vigorously that the condition for such trade was MFN status for the Soviet Union.

Brezhnev received a more enthusiastic reception from forty of America's top industrial and banking executives, invited by Secretary Shultz to a meeting at Blair House on the morning of June 22. They were enormously impressed by the broad picture Brezhnev painted of the potential of trade relations between the two countries. Yet, for all his lobbying, Brezhnev failed to achieve his primary objective of winning over Congress for the administration's trade bill. The large majority in both the Senate and the House had not retreated from support of the Jackson amendment. The amendment now had 77 sponsors in the Senate and 285 in the House. The legislative session, which resumed in September 1973, was marked by an intensification of the struggle between the White House and Congress over the trade bill.

The Andrei Sakharov Factor

A new factor in the debate was Andrei Sakharov's decision to enter directly into the controversy.¹² His "open letter" to the Congress, dated September 14, appealed for support of the Jackson amendment. Its passage, he said, was an indispensable first step to assuring détente. In his view, the "minimal right" of emigration is essential for "mutual trust" and, therefore, détente. To reject Jackson-Vanik would be nothing short of "a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall."

The immediate test of strength between the administration and the Jackson coalition was in the House Ways and Means Committee. The 25-member panel had been under pressure from business circles, including Donald M. Kendall, chairman of the newly formed Emergency Committee on American Trade. But the charged moral-political atmosphere flowing from the Sakharov issue all but neutralized that pressure. The House committee voted on MFN status on September 26. By a voice vote, it agreed to deny MFN status to nonmarket countries restricting emigration. However, the administration succeeded in seriously weakening the bill through an unexpected parliamentary maneuver. Before the vote was taken, the ranking Republican member of the Ways and Means Committee suddenly, on a point of order, asked that the provision barring credits and credit guarantees be eliminated. He contended that this section fell under the jurisdiction of the House Banking and Currency Committee. The chair ruled in his favor.

The committee decision on the bill, while not completely to the liking of the Jackson coalition, was an important setback to the administration. President Nixon, with Kissinger at his side, met at the White House with the Republican leaders of Congress and urged a determined effort to eliminate the restrictions placed on granting MFN status to the USSR.

The Jackson coalition was equally determined to restore the provision on credits. In a speech on the Senate floor on September 27, Jackson called the House committee vote "a most welcome

¹² The Sakharov role is detailed in William Korey, "Sakharov and the Soviet Jewish National Movement," *Midstream*, February 1974, pp. 43-44. A copy of Sakharov's letter is in the author's possession. Sakharov refers to the episode in his memoirs. See Andrei Sakharov, *Memoirs* (New York: Alfred A. Knopf, 1990), pp. 394, 402-4.

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affirmation of the commitment of this country to the cause of human rights," but expressed regret that "a vital part of the Jackson amendment" had been dropped on grounds of "a jurisdictional question." Bank credits were far more crucial than Soviet manufactured goods, which, in the immediate future, were most unlikely to find a market in the United States for a variety of economic reasons. Credits, on the other hand, involved the very hard reality of trade.

Before the bill came up for final vote in the House (scheduled for October 17 or 18), fighting had broken out in the Middle East. The Yom Kippur War significantly affected the character of the debate and the strategic maneuvering behind the scenes. For one, the Jewish community, the principal public backer of the Jackson amendment, was now chiefly concerned with Israel's survival. At the same time, a major objective of American foreign policy was to bring about a cease-fire in the Middle East, which required the cooperation of the Soviet Union.

Kissinger felt that the time was not opportune for a House vote on the Trade Reform Act, and that passage of the Jackson amendment would jeopardize Soviet cooperation in ending hostilities. On October 11, he urged the House leadership to postpone the vote in "the best interests of the country." The request was approved by House leaders. Consideration of the trade bill was scheduled for October 24 or 25. But as the time for the vote approached, Middle East tensions had not been resolved. The two cease-fires reached on October 22 or 24 appeared threatened. Kissinger again sought delay.

At this point, a curious episode took place. On October 23, Kissinger, who had just that day returned from his whirlwind trip to Moscow, Tel Aviv, and London, met at the White House with Stein, Richard Maass (chairman of NCSJ), and Fisher. Toward the end of the meeting, which mainly focused on Middle East matters, Kissinger raised the issue of the Jackson amendment. He reiterated that the president favored its elimination from the Trade Reform Act, and then surprised his listeners by asking whether, in the event Jackson and Vanik agreed to the elimination of the amendment, the Jewish leadership would condemn them. Since the Jewish leaders did not know whether Jackson or Vanik had been approached by the White House, their answer was evasive. If indeed Jackson or Vanik agreed with Kissinger, they said, they would have to ask their constituency for instructions on how to proceed.

The White House reinforced the Kissinger tactic. Peter Flanigan, its chief adviser on international economic policy, told Jewish leaders that the interest of Israel required the elimination of Title IV (Jackson-Vanik). He proposed on November 2 that the leadership meet with Vanik and Jackson concerning this objective. Jewish leaders had been scheduled to see Jackson on November 5. During the preceding weekend, word of the administration proposal leaked out and quickly generated a chorus of anger and concern. The executive committee of the NCSJ rejected the Kissinger and Flanigan proposal. Instead, Maass was instructed to report to Jackson on the White House position, and to seek his counsel.

The November 5 session with Jackson was the turning point in the yearlong campaign. The senator chose to invite to it, in addition to Maass, Stein, his principal legislative partner, Senator Ribicoff. After Maass reported on the conversations with administration officials, Jackson and Ribicoff addressed the source of the Jewish community's anxiety: that continued support of the amendment might undermine or weaken U.S. support of Israel. In their view, the linkage was spurious.

After the meeting, Stein and Maass immediately went to the White House to advise Flanigan that the organized Jewish community would continue to back the Jackson amendment. The following week, Maass issued a public statement to this effect. It made clear that backing the amendment did not mean the Jewish leadership had cut its ties with the Nixon administration, or did not appreciate its massive aid to Israel. What the leadership rejected, Maass emphasized, was the attempt to use that aid to weaken or remove the Jackson amendment.

On December 10, the trade bill was finally called up for action in the House. The key vote came a day later on a motion by Vanik to refuse credits, credit guarantees, and investment guarantees to nonmarket countries denying their citizens emigration rights. The overwhelming 4 to 1 ratio in the voting (319 to 80) testified to the massive support enjoyed by the Jackson coalition in the House. Then, by a ratio almost as large (298 to 106), the House defeated an administration-sponsored motion to delete Title IV from the bill.

The collapse of Nixon's strategy compelled the administration to shift in 1974 to a new approach. Kissinger had to recognize the political reality that more than three-quarters of the Senate supported

the House-approved legislation.¹³ He therefore, for the first time, entered into negotiations with the principal sponsors of the amendment, Senators Jackson, Ribicoff, and Javits. The purpose of the negotiations, which continued throughout the spring, was to find a formula to make the Jackson amendment acceptable to the administration and to the Kremlin. Ineluctably, the administration was compelled to conduct parallel and interlocking discussions with Soviet officials to determine what concessions the Kremlin was prepared to make to satisfy the Senate. Kissinger frequently met with Soviet Ambassador Anatoly Dobrynin, and saw Soviet Foreign Minister Andrei Gromyko at Geneva in April and at Cyprus in May, to discuss the matter.

Two aims were central to these discussions: ending the harassment of Soviet Jews who applied for exit visas, and raising the level of Jewish emigration. (The rate of Jewish emigration during the first half of 1974 had declined by 40 percent.) Concerning the first point, Gromyko at Cyprus was prepared to acknowledge that such practices were "inconsistent with Soviet laws." With reference to the level of emigration, he proposed a figure of 45,000. The three senators suggested 75,000 as a desirable number.

Reaching a Ford-Congress Agreement

The accession of Gerald Ford to the presidency on August 9 was a decisive development. Not only was Ford, in the calculations of the Kremlin, an uncertain factor as far as détente was concerned, he had also committed himself, in his first public act, to a "marriage" with Congress. The Kremlin moved rapidly. Three days after Ford's inauguration, Dobrynin interrupted his vacation to fly to Washington, and the two met on August 14 to discuss the trade measure. The discussion was clearly encouraging. The president called the three senators to the White House the following morning and offered them his personal guarantee that the Kremlin was prepared to end harassment of Jewish applicants and to raise significantly the level of emigration.

The administration-Senate negotiations now entered their final stage. Initially, the negotiators agreed that Kissinger would write a letter spelling out the Soviet commitment on eased emigration

procedures. Upon the insistence of the new NCSJ chairman, Stanley H. Lowell, it was agreed that the letter would refer to "assurances" rather than a vaguer term. Jackson would then respond by giving his interpretation of the agreement, indicating a precise figure of 60,000 as the emigration rate—a compromise between the earlier figures.

As the negotiations proceeded, the Soviet Union was kept apprised of, and appeared to accept, the understandings that were being reached. Indeed, on September 20, President Ford met successively with Jackson and Gromyko on the basic content of the proposed exchange of correspondence, and later that day, Kissinger and Gromyko talked about it at length. In essence, the Kremlin had become a "silent partner" to an administration-Senate understanding.

Announcement of the understanding was made by Senator Jackson on October 18. Kissinger's letter stated that "punitive action" against would-be emigrants and "unreasonable impediments" would no longer obtain. Only in the case of persons holding "security clearances" would "limitations of emigration" be imposed, and then only for a designated time period. Senator Jackson's response translated the assurances into specific terms. With respect to "security clearance" cases, he set a date of three years from the time they had been exposed to sensitive information. As a "benchmark, a minimum standard of initial compliance," Jackson set an emigration figure of 60,000 per annum. He added that "we understand that the president proposes to use the same benchmark." On the basis of these understandings, Jackson agreed to propose an additional amendment that would authorize the president to waive for a period of eighteen months, Title IV restrictions with respect to MFN status and credits. Thereafter, the presidential waiver authority could be extended, on a one-year basis, by concurrent resolutions of both houses of Congress.

A week after the Kissinger-Jackson exchange, Gromyko handed Kissinger, who was then in Moscow, a letter dated October 26, which complained that the letters presented a "distorted picture of our position." It stated that "we resolutely decline" the interpretation of "elucidations that were furnished by us" on emigration practices as involving "some assurances and nearly obligation on our part." The Gromyko letter was kept from the Senate—and the public. Kissinger made no reference to it during

¹³ For details, see William Korey, "The Struggle Over the Jackson Amendment," *American Jewish Year Book*, 1975 (New York: The American Jewish Committee and The Jewish Publication Society of America, 1976), pp. 160-70.

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his crucial testimony in support of the Trade Reform Act before the Senate Finance Committee on December 3. He nonetheless insisted that "assurances" on emigration had been given by Brezhnev, Gromyko, and Dobrynin.

On December 13, the Senate, by a vote of 88 to 0, approved the waiver provision, with the proviso that the president certify to the Congress that "he has received assurances that the emigration practices" of the USSR will "lead substantially to the achievement of the objectives" of the Jackson amendment.¹⁴ But on the morning of December 18, Moscow suddenly decided to react publicly to the trade measure. Its comments were unusually negative. The official Soviet news agency, Tass, asserted that "leading circles" in the USSR flatly reject as "unacceptable" any attempt to attach conditions to the reduction of tariffs on imports from the Soviet Union, or otherwise to "interfere in [its] internal affairs." The statement denied that the Kremlin had given any specific assurances on emigration procedures. To support its contention, Tass released the Gromyko letter of October 26.

The Tass release revealed a totally new Kremlin attitude. Prior to December 18, the Kremlin failed to indicate publicly that it had second thoughts about the understandings reached between the White House and Senator Jackson, to which it was a silent partner. What brought the changed perspective? Analysis suggests that it was triggered by another congressional action completely unrelated to the Jackson amendment.

By December 16, it had become clear to the Kremlin that the Senate was about to approve an amendment to a bill that extended the life of the U.S. Export-Import Bank for four years. The amendment, sponsored by Senator Adlai E. Stevenson III, would place a ceiling of only \$300 million on credits to the USSR over the entire four-year period. It had been initially voted on favorably by the Senate on September 19. As the House version of the Export-Import Bank bill contained no similar amendment, the issue went before a Senate-House conference committee, which adopted the ceiling on December 12. The Senate then began considering the conference report, and after several sessions—the last on

December 16—appeared almost certain to adopt it.¹⁵

As Kissinger later indicated, the amount of credits permitted the USSR under the ceiling was "peanuts in Soviet terms." As compared to more than \$1 billion in credits it sought for the next three years, the proposed \$75 million per annum was a severe disappointment. From the Kremlin's perspective, the bargain that had been struck involving an agreed-upon exchange of money credits for emigrants had been unfavorably altered.

Significantly, Ambassador Dobrynin met with Kissinger on December 18 and, in a reportedly stormy session, lashed out at the credit ceiling and warned that the October 1972 trade agreement would thereby be placed in jeopardy. At the same time, Tass had issued its statement denying any assurances on emigration. The connection seemed clear. Moscow was saying that if the ceiling on credits was imposed, the trade deal with the exchange was jeopardized. The linked Soviet actions of December 18 were clearly designed to stir State Department lobbying in the Senate. But the last-minute lobbying, if intensive, proved unavailing. On December 19, the Senate approved the conference report even as the State Department denounced the Stevenson amendment as "most unwise and unfortunate."

The puzzling question is why the administration failed to alert public opinion and the Congress as to what the Stevenson amendment involved in relation to the understandings reached on the Jackson amendment. Strikingly, Jewish organizations, which had a great stake in the emigration issue, were totally unaware of the Stevenson amendment and its potential consequences. Kissinger was reported to have admitted to his aides that he failed to focus on the Export-Import Bank bill and the Stevenson amendment when he should have done so.

An attack would now be mounted by the Kremlin against the entire Trade Reform Act. On December 20, both the Senate and the House approved the act by large majorities. The very next day, Tass unleashed the new propaganda offensive, denouncing both the Trade Reform Act and the Export-Import Bank legislation as "attempts at interference in the internal affairs of

¹⁴ For details on the last minute blow-up on the three-way understanding, see William Korey, "The Future of Soviet Jewry: Emigration and Assimilation," *Foreign Affairs*, Fall, 1979, pp. 75-77. Also see Korey "Jackson-Vanik and Soviet Jewry," op. cit., pp. 122-24. (The latter appeared in *The Washington Quarterly* five years after the author's *Foreign Affairs* essay.)

¹⁵ For detailed coverage of the Stevenson amendment and its impact upon Moscow, see Paula Stern, *Water's Edge: Domestic Politics and the Making of American Foreign Policy* (Westport: Greenwood Press, 1979), pp. 181-89 and 238 (fn. 137). Stern relied, as did the author, on extensive reportage of the episode in *The New York Times*, December 21-23, 1974.

the USSR." Several weeks later, the Kremlin formally scrapped the October 1972 trade agreement.

The Trade Reform Act, with its historic Jackson-Vanik amendment, became law on January 3, 1975, when President Ford signed the legislation. Even before the Jackson-Vanik became law, it had compelled the Kremlin, in an unprecedented act, to nullify an education tax on exit visas. Nor would Moscow choose to disregard the message of Jackson-Vanik, even after its vehement media outburst of December 1974. After 1975, the annual emigration rate of Soviet Jews rose, jumping to 28,000 in 1978 and an unprecedented 51,000 in 1979. During 1978-79, a draft strategic arms limitation agreement (SALT II) occupied a key place on the American-Soviet agenda, and Moscow sought to win support for Senate ratification of the treaty. Preliminary discussions concerning trade and credits were also taking place at the time.

Strikingly, in 1978 the United States reached a trade agreement with the Soviet satellite state of Hungary. That agreement was preceded by written exchanges in which Budapest gave assurances on its emigration practices. Had Moscow continued to have strong objections to the amendment as an intrusion into domestic affairs, it would no doubt have pressured Hungary to reject the agreement.

The Soviet invasion of Afghanistan in December 1979 brought an end to the warming trend with the West. The resumption of an even more frigid cold war ineluctably followed, with a concomitant downward plunge of Jewish emigration rates. By 1986, the figure had reached the lowest level since the sixties.

With the emergence of glasnost and perestroika following Mikhail Gorbachev's coming to power, a new era in East-West relations appeared on the horizon. It found expression in the Helsinki process talks held in Vienna, especially during 1987. Moscow would commit itself to free emigration and the removal of virtually all obstacles to it. Even on the core issue of the national security device designed to inhibit emigration, Moscow was prepared to impose "stringent time limits" on the "state secrets" obstacle. Gorbachev himself made this commitment in an address to the United Nations General Assembly on December 7, 1988.

Emigration and Waiver

Central to Jackson-Vanik was less the commitments, but rather the actual flow of emigrants. Implementation constituted the heart of the amendment and explains why Senator Jackson insisted a "benchmark" of 60,000 emigrants per annum as essential for determining whether a waiver of his statute was to be granted. From 1989 onward, that "benchmark" was annually reached and, indeed, exceeded.¹⁶ In 1989, it was 72,000, and then jumped to 213,000 in 1990 and 180,000 in 1991. Since 1992, the annual emigration remained fairly high even if 1989-92 figures inevitably diminished.

Appropriately, the waiver was granted, and the Soviet Union and its successor states, most notably Russia, were extended MFN status and Export-Import Bank credits on an annual basis. The very existence of the Jackson-Vanik amendment, together with the annual review, provided the leverage for assuring continuing compliance. President Boris Yeltsin, in view of Russia's positive record, and eager to remove any obstacles to American investment and trade, sought to have Jackson-Vanik entirely revoked. When he met with President Bill Clinton in Vancouver, Canada, in April 1993 at their first summit, he vigorously pressed the issue.

At the press conference that climaxed the meeting, Yeltsin observed that the two leaders had "decided to do away with the Jackson-Vanik amendment." The comment was hardly accurate. Clinton, in his press comments, had merely indicated that, only after the White House is certain that restrictions on emigration are no longer implemented, would he then be prepared to recommend to Congress that the legislation be reconsidered. The next year, Russian Prime Minister Viktor Chernomyrdin came to Washington armed with positive details. It was on June 21, 1994 that he met with several Jewish leaders brought together by the NCSJ. Besides noting the continuing high level of exodus, Chernomyrdin could call attention to the sharp decline in the number of refuseniks. A specially created commission in Russia, headed by Sergei Lavrov, had reviewed 139 key refusenik cases and approved 135. Since then, the refusenik category plunged downward, laying the groundwork for a change in Russia's MFN status.

¹⁶ The emigration figures were made available to the author by the National Conference on Soviet Jewry.

But that change would not and could not mean that Jackson-Vanik no longer applied to Russia. That is precisely what Chernomyrdin sought (as had Yeltsin in Vancouver). Enlightenment was provided by the late Senator Jackson's collaborator, former Congressman Charles Vanik. As an invited member of the NCSJ delegation, he told the Russian prime minister that the Jackson-Vanik amendment was "firm as concrete" in both American law and the American mind. Besides, only Congress, not the president, can remove Russia from the Jackson-Vanik rubric.

Still, a significant step under Jackson-Vanik could be taken in recognizing Russia's compliance. President Clinton, with the support of NCSJ, formally affirmed on September 21, 1994, Moscow's "full compliance" with Jackson-Vanik. This affirmation permitted Russia to obtain MFN status and Export-Import Bank credits without an annual review (by both the administration and the Congress). The removal of the burdensome annual review was strongly welcomed by President Yeltsin.

From 1994 to the present, the waiver provision remained a constant feature of the American-Russian trade relationship. The President repeatedly used the waiver as he made his annual determination of Russia's compliance with the requirements of Jackson-Vanik. While the compliance determination is vulnerable to a resolution of disapproval by Congress—as indicated in the amendment—no such resolution has taken place since 1994 and, indeed, not a single member of Congress has even asked for disapproval.

Nor would a disapproval resolution make much sense as every year since 1994, until 2000 the Jewish emigration figures from Russia exceeded the Jackson 60,000 benchmark, although at an increasingly smaller rate. During the last two years, over 100,000 have emigrated. Indeed, the total number of emigrants from the former Soviet Union offers an extraordinary endorsement of the purpose of Jackson-Vanik. The overall figure is a staggering one and one-half million, with the number going to Israel only exceeding one million. Jews from the former Soviet Union constitute approximately 18 percent of the total population making them the largest single ethnic group within Israel. Their impact upon Israeli society in technological, scientific and cultural terms has been enormous.

Moving Toward "Graduation"

After September 11, 2001, the U.S. position on Russia's strong reaction to Jackson-Vanik ineluctably required modification from relative indifference to a vigorous responsiveness. Russia, after all, had been especially cooperative in joining President Bush's campaign against terrorism. At the very first summit of the two Presidents, after the terrorist attacks on the World Trade Center and the Pentagon, which was held in Crawford, Texas, on November 13-15, Vladimir Putin was in a position to raise the issue of Jackson-Vanik rather forcefully and Bush was unlikely to be indifferent to his plea.

Two initiatives were quickly taken on the very first day of the summit. At a joint press briefing, President Bush noted that Russia had made "important strides" on emigration and on "the protection of religious and ethnic minorities."¹⁷ President Putin observed that they had reached "a great deal of understanding" that issues separating the two countries "should be resolved" including dealing specifically with the Jackson-Vanik amendment in "legal terms." The second initiative involved a formal exchange of correspondence between Secretary of State Colin Powell and Russian Foreign Minister Igor Ivanov on precisely the same day, November 13.¹⁸

Ivanov promised that Jews and all ethnic groups of Russia will "enjoy the right to leave the country and travel abroad." And he emphasized that the Kremlin "guarantees" its Jewish community "protection against any type of religious and ethnic discrimination." Powell responded by welcoming Ivanov's "commitment to human rights, including freedom of emigration" and his view that "anti-Semitism has no place in modern society." The Ivanov letter indicated that he had been assured that the Bush Administration would "seek the full and final exemption of Russia" from Jackson-Vanik, which he called "one of the last vestiges of the so-called Cold War."

Far more important than these initiatives was the commitment given by President Bush at the summit. As reported in the Congressional Research Service "he will work with the [U.S.] Congress to grant Russia permanent 'normal trade

¹⁷ Excerpts of the press conference were made available to the author by NCSJ.

¹⁸ Complete copies of the exchange were made available by NCSJ. They are in the possession of the author.

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relations' (PNTR) status."¹⁹ Bush was, of course, keenly aware that the Jackson-Vanik amendment could only be modified by new congressional legislation. Section 401 of Title IV of the 1974 Trade Reform Act—the Jackson-Vanik amendment—specifically embraced the former Soviet Union and the bulk of its successor states.

The Bush Administration was as good as its word concerning positive action in the Congress. It prompted two key legislators to introduce bills only one month after the Crawford summit which would grant Russia permanent normal trading relations with the U.S. Indeed, the draft bill in the Senate (S. 1861) was openly acknowledged, by its sponsor, Senator Richard Lugar (R. - IND.), to have been introduced by him “at the request of the Administration.”²⁰ No doubt, the same “request” was made of the sponsor of the House bill (H.R. 3553), Bill Thomas (R. - CO.), who is chairman of the key Ways and Means Committee.

Both bills were introduced on December 20, 2001. The Thomas draft stipulated that Jackson-Vanik “should no longer apply to the Russian Federation.” While the Lugar proposal carried a similar demand, it reflected a more critical viewpoint. The powerful senator from Indiana was widely known as especially sensitive to international affairs, and it was no accident that he would call attention to the fact that the very existence of the amendment “continues to be a major irritant in U.S. relations with Russia.”²¹ The perspective echoed that held by the State Department.

Of equal significance to the direct prompting of congressional legislation was the active encouragement by the Administration of a key

legislator whose credentials in the human rights field are impeccable. If a major landmark in human rights is to be modified, or at least one of its principal targets no longer included, it would be especially appropriate to have a leading human rights advocate involved on the Administration side. No senator or congressman has better credentials than Republican Tom Lantos (D. - CA.). He is the *only* survivor of the Holocaust ever elected to Congress and he is the founding chairman of the Congressional Human Rights Caucus. Besides, he is the ranking Democrat in the House International Affairs Committee.

According to Lantos' own personal testimony to a House trade panel, which is subordinate to the Ways and Means Committee, he was asked by “the White House... to lead the effort to repeal Jackson-Vanik.”²² Lantos related that “he agreed to do that because I felt that the President needed all the support we could give him on a bipartisan basis in post-September 11 environment.” Lantos added that he wanted to help the President fulfill his promise to Putin “prior” to the summit scheduled for Moscow in late May 2002.

Even before the Administration legislation was introduced in the House and Senate, Lantos circulated among his colleagues a draft outline for legislation which differed in a significant way from the Lugar and Thomas measures. The date of the draft outline was December 11, nine days ahead of the officially-sponsored legislation. Instead of simply calling for the lifting of the Jackson-Vanik amendment as it applied to Russia, Lantos' draft urged that Congressional legislation stipulate that the Kremlin should adopt specific “statutory and administrative procedure” for assuring everyone of the “right to emigrate [and] travel freely.”²³

In addition, the Lantos outline would signal the Russians what especially was welcomed by the U.S. The proposed congressional legislation would endorse legal initiatives undertaken by Moscow to combat “incitement to violence” against ethnic groups and which specifically outlawed “hate crime.” Clearly, as a human rights specialist, Lantos sought a legislation initiative that would establish distinctive human rights markers for Russian compliance. At the same time, his draft

¹⁹ Congressional Research Service, *Permanent Normal Trade Relations (PNTR) Status for Russia and U.S. - Russian Economic Ties* (Washington: Library of Congress, February 26, 2002), pp. 1-2. Since the Baltic states of Estonia, Latvia and Lithuania had never been recognized by the U.S. as part of the Soviet Union, they were each quickly granted normal trading relations once the Soviet Union collapsed in December 1990.

Two other former Soviet Republics — Kyrgyzstan and Georgia — were “graduated” out of Jackson-Vanik in the year 2000, the first on June 29, the second on December 29. These exceptions were initiated by an Administration favorably disposed towards the two republics and besides, no ethnic emigration issue were to be found with them. Congress responded favorably to the Administration requests.

²⁰ *Congressional Record-Senate*, (Washington, D.C.: Government Printing Office, December 20, 2001), p. 9. A copy of his legislation introduced into the Senate at the 107th Congress, 1st Session was made available for the author. A copy of the Thomas Bill was also given to the author.

²¹ *Ibid.* Lugar made explicitly clear that this viewpoint was reported as such by the Administration.

²² Committee on Ways and Means, Trade Subcommittee, *To Explore the Permanent Trade Relations for Russia: Hearing*, April 11, 2002, p. 9.

²³ The “December Draft,” officially introduced at the 107th Congress at its 1st Session on December 11, 2001, was made available to the author. The cited comments are to be found in the first four pages of the document.

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outline avoided any suggestion that the lifting of the amendment be conditioned upon Moscow's adherence to human rights requirements. Still, he believed, there ought to be a carry over from Jackson-Vanik.

By April 11, 2002, when hearings opened by a subcommittee on trade of the House Ways and Means Committee, chaired by Congressman Philip Crane (R. - ILL.), Lantos offered rather precise details of what the Hose legislation should contain. In his testimony, Lantos first took note that he had consulted leaders of a number of religious and human rights organizations as he needed to stress that Jackson-Vanik was "one of the first attempts to link human rights and trade" and that the amendment "was initially conceived to establish a framework for U.S. trade relations with communist countries."

When viewed from this perspective, Lantos emphasized, Jackson-Vanik "has been a resounding and an unqualified success." He listed the extraordinary progress in Russia since the end of the Cold War: open borders; no legal restrictions on emigration; and travel abroad no longer encumbered. Besides, important progress has been made in many other human rights areas. Progress, he thought, "has been substantial."

At the same time, Lantos stressed in his written testimony, that "as we graduate Russia from Jackson-Vanik, we [must] reaffirm our commitment to the human rights provisions that are the foundation of this legislation."²⁴ What must be stressed to Russia and all other governments covered by Jackson-Vanik is "that observance of human rights is an essential element in the relationship with the United States." Thus, Lantos proposed that the "graduation" legislation express America's "intention to pursue human rights issues as part of our ongoing foreign policy approach to Russia." He indirectly offered several examples of what the U.S. would and should raise. Observing that while "good" laws have been passed to combat hate crimes, they have been enforced "unevenly," notably in responding to and condemnation of "egregious" anti-Semitic abuses. Also noted was the fact that religious and ethnic minorities have faced "obstacles" in reclaiming houses of worship from local authorities.

It is apparent that Lantos conceived of the U.S. role in trade matters as embracing a human rights component and he sought in the "graduation" procedure to give his perspective an appropriate

send-off. Moreover, he advanced the specific notion of creating an "informal U.S.-Russian forum to discuss...[human rights] issues on a regular basis." To be included in the forum from the American side would be the National Conference on Soviet Jewry and the U.S. Commission for International Religious Freedom. Whether the forum idea should be included in the proposed legislation or separately negotiated was not made clear.

Significantly, Lantos did not see his proposals as presenting an obstacle to the "graduation" procedure. He repeatedly stressed that he wished to see the Jackson-Vanik amendment lifted in time for the Bush-Putin summit in Moscow near the end of May. Firmly, the Lantos statement stressed: "I anticipate that an agreement can be reached" on the human rights issues raised. Indeed, he envisaged that the "graduation" process be climaxed with a "festive event" in Moscow to which Charles Vanik and the widow of the late Henry Jackson—Helen Jackson—would be invited. Celebration would be appropriate, for in Lantos' view, "Jackson-Vanik represented one of America's signal victories in the Cold War and marked an historic milestone for the human rights movement."

In oral testimony on April 11, Lantos went beyond his earlier statement.²⁵ Once again, he stressed the great importance of Jackson-Vanik but, this time with a special appreciation of the powerful leverage it provided to achieve human rights purposes. It succeeded he said, "in prying open the iron gates of the Soviet Union. Thousands of persecuted Soviet citizens were permitted to emigrate...." The unique value was to be found in its unprecedented character. Lantos noted that the Jackson-Vanik amendment was "the first case in which Congress imposed economic sanctions in order to achieve a human rights objective." It was for this reason alone that the "legacy" of the legislation must be preserved and Lantos was prepared to go a long way to preserve the "legacy" through special language in the graduation legislation.

For the first time, Lantos spoke of the need for "an appropriate reporting requirement so that Congress can be kept abreast of developments" related to human rights. How the "appropriate reporting mechanism would work was not made clear. It may be that it would find expression in the "forum" idea that he had proposed in his

²⁴ See the Lantos testimony in *ibid*.

²⁵ His tough language is on page 9 of the Internet testimony.

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testimony. But that Lantos was profoundly serious about maintaining the Jackson-Vanik "legacy" is all too evident. He told the trade subcommittee that unless the "graduation" legislation expressed his "human rights concerns" about the future, he "will not support the legislation" and, indeed, he "will have to oppose it actively." That it was a deeply-felt warning shot across the congressional bow is stunningly evident. Yet, at no time did he overtly reject the notion of "graduation" and, in fact, he was unquestionably optimistic that his "legacy" concern would win approval.

In his oral presentation, Lantos acknowledged that he had discussed his "concern" with National Security Advisor Condoleeza Rice and with Deputy Secretary of State, Richard Armitage. Both indicated to him "that they understand and fully share...[his] concerns." For that reason, Lantos held firmly to the belief that "we can find satisfactory appropriate language." After all, the Bush Administration now seemed to provide the "legacy" thesis with an appropriate blessing.

Certainly, President Bush had to focus upon key members of Congress if he intended to fulfill his commitment to Putin. But, beyond Congress, and of central importance in affecting Congress, was the Jewish community, specifically that community agency which had been designated to deal with the former Soviet Union, the National Conference of Soviet Jewry. The NCSJ, from the beginning, had proved to be the prime instrument for mobilizing public and congressional sentiment.

The Bush Administration lost no time to win over the NCSJ. Only four days after the Crawford summit, President Bush sent the executive director of the NCSJ, Mark Levin, a personal letter.²⁶ The President's letter was basically designed to communicate a sense of finality about Jackson-Vanik. On the one hand, NCSJ was formally advised on November 19 that President Vladimir Putin had given President Bush "clear assurances" of the Kremlin's intention "to promote...core human rights and basic freedoms." The White House went on to offer congratulations in such a way as if to say that the purpose of Jackson-Vanik had been fully realized.

Thus, the President wrote that it was American Jewry's determination "to defend the rights of Soviet Jewry" that "won a once unthinkable victory" regarding free emigration and, therewith, achieving "a significant change" in the practices of

the Kremlin. The effusively laudatory comment was designed to demonstrate that Jackson-Vanik was no longer necessary.

The response of the NCSJ leadership was strongly positive. How could it be otherwise, especially since Putin had sent his Prime Minister, Mikhail Kasyanov, to meet in a friendly session Mark Levin and several other professionals of major Jewish organizations? It was an off-the-record meeting on January 31, 2000, held at the Russian Embassy in Washington, D.C. Kasyanov was accompanied by Russian Deputy Foreign Minister Georgy Mamedov and Russia's Ambassador to the U.S. Yuri Ushakov.²⁷ Kasyanov expressed appreciation for what he believed to be a positive relationship between Moscow and American Jewish organizations including the latter's support for removing Jackson-Vanik.

In response, Levin thanked the Prime Minister for Russia's assistance in the fight against global terrorism, its deepening relationship with Israel and its support for the revival of Jewish culture in Russia. He went on to assure Kasyanov that the American Jewish community is vigorously supporting Russia's "graduation" from Jackson-Vanik and, in keeping with this aim, is working closely with Congress and the Bush Administration. At the House trade panel hearings on April 11, NCSJ offered little doubt about where it stood. Its chairman, Harold Luks, reiterated twice that his organization supports "the graduation of Russia from the Jackson-Vanik amendment."²⁸ No qualifying phrases or pre-conditions were offered. However, Luks did take note of several negative factors in Russia, including anti-Semitic incidents, certain police interference with Jewish synagogues and difficulties with the registration provisions of Moscow's 1997 law on religion.

It was in the context of these negative features that Luks took the occasion to express concern about "the future." He pointedly acknowledged having "some trepidation given the uncertainties in the Russian Federation." Precisely because of the concern about "the future," Luks sought to identify himself with ideas and proposals already advanced

²⁶ A copy of the Bush letter was made available by Mark Levin to the author.

²⁷ The author relied upon notes of the meeting later dictated by one of the participants. A copy of the notes is in the author's possession.

²⁸ The testimony is to be found in the *Hearing of the Subcommittee on Trade, To Explore Normal Trade Relations for Russia*, p. 34.

by Congressman Lantos.²⁹ The NCSJ chairman suggested that the House Ways and Means Committee “address some of the bilateral mechanisms” to which Lantos referred when he proposed a specific “forum” for follow-through.

Bush’s promise to Putin about congressional “graduation” of Russia from Jackson-Vanik seemed near fulfillment as spring 2002 approached. All that required adjusting was the incorporation of certain human rights language in the legislation granting Russia permanent and normal trade relations with the U.S. Such language would reflect concerns of Lantos and the Jewish community for future Russian human rights behavior. That behavior would require some form of monitoring but *not* at the expense of the completed “graduation” process. That the May 23 summit would be consummated not merely by a reduction of missiles but by a trade breakthrough seemed all but assured.

The Chicken Embargo

It was not to be. A sudden and unexpected Kremlin decision on March 10 struck havoc with the scheduled optimism.³⁰ Imports of American poultry were banned on grounds of salmonella infection and the supposed use of antibiotics. While a very small number of U.S. poultry plants had sold Russia the infected chickens, this was not perceived as the rationale for Moscow’s actions. An official report by the staff of the House trade panel speculated that the ban could be “retaliation” for the U.S.-imposed embargo on Russian and European steel. Similar perceptions were reported in *The Moscow Times*³¹ and Radio Free Europe/Radio Liberty.³² Arbitrary and unilateral trade actions can trigger unexpected consequences.

The sudden Kremlin ban was similarly not inconsequential for the American economy. According to the House panel staff report, one-half of all U.S. poultry exports go to Russia; indeed,

poultry constitutes 20 percent of total U.S. exports to Moscow.³³

That the impact on the Congress would be grave is self-evident. As many as 38 American states export chickens to Russia. Their senators and representatives could not fail to be extremely sensitive to the Russian decision. The U.S. Ambassador to Russia, Alexander Vershbow, told the Moscow press that the poultry ban has “raised serious concerns in both Houses of Congress” and posed the question whether “now is the time to give Russia normal trading relations.”³⁴ The chairman of the House trade subcommittee, Congressman Philip Crane (R. – ILL.), angrily told Russian Ambassador Yuri Ushakov on April 11—he had testified at the hearings—that Moscow’s erection of trade barriers “has caused serious damage to our trade relationship and I ask you, Mr. Ambassador to send this message home.”³⁵ Clearly the Kremlin had badly miscalculated the significance of Congress as it had during the era of Jackson-Vanik.

Nonetheless, it soon became clear that no one wanted a collapse of the Crawford agreement. Following a March 27 telephone call by Bush to Putin, Russia formally lifted the ban on April 15.³⁶ However, by then, Moscow’s veterinary service had already cancelled all import permits.³⁷ But on the eve of the Moscow summit, U.S. Agriculture Secretary Ann Veneman spoke by phone with her Russian counterpart, Alexei Gordeyev, and rapid approval was given for two U.S. freighters moored in St. Petersburg harbor to unload their frozen poultry.³⁸ To legitimate the decision, a high Kremlin official said the U.S. government had “presented official guarantees that the poultry is safe.”

Moscow’s reversal portended a positive outcome. Too much was at stake in the new American-Russian relationship for a return to counterproductive unilateral steps. “Graduation” of Russia can be expected once effective human rights language is incorporated into the proposed legislation. The language of the statute ending Jackson-Vanik’s applicability to Russia must

²⁹ *Ibid.*, p. 35.

³⁰ The “Memorandum” is from the “Trade Subcommittee Staff” to Members, Subcommittee on Trade.” It is misdated as “April 10, 2002” and, instead should read “April 11, 2002.” The Memorandum is on official Subcommittee stationery noting that the primary group is the House Committee on Ways and Means of the U.S. Congress. The reference is on page 2.

³¹ Alla Startseva, “Despite Lifting of Ban U.S. Birds Still Frozen,” *The Moscow Times*, May 15, 2002, p. 5.

³² “Russia Lifts Ban on U.S. Poultry Imports,” *RFERL Security Watch*, April 23, 2002.

³³ *Memorandum from Trade Subcommittee Staff*, April 10, 2001 [should read 2002], p. 2.

³⁴ Cited in *Startseva*, *op. cit.*, p. 8.

³⁵ *To Explore Permanent Normal Trade Relations with Russia, Hearing*, April 11, 2002, p. 6.

³⁶ *Memorandum from Trade Subcommittee Staff*, *op. cit.*, p. 2.

³⁷ Alla Startseva, “U.S. Poultry Freed Ahead of Summit,” *The Moscow Times*, May 23, 2002, p. 5.

³⁸ *Ibid.*

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surely resonate with some concern about a possible future limitation on emigration or about an outpouring of anti-Semitism. That would provide a legacy to Jackson's amendment commensurate with the "miracle" of the massive exodus to freedom.

Jewish groups, which have been closely following the "graduation" proceedings just as they had the Jackson-Vanik from the early seventies, were reported as "hopeful the legislation will pass by the end of the year."³⁹

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³⁹ Sharon Samber, "Amendment on Jewish Emigration Is Slowed on Road to Historic Dustbin," *JTA Daily News Bulletin*, June 4, 2002, p. 4.