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Magnitsky Act 'Law by New Year'

By Roland Oliphant

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The grave of Sergei Magnitsky at the Preobrazhnesky cemetery in Moscow. Under the new law, any Russian connected to Magnitsky's arrest, abuse or death or other human rights abuses will face a U.S. visa ban and a freeze of assets. **Dmitry Rozhkov**

U.S. President Barack Obama could sign the Magnitsky act into law by the end of this year, backers of the bill have said.

The landmark legislation was approved by the U.S. House of Representatives on Friday. The bill would allow permanent normal trade relations with Russia and at the same time punish Russians suspected of human rights abuses, including those involved in the death of Hermitage Capital lawyer Sergei Magnitsky.

The act, which is linked to repeal the Jackson-Vanik amendment of 1974, passed with overwhelming bipartisan support. Jackson-Vanik denied trade advantages to the Soviet Union for hindering the emigration of Jews and other ethnic groups, but has remained in place even though Russia has allowed free emigration for the past 20 years.

It will now go the Senate, where its supporters expect it to be approved without further amendment in the first week after the Thanksgiving recess in early December.

"Not withstanding unrelated political upsets, this should be signed into law by President Obama by the end of the year," Hermitage Capital chief Bill Browder, who has led a long lobbying campaign to introduce the bill, said Sunday.

The repeal of Jackson-Vanik was welcomed by business groups and foreign affairs commentators as sweeping aside an outdated relic of Cold War thinking and symbol of "utter inflexibility" in U.S.-Russian relations.

The U.S.-Russia Business Council, which represents 250 businesses, praised the adoption of permanent normal trade relations.

"This will ensure that U.S. companies and their workers have a level playing field when competing for growing opportunities in the Russian market," council chairman and Alcoa CEO Klaus Kleinfeld said in e-mailed comments. "We urge the Senate to act quickly so that the President can sign this bill into law as soon as possible."

The United States was obliged to repeal the law under World Trade Organization rules after Russia joined the group earlier this year. It will have little immediate direct impact on trade, however, as the U.S. president has signed an annual waiver for Russia each year since the end of the Cold War.

But in a move that has infuriated officials in Moscow, the House voted Thursday to tie the repeal to the Magnitsky Act — a law that will compel President Barack Obama to publish the names of Russians believed to be involved in the arrest and death in prison of Hermitage Capital lawyer Sergei Magnitsky.

Magnitsky was arrested in 2008 on suspicion of fraud and tax evasion, charges his colleagues said were fabricated by investigators who he had accused of obtaining a fraudulent $230 million tax refund. An investigation by the Russian president's human rights council found that Magnitsky's arrest and detention were illegal and that he was severely beaten on the day he died.

Under the law, any Russian connected to Magnitsky's arrest, abuse or death or other human rights abuses will face a U.S. visa ban and a freeze of assets. An annex allows the president to keep certain names on the list secret if he deems it critical to national security. The House vote came on the three-year anniversary of Magnitsky's death.

The version of the Magnitsky Act published on the House website this week states that the list of people subject to sanctions should be determined on the basis of "credible information" and made available to the public.

The bill mentions other prominent criminal cases criticized by human rights advocates, including that against jailed former oil tycoon Mikhail Khodorkovsky and his business partner Platon Lebedev, and says the Magnitsky case seems to be indicative of a bigger problem in Russia.

"Sergei Magnitsky's experience ... appears to be emblematic of a broader pattern of disregard

for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms," the bill says.

Democrats in the House were particularly pleased with the inclusion in the bill of the Magnitsky clause, Washington-based newspaper The Hill reported Thursday.

The House voted to link the Jackson-Vanik repeal to the Magnitsky Act on Thursday in a move praised by both parties.

Republican Representative David Dreier said the trade measure would benefit the U.S. economy and be a boon for Russians, who he said "deserve better than they've gotten," adding that "Vladimir Putin is not a good guy," the Associated Press reported.

"I think the passage of the bill in the House is historic and definitive and will change the complexion of human rights in Russia for years to come," Browder said by telephone from London.

"The main motivation of many people in Putin's regime is to steal as much money as possible. But once they have stolen it they are uncomfortable keeping it in Russia. So in my heart of hearts I believe this will cause real worry and fear among members of Putin's regime as they consider the consequences of abusing human rights and cracking down on civil society and the opposition."

Browder, a U.S.-born British citizen who was banned from Russia as a national security threat in 2005, said once the U.S. law is passed his campaign will concentrate on lobbying European governments to pass similar legislation. He said he expected to see bills in 12 European countries to be in place within 12 months of the U.S. Magnitsky Act becoming law.

He also described the bill as being passed despite opposition from the Obama administration, which he said "never wanted this to be adopted."

The White House has previously proposed expanding it to cover all foreign nationals involved in human rights abuses, partly in a bid to appease the Kremlin by not singling out Russia for specific problems.

Fyodor Lukyanov, editor-in-chief of Russia in Global Affairs, said he doubted the Obama administration would expend much political capital on such an effort. He said they have already done a lot to make the bill "more softly worked than it might otherwise have been" while never explicitly opposing it.

Browder said "that is a decision for Congress to make," but added he would welcome an expansion of the bill to other countries because it meant Magnitsky's memory would be "saving lives and ending impunity around the world, not just in Russia."

But both the Foreign Ministry and lawmakers promised "retaliation" for the law over the weekend.

"We hope the American executive authorities understand the pernicious consequences to which the legislative actions of ill-wishers and opponents of out bilateral interaction may

lead," the ministry said in a strongly worded statement published Friday.

"There should be no illusions: there must be an answer from our side, and the responsibility for this lies entirely with the United States," the statement concluded.

Deputy Foreign Minister Sergei Ryabkov said earlier Friday that there will be "tough" but not necessarily "proportionate" retaliation if the bill becomes law, Interfax reported.

Ryabkov said that mutual respect was lacking in bilateral relations, and he repeated Russia's long-standing position that the U.S. is attempting to interfere in the country's domestic affairs.

President Vladimir Putin's spokesman Dmitry Peskov said Friday that the Kremlin's reactions would be "adequate," but also refused to give details.

Commentators have speculated that the "retaliation" could take the form of sanctions against U.S. officials deemed to have violated the rights of Russian citizens — presumably including those involved in the detention and trial of convicted arms dealer Viktor Bout.

"I can easily imagine a Viktor Bout list or something similar," said Lukyanov. "Especially since the State Duma recently had a hearing on human rights abuses in the United States — you could probably look at that and find some candidates," he said.

Bout, a Russian citizen, was extradited from Thailand to the United States in 2009 after trying to sell weapons to U.S. agents posing as representatives of Colombian rebel group FARC. He was convicted of conspiring to sell weapons to a terrorist group in 2011 and sentenced to 25 years in prison. The Russian foreign ministry has described the charges as politically motivated.

Alexei Pushkov, chairman of the State Duma's International Affairs Committee, explicitly raised the prospect of a "Bout List" over the weekend.

"Usually in bilateral diplomacy, a mirror-image response is acceptable if the responsible party doesn't want to turn the issue into a massive crisis," Pushkov told the Life News tabloid. "Russia may apply its own restrictions to those involved in the violation of Russian citizens' rights abroad. The most obvious example is the trial of Viktor Bout, which we do not recognize as fair because of inadequate evidence."

Besides a "Bout list," Lukyanov hypothesized that other possible responses could include making life difficult for one or two American companies. "Obviously it would have no apparent connection to the Magnitsky affair, but it would be obviously be a demonstrative move to show Russia is not satisfied," he said.

However, he said that most of the expressions of outrage should be taken with a pinch of salt.

"A good indicator is Russian state television. And watching the federal channels yesterday I noticed that the emphasis was on the cancellation of Jackson-Vanik," said Lukyanov. "Obviously they also criticized the Magnitsky Act, but I'd say the focus was on good news over bad. That's why I think this won't have any serious negative impact on U.S.-Russian relations," he added.

U.S. Ambassador Michael McFaul was instantly forced to bat away criticism from Twitter users who complained the Magnitsky Act was discriminatory.

“Under existing US laws, tens of thousands of people all over the world [are] denied visas every year,” he replied to one critic. “Russian citizens do not have the “right” to get a U.S. visa. This issue is about our sovereignty, not Russian sovereignty.”

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