The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

New Beef on Jackson-Vanik: It's Illegal

By Edward Lozansky

April 10, 2011



It is like a broken record. Each time a U.S. dignitary comes to Moscow, he promises Russian officials that the Jackson-Vanik amendment will be repealed soon.

This game has been played for 20 years or more, while the amendment itself is 36 years old, having been passed unanimously by the U.S. Congress in 1974 and signed into law by President Gerald Ford on Jan. 3, 1975.

Few leaders miss the opportunity to repeat the standard phrases that the Jackson-Vanik amendment is a relic of the Cold War that is completely irrelevant in the post-Soviet era and contradicts reason and common sense.

Then Richard Perle entered the arena. Perle, who served as deputy defense secretary in the administration of U.S. President Ronald Reagan and before that as the top adviser to Senator Henry "Scoop" Jackson — the Jackson of Jackson-Vanik — spoke at the World Russia Forum in Washington two weeks ago and made two interesting points.

Point one: Although the amendment in question may have been intended to help Jewish emigration when it was drafted in 1974, contrary to popular belief, there is no mention of either Jews, Russia or the Soviet Union in the text of the law. Therefore, strictly speaking, the amendment applies to any country without a free market economy and one that restricts the emigration of its citizens.

Point two: The amendment applied to countries that fall under two criteria: nonmarket economy and lack of freedom of emigration.

The obvious conclusion is that since Russia is now a free market economy and has no emigration restrictions at all, it automatically has to be excluded from this amendment. Thus, the continued application of Jackson-Vanik to Russia is illegal. Therefore, you could argue, those who object to graduating Russia from Jackson-Vanik could open themselves up to a lawsuit from the Russian government.

One wonders whether it's incompetence or a naive faith in the goodness of human nature that is responsible for the Russian authorities' failure to make use of handy legal instruments to put the Jackson-Vanik amendment once and for all where it naturally belongs — the annals of Cold War history.

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Original url: https://www.themoscowtimes.com/2011/04/10/new-beef-on-jackson-vanik-its-illegal-a6224