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Russia's Trade Status, Tariffs, and WTO Issues

Following Russia's 2022 invasion of Ukraine, Congress is considering legislation to revoke Russia's permanent normal trade relations (PNTR) status, which provides unconditional, nondiscriminatory, most-favored nation (MFN) treatment to goods and services traded with Russia. On March 11, 2022, President Joe Biden announced his support for such legislation, in coordination with the G-7 countries. On March 17, the House passed H.R. 7108, which would suspend PNTR with Russia and Belarus; provide the President authority to further increase non-MFN tariffs; and provide authority to restore normal trade relations (NTR) under certain conditions. It also directs the U.S. Trade Representative (USTR) to use its "voice and influence" at the World Trade Organization (WTO) to encourage other WTO members to suspend trade concessions; consider further steps toward suspending Russia from the WTO; and seek to halt Belarus's accession process. Removing Russia's PNTR status would increase applicable duties on U.S. imports from Russia, potentially impacting certain sectors reliant on Russian inputs, and raise issues under U.S. WTO obligations.

History of Russia's Trading Status

During 1992 to 2012, Russia's NTR status was renewed by the President annually under Title IV of the Trade Act of 1974 (19 U.S.C. § 2431). The Act requires the President to deny NTR status to any country that did not have it at the time of the law's enactment on January 3, 1975, essentially covering "nonmarket economy" countries (i.e., the Soviet Union and other Communist countries). It further denies NTR status as long as the country denies its citizens the right to freedom of emigration under Section 402 of the Act (the so-called Jackson-Vanik Amendment), which Congress enacted in response to restrictive emigration policies the Soviet Union implemented in 1972.

Amending Russia's trade status was tied to its WTO accession in August 2012. MFN treatment is a cornerstone of the WTO and its predecessor—the 1947 General Agreement on Tariffs and Trade (GATT). WTO rules generally require each member to provide unconditional MFN treatment (i.e., a member's lowest tariff or best trade concession) to all WTO members. To comply with WTO rules and ensure the United States benefited from the terms of Russia's WTO membership (e.g., market access commitments, and recourse to dispute settlement procedures), Congress passed legislation in 2012 that removed Title IV restrictions and provided the President authority to extend PNTR to Russia.

Some proposed legislation to remove Russia's PNTR status would reapply Title IV restrictions and procedures to Russia for purposes of reinstating NTR. Other bills would add new conditions that Russia would have to meet before regaining such status.

Delegated Presidential Tariff Authorities

Although congressional revocation of Russia's PNTR status would subject Russian imports to non-MFN tariffs, the President already possesses broad authority to restrict trade. In the International Emergency Economic Powers Act (IEEPA, 50 U.S.C. § 1601 *et seq.*), Congress authorized the President to "regulate" a variety of economic transactions after declaring a national emergency. No president has relied upon IEEPA to impose tariffs, but presidents have used the Act to impose other trade measures. For example, on March 11, 2022, President Biden cited IEEPA when banning the import of certain products of Russian origin, imposing export controls, restricting investment in Russia, and taking other measures. Thus, even if Congress does not impose a blanket revocation of Russia's MFN treatment, the President could rely upon IEEPA or other provisions of federal law (e.g., Section 232 of the Trade Expansion Act of 1962) to impose tariffs on Russian imports.

Trade Impact from Removing PNTR

If Russia's PNTR were revoked, applicable duty rates on U.S. imports from Russia would be the rates listed in column 2 of the U.S. Harmonized Tariff Schedule (HTS), unless otherwise specified by law or via other presidential authorities. Column 2 duty rates are generally higher than column 1 rates, which apply to countries with NTR. Pertinent for Russian trade, non-MFN rates for raw materials are relatively low.

Although U.S. imports from Russia account for a relatively small share of U.S. imports (around 1% in 2021 based on U.S. trade data), some commodities are important to specific U.S. industries. For example, in 2021, certain titanium products (used by the aerospace industry) accounted for roughly 53% of total U.S. imports of similar products. Without PNTR, the duty rate for these products would increase from 15% to 45%. Based on the 2021 dutiable value of those products, U.S. importers would pay an additional \$32.4 million in duties. Duty rates for most petroleum oil, a major Russian export (over 50% of U.S. imports from Russia) would double (see **Table 1**).

On March 8, 2022, the Biden Administration announced a ban on imports of Russian crude oil and certain petroleum products, liquefied natural gas, and coal. Subsequently, the Administration announced import bans on other key goods, including seafood, spirits/vodka, and non-industrial diamonds. In response, Russia announced an export ban on over 200 products, including medical equipment, agricultural machinery, and grain.

It is difficult to estimate the direct impact on prices from tariff increases, partly because U.S. importers may source from other countries to offset possible increased costs. Industries reliant on Russian inputs would be impacted

more, and could face disruption to their supply chains if businesses decide to stop sourcing from Russia altogether.

Table 1. Change in Duty Rates for Top U.S. Imports from Russia

Product	Column 1	Column 2
Distillate and residual petroleum fuel oil testing <25 degrees A.P.I.	0.0525/bbl ^a	0.21/bbl
Crude petroleum oil	0.105/bbl	0.21/bbl
Distillate and residual petroleum fuel oil testing >25 degrees A.P.I.	0.105/bbl	0.21/bbl
Unwrought or powdered palladium	Free	Free
Light oil motor fuel	0.525/bbl	1.05/bbl
Nonalloy pig iron	Free	\$1.11/ton
Crabs	Free	Free
Semifinished iron or nonalloy steel ^b	Free	20%
Unwrought or powdered Rhodium	Free	Free
Enriched uranium and other radioactive chemical elements	Free	Free

Source: CRS analysis of U.S. International Trade Commission. Dataweb data and Harmonized Tariff Schedule of the United States.
Notes: a. bbl=barrel; b. product subject to 25% Section 232 tariffs.

The European Union (EU) announced additional trade restrictions with the revocation of Russia's MFN status on March 15, 2022, following earlier action by Ukraine and Canada. Other G-7 countries and "like-minded partners" (e.g., Albania, Australia, South Korea, and New Zealand) announced similar intentions. The coordinated action may compound potential impacts on the Russian economy and global supply chains, depending on any accompanying tariff increases. Canada, in its revocation of MFN, imposed additional tariffs of 35% on nearly all goods from Russia and Belarus, while the UK imposed a 35% tariff hike on key Russian goods. The EU opted not to increase tariffs, but issued various import or export bans, deeming it "quicker and more effective" than preparing a new tariff schedule.

WTO Issues

Collective action by the United States and allies would limit Russia benefiting from MFN treatment under its WTO membership. There is limited precedent for rescinding PNTR for a major trading partner; however, the United States has delayed (e.g., Moldova) or withheld NTR (e.g., Cuba) for some WTO members. North Korea, a non-WTO member, is the only other country currently without NTR. Key policy questions linked to revocation of MFN include the scope (e.g., possible tariffs caps), duration, and authorities for revocation and possible reinstatement (e.g., congressional vs. executive control).

When the United States announced its intent to withdraw Russia's MFN treatment, it indicated it would rely on Article XXI of the GATT, the so-called national security exception, to justify this action. Article XXI allows WTO members to take WTO-inconsistent measures to ensure their "essential security" when there is an "emergency in international relations" or to implement their "obligations under the United Nations Charter for the maintenance of international peace and security." Ukraine, Canada, and 13

other WTO members also cited Article XXI as the legal basis on which they intend to rely when revoking MFN.

Russia may retaliate by revoking MFN for other WTO members or pursuing WTO dispute settlement. Russia has argued that the United States and others have violated their WTO obligations by removing its MFN treatment. If WTO members invoke GATT Article XXI during a WTO dispute, panels will likely assess whether the measures taken "are so remote from, or unrelated to" the justification offered to support the revocation of MFN. Given this relatively low level of scrutiny, it is unlikely that a panel would rule against a WTO member that justified revocation of MFN on the grounds of an "emergency in international relations," or a need to meet its "obligations under the United Nations Charter for the maintenance of international peace and security."

Suspending or Expelling Russia from the WTO

Ukraine has urged WTO members to suspend Russia's participation in the WTO over its "violation of the purpose and principles" of the organization. Pending legislation and some experts advocate suspending Russia from the WTO. However, no WTO rules expressly address suspension. In addition, no mechanism exists to expel members, but WTO members could seek to amend the Marrakesh Agreement Establishing the WTO to create one. This would likely face significant obstacles, as WTO decisions are generally made by consensus among the 164 members. Amending a WTO agreement requires the support of two-thirds of members; if a WTO member refuses to comply, three-fourths of the membership could vote to apply the decision and dissenting members "shall be free to withdraw from the WTO or to remain ... with the consent of the Ministerial Conference." Some experts view a coordinated suspension of trade benefits as achieving the same effect as expelling Russia, but through a "more practical" approach. Others point to revoking MFN as primarily a symbolic gesture, questioning the impact and whether it would undermine the WTO. For each of these options, a key issue is under what conditions the United States and others might reinstate Russia's trade status.

Russia's Potential Withdrawal from the WTO

The State Duma, the lower house of Russia's parliament, is considering legislation to withdraw from the WTO. Under Article XV of the Marrakesh Agreement, any member may withdraw. A withdrawal takes effect six months after the WTO Director-General receives written notice. If Russia withdraws from the WTO, no WTO member, including the United States, will be under a legal obligation to extend MFN to Russia. In this case, Congress would not need to make revocation of PNTR temporary to address the current crisis, but could introduce legislation to subject Russia to other treatment on a permanent basis.

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