

**“The State of Human Rights and the Rule of Law in Russia: U.S. Policy Options”**  
**Senate Committee on Foreign Relations, Subcommittee on European Affairs**  
**Testimony by Assistant Secretary of State Philip H. Gordon**  
**December 14, 2011**

Chairman Shaheen, Ranking Member Barrasso and Members of the Committee,

Thank you for inviting me here today to discuss the state of human rights and the rule of law in Russia. These issues have always been central to the Administration’s strategy toward Russia. As President Obama said in July 2009, “Americans and Russians have a common interest in the development of rule of law, the strengthening of democracy, and the protection of human rights.” There are real challenges in these areas, as you well know. And there are not always easy solutions. But we believe that our policy is guided by clear principles that enable us to have an effective working relationship with Russia’s government and civil society on a wide range of important foreign and domestic policy concerns. I welcome the opportunity to discuss these principles and challenges with the committee.

When President Obama and President Medvedev first met in London in April 2009, bilateral relations in the wake of the Russia-Georgia war were as contentious as they had been in more than twenty years. The decision to make a fresh start, to reset relations between the United States and Russia, has brought practical benefits for both countries as well as for the rest of the world. U.S. policy toward Russia in this Administration has been guided by several defining principles. First, we recognize that the United States and Russia have many common interests. Second, we believe that engagement with Russia’s government can produce win-win outcomes, by rejecting ideas such as “privileged spheres of interest” or “great game” politics as well as the notion that we cannot engage on human rights concerns. Third, we have sought to develop a multi-dimensional relationship that goes beyond the traditional security arena and advances core U.S. national interests. And finally, we remain guided by the belief that we can engage effectively with Russia’s government and civil society at the same time, that we can cooperate with its government without checking our values at the door, and that we can pursue a reset with Russia without compromising our relations with countries that have difficult relations with Russia.

To be sure, few things come quickly or easily in U.S.-Russian relations and it will take considerable time and effort to overcome a legacy of mistrust. Our interactions are often an uneasy mix of competition and cooperation. We are not so naïve as to think that areas of common ground can be fully insulated from areas of friction, but our starting point has been that problems in one area of our relationship should not preclude progress in others. We have much to gain by working together on global security and economic challenges, as opportunities for effective collaboration far outweigh our differences.

President Obama, Vice President Biden and Secretary Clinton have invested significant time in the bilateral relationship with Russia. Their diplomatic efforts, as well as constant contact between working-level officials, have produced practical results. The benefits of our engagement strategy are particularly evident in the foreign policy arena. We signed the New START Treaty. We brought into force a 123 Agreement on civilian nuclear cooperation, and

agreed to dispose of enough weapons-grade plutonium for 17,000 nuclear warheads. We reached a military transit accord on Afghanistan that – as of this week – has allowed over 1,700 flights across Russian airspace, carrying more than 275,000 U.S. military personnel to the region. Our law enforcement agencies have stepped up information sharing and conducted joint operations to slow the flow of narcotics.

Russia and the United States have been effective partners in the development of multi-lateral solutions to global challenges. We are both key participants in the Six Party talks and resolute in our determination to achieve the denuclearization of the Korean Peninsula. We are also working together to hold Iran to its international non-proliferation obligations and prevent it from developing nuclear weapons. Russia remains an important partner in the Quartet, which is working to implement the vision for Middle East peace outlined by President Obama in his May 2011 remarks. As Co-Chairs of the OSCE Minsk Group, the United States and Russia coordinate closely, along with France, on efforts to achieve a peaceful, negotiated settlement of the conflict in Nagorno-Karabakh.

There are certainly foreign policy issues on which we have different perspectives; these remain the topic of regular discussion. Our governments differ in their preferred responses to events in Syria. We disagree fundamentally about the situation in Georgia. The United States strongly supports Georgia's sovereignty and territorial integrity and has raised consistently and at high levels the need for Russia to fulfill its obligations under the 2008 ceasefire agreement. We have participated in the Geneva talks to help resolve the conflict through direct dialogue between Georgia and Russia. We have repeatedly urged Moscow to provide transparency regarding Russian militarization of the occupied regions and re-establish an international monitoring presence in Abkhazia and South Ossetia. We also remain concerned about the insurgency in the North Caucasus. While we recognize the Russian government's right and duty to protect its citizens, we remain troubled by security forces who – in the name of fighting the insurgency – have engaged in human rights abuses.

Our aim now is to deepen the reset and widen the arc of our cooperation. In particular, we need to expand our economic ties. This remains one of the most under-developed areas of our relationship, yet is vitally important – especially amidst a global financial crisis.

After a decade of growth, an emerging generation of Russians aspires to belong to a wealthy nation that boasts an economy able to compete in the global marketplace, a culture of entrepreneurial success, and a strong middle class. Russia's realization of these aspirations would have profound importance for Americans. In the last year alone, we have seen major business deals such as Boeing's sale of 50 aircraft to Aeroflot and 40 planes to Russian airline UTAir, the ExxonMobil-Rosneft joint venture to explore the oil and gas fields of the Arctic, and General Electric's joint ventures with two Russian partners.

Yet much more could be done. While two-way trade flows grew last year, they still reached just \$31 billion – less than one percent of our total trade. Russia is the world's seventh-largest economy, but it is our 37<sup>th</sup> largest export market. Today, Russia is the only member of the G20 that does not belong to the World Trade Organization (WTO). However, this is about to change as Russia is on the verge of completing procedures to become a WTO member. The simple fact

is that Russia's accession to the WTO matters to the U.S. economy, as it will create new markets for American exporters in one of the world's fastest growing markets and support new jobs at home.

In addition to the economic benefit for American companies and workers, Russia's membership in the WTO will deepen its investment in the success of the global economy. For the first time, Russia has pledged to comply with the WTO rules that underlie open, transparent and fair global economic competition. Russia has agreed to predictable tariff rates and will be subject to an enforceable dispute resolution mechanism. History shows that economic and political modernization goes hand in hand, as Vice President Biden said in his speech to the students of Moscow State University this past March. As the first generation in Russia that never lived under communism begins graduating from universities and taking its place in the Russian workforce, there is good reason to expect considerable change in coming years.

For American companies to take advantage of this new market opening, Congress must terminate the application of the Jackson-Vanik Amendment and extend permanent normal trading relations to Russia. Because this step has not yet been taken, the United States will invoke "non-application" of the WTO agreements with regard to Russia because of the conditions on normal trading relations status applied under Jackson-Vanik. Russia has met the freedom of emigration criteria under Jackson-Vanik since the early 1990s, demonstrating that the amendment long ago achieved its historic purpose by helping thousands of Jews emigrate from the Soviet Union. But until permanent normal trading relations are extended to Russia and we can apply the WTO agreements to Russia, American companies will not fully benefit from non-discriminatory terms of trade and the United States will not be able to use WTO mechanisms to resolve trade disputes. If this situation remains unchanged, foreign competitors will benefit fully from Russia's accession to the WTO and American firms will be disadvantaged.

After meeting with President Medvedev in Hawaii last month, President Obama said that Russia's pending entry into the WTO meant "this is going to be a good time for us to consult closely with Congress about ending the application of Jackson-Vanik to Russia, so that the U.S. businesses can take advantage of Russia's membership in the WTO, and we can expand commerce and create jobs here in the United States." Our timeline is short, as the Russian Parliament is likely to act on ratification in the spring of 2012. In the coming weeks and months, the Administration looks forward to consulting with Congress on a way forward.

Terminating the application of the Jackson-Vanik Amendment to Russia is critical for our business interests. While we believe that Jackson-Vanik has long since accomplished the goals for which it was adopted, we want to work together with Congress to address our shared concerns about human rights in Russia. The Administration has already shown it is committed to this objective.

The Administration has welcomed Senator Cardin's campaign for justice after the tragic death of Sergey Magnitskiy following the denial of necessary medical treatment while he was in pre-trial detention. Congressional calls for travel restrictions against officials responsible for his death have helped keep attention focused on this case. The State Department has already taken important actions – using the existing authorities of the Immigration and Nationality Act, as well

as the expanded powers provided by the presidential proclamation issued in August – to ensure that no one implicated in Mr. Magnitskiy’s death can travel to the United States. In Russia, two prison officials involved in Mr. Magnitskiy’s death have been arrested and several investigatory commissions have been established. These actions are steps in the right direction but more needs to be done. We look forward to continuing to work with the committee on these issues.

Unfortunately, the Magnitskiy case is not the only human rights challenge in Russia. Well-known journalists – such as Anna Politkovskaya, Paul Klebnikov, and Natalya Estemirova – have been killed. Mikhail Khodorkovskiy remains in prison on politically motivated charges. And Russian activists encounter difficulties while attempting to exercise their rights to free speech and assembly. Last week, Secretary Clinton and the White House expressed concerns about the conduct of the December 4<sup>th</sup> Duma elections. These concerns are reflected in the preliminary report issued by the OSCE’s international election observation mission, which noted the lack of a level playing field and a process marked by limited political competition. The Administration welcomes the fact that, following the elections, the Russian public was able to hold a peaceful political demonstration in Moscow this past Saturday. In a democracy, the people have the right to make their voices heard in a lawful way; the authorities have the responsibility to provide the safe and secure conditions for the pursuit of that right. We were greatly encouraged to see these rights and responsibilities carried out so well.

Let me take the opportunity of today’s hearing to review the Administration’s Russia human rights strategy, which relies on simultaneous engagement with both governmental and non-governmental actors to advance democratic development and human rights promotion.

First, there is considerable government-to-government engagement at all levels on these issues. The President and Secretary regularly raise human rights concerns in meetings with their Russian counterparts. In fact, Administration officials have made 84 public declarations on Russian human rights issues over the last 35 months – all of which are compiled for public access on the State Department’s website [see [www.state.gov/p/eur/ci/rs/c41670.htm](http://www.state.gov/p/eur/ci/rs/c41670.htm)].

Second, the United States continues to use the full range of legal measures to impose serious consequences on those involved in serious human rights abuses in Russia. As I noted earlier, we have restricted travel to the United States by such individuals.

Third, the United States provides financial support to Russian civil society. Since 2009, the U.S. Government has given approximately \$160 million in assistance to support programs on human rights, rule of law, anti-corruption, civil society, independent media, good governance, and democratic political processes. Most recently, U.S. funding was used to support independent Russian monitoring of the Duma elections and education for independent media on professional and unbiased reporting, encourage informed citizen participation in elections, and enhance the capacity to conduct public opinion polling. We are grateful to Congress for continuing to provide these resources, especially in this difficult budgetary environment.

As part of our democracy strategy, the Administration has been consulting with Congress on an initiative to create a new fund to support Russian non-governmental organizations that are committed to a more pluralistic and open society. The fund would not require an additional

appropriation, as necessary funding would be drawn from the liquidated proceeds of the U.S. Russia Investment Fund – an example of successful U.S. foreign assistance to Russia. We are working with several Congressional committees to address their questions and hope to resolve these issues soon.

Fourth, American officials engage regularly with Russian non-governmental leaders involved in strengthening democracy, human rights, and the rule of law. For example, President Obama met with hundreds of civil society leaders and opposition political figures during his July 2009 visit to Moscow. Vice-President Biden and Secretary Clinton have similarly engaged with civil society and opposition leaders.

Fifth, the U.S. supports the modernization of Russian civil society organizations by, among other things, taking advantage of new technologies to make their work more effective.

Sixth, we have supported a range of Russian government efforts to fight corruption, provide more transparency about government activities, and improve the rule of law. For example, at their June 2010 meeting in Washington, Presidents Obama and Medvedev issued a joint statement underscoring the need to cooperate on open government. The U.S. Government has been providing small grants to civil society organizations in Russia to work with local governments to identify and address community priorities. In addition, the U.S. has strongly backed Russia's efforts to become a member of the OECD – a key part of Moscow's efforts to address endemic corruption. We welcome Russia's membership in the OECD Working Group on Bribery, which it joined in May; we look forward to Russia's deposit of the instrument of ratification of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Seventh, a credible dialogue about democracy and human rights should involve direct communication between American and Russian NGOs and policy experts. Through the U.S.-Russia Bilateral Presidential Commission and its 20 working groups, we have built new partnerships and engaged our citizens, businesses and non-governmental institutions in areas such as health care and energy efficiency. We have launched a U.S.-Russia Civil Society Partnership Program to build peer-to-peer relationships between U.S. and Russian civil society organizations. In addition, concrete steps have been taken to improve the daily lives of our citizens. Last July, Secretary Clinton and Foreign Minister Lavrov signed an agreement to build trust on inter-country adoptions. They also approved a reciprocal visa agreement to make it easier for business people and tourists to travel between our countries.

Let me assure you that the United States will continue to be forthright in our firm support for universal human rights, as well as our conviction that democratic institutions and the rule of law are the keys to unlocking Russia's enormous human potential. We do not seek to impose our system on anyone else, and change within Russia must be internally driven. Nevertheless, we will continue to work with Russian partners to foster democracy and respect for human rights by encouraging transparent and accountable government and strengthening civil society. We believe, as President Obama said in his speech to the New Economic School in Moscow in July 2009, that "the arc of history shows that governments which serve their own people survive and thrive... governments which serve only their own power do not."

In conclusion, the reset in U.S.-Russia relations remains a work in progress. We are proud of our accomplishments to date, which have advanced core American national interests. However, we recognize that there is much more to be done – including on the important issues of human rights and the rule of law. This is a moment of domestic preoccupation in both Russia and the United States, when election-year decisions and political personalities dominate the headlines. While personalities matter, national interests don't change. Both nations have pragmatically approached issues such as arms control and Iran's attempts to acquire a nuclear weapon. We expect to continue our successful approach of cooperating with Russia when it is in our interests, addressing our disagreements honestly, building links to Russian society and government, and maintaining the United States' long-held commitment to keep our values at the center of our foreign policy. With that, I welcome your questions.