

115TH CONGRESS
1ST SESSION

S. 430

To provide for compliance enforcement regarding Russian violations of the Intermediate-Range Nuclear Forces (INF) Treaty, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2017

Mr. COTTON (for himself, Mr. JOHNSON, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for compliance enforcement regarding Russian violations of the Intermediate-Range Nuclear Forces (INF) Treaty, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intermediate-Range
5 Nuclear Forces (INF) Treaty Preservation Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Select Committee on Intelligence,
5 the Committee on Foreign Relations, the Com-
6 mittee on Armed Services, and the Committee
7 on Appropriations of the Senate; and

8 (B) the Permanent Select Committee on
9 Intelligence, the Committee on Foreign Affairs,
10 the Committee on Armed Services, and the
11 Committee on Appropriations of the House of
12 Representatives.

13 (2) INF TREATY.—The term “INF Treaty”
14 means the Treaty between the United States of
15 America and the Union of Soviet Socialist Republics
16 on the Elimination of their Intermediate-Range and
17 Shorter-Range Missiles, signed at Washington, DC,
18 on December 8, 1987, and entered into force June
19 1, 1988.

20 (3) INTELLIGENCE COMMUNITY.—The term
21 “intelligence community” has the meaning given the
22 term in section 3(4) of the National Security Act of
23 1947 (50 U.S.C. 3003(4)).

24 (4) NEW START TREATY.—The term “New
25 START Treaty” means the Treaty between the

1 United States of America and the Russian Federa-
2 tion on Measures for the Further Reduction and
3 Limitation of Strategic Offensive Arms, signed at
4 Prague April 8, 2010, and entered into force Feb-
5 ruary 5, 2011.

6 (5) OPEN SKIES TREATY.—The term “Open
7 Skies Treaty” means the Treaty on Open Skies,
8 done at Helsinki March 24, 1992, and entered into
9 force January 1, 2002.

10 **SEC. 3. FINDINGS.**

11 Congress makes the following findings:

12 (1) The 2014, 2015, and 2016 Department of
13 State reports entitled, “Adherence to and Compli-
14 ance with Arms Control, Nonproliferation, and Dis-
15 armament Agreements and Commitments”, all stat-
16 ed that the United States has determined that “the
17 Russian Federation is in violation of its obligations
18 under the INF Treaty not to possess, produce, or
19 flight-test a ground-launched cruise missile (GLCM)
20 with a range capability of 500 km to 5,500 km, or
21 to possess or produce launchers of such missiles”.

22 (2) The 2016 report also noted that “the cruise
23 missile developed by Russia meets the INF Treaty
24 definition of a ground-launched cruise missile with a
25 range capability of 500 km to 5,500 km, and as

1 such, all missiles of that type, and all launchers of
2 the type used or tested to launch such a missile, are
3 prohibited under the provisions of the INF Treaty”.

4 (3) Potential consistency and compliance con-
5 cerns regarding the INF Treaty noncompliant
6 GLCM have existed since 2008, were not officially
7 raised with the Russian Federation until 2013, and
8 were not briefed to the North Atlantic Treaty Orga-
9 nization (NATO) until January 2014.

10 (4) The United States Government is aware of
11 other consistency and compliance concerns regarding
12 Russia actions vis-à-vis its INF Treaty obligations.

13 (5) Since 2013, senior United States officials,
14 including the President, the Secretary of State, and
15 the Chairman of the Joint Chiefs of Staff have
16 raised Russian noncompliance with the INF Treaty
17 to their counterparts, but no progress has been
18 made in bringing the Russian Federation back into
19 compliance with the INF Treaty.

20 (6) In April 2014, General Breedlove, the Su-
21 preme Allied Commander Europe, correctly stated,
22 “A weapon capability that violates the INF, that is
23 introduced into the greater European land mass, is
24 absolutely a tool that will have to be dealt with . . .
25 It can’t go unanswered.”.

1 (7) The Department of Defense, in its Sep-
2 tember 2013 report, Report on Conventional Prompt
3 Global Strike Options if Exempt from the Restric-
4 tions of the Intermediate-Range Nuclear Forces
5 Treaty Between the United States of America and
6 the Union of Soviet Socialist Republics, stated that
7 it has multiple validated military requirement gaps
8 due to the prohibitions imposed on the United States
9 as a result of its compliance with the INF Treaty.

10 (8) It is not in the national security interests
11 of the United States to be legally prohibited from
12 developing dual-capable ground-launched cruise mis-
13 siles with ranges between 500 and 5,500 kilometers,
14 while Russia makes advances in developing and
15 fielding this class of weapon systems.

16 (9) A material breach of the INF Treaty by the
17 Russian Federation affords the United States the
18 right to invoke such breach as grounds for sus-
19 pending the operation of the treaty in whole or in
20 part.

21 **SEC. 4. COMPLIANCE ENFORCEMENT REGARDING RUSSIAN**
22 **VIOLATIONS OF THE INF TREATY.**

23 (a) STATEMENT OF UNITED STATES POLICY.—It is
24 the policy of the United States as follows:

1 (1) The actions undertaken by the Russian
2 Federation in violation of the INF Treaty constitute
3 a material breach of the treaty.

4 (2) In light of the Russian Federation's mate-
5 rial breach of the INF Treaty, the United States is
6 legally entitled to suspend the operation of the INF
7 Treaty in whole or in part for so long as the Russian
8 Federation continues to be in material breach.

9 (3) For so long as the Russian Federation re-
10 mains in noncompliance with the INF Treaty, the
11 United States should take actions to bring the Rus-
12 sian Federation back into compliance, including—

13 (A) providing additional funds to the ac-
14 tivities and systems identified in section
15 1243(d) of the National Defense Authorization
16 Act for Fiscal Year 2016 (Public Law 114–92;
17 129 Stat. 1062);

18 (B) the establishment of a program of
19 record for a dual-capable road-mobile ground-
20 launched cruise missile system with a maximum
21 range of 5,500 kilometers; and

22 (C) aggressively seeking additional missile
23 defense assets in the European theater to pro-
24 tect United States and NATO forces from the

1 Russian INF Treaty noncompliant Ground
2 Launch Cruise Missile.

3 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
4 TIONS.—In addition to any other amounts authorized to
5 be appropriated for such purposes, there are authorized
6 to be appropriated—

7 (1) \$500,000,000 for fiscal year 2017 for—

8 (A) the development of active defenses to
9 counter ground launched missile systems with
10 ranges between 500 and 5,500 kilometers;

11 (B) counterforce capabilities to prevent at-
12 tacks from these missiles;

13 (C) facilitating the transfer to allied coun-
14 tries of missile systems with ranges between
15 500 and 5,500 kilometers; and

16 (D) countervailing strike capabilities to en-
17 hance United States forces identified in section
18 1243(d) of the National Defense Authorization
19 Act for Fiscal Year 2016 (Public Law 114–92;
20 129 Stat. 1062); and

21 (2) \$100,000,000 for activities undertaken to
22 advance the policy described in subsection (a)(3)(B),
23 including research, development, and evaluation ac-
24 tivities.

1 **SEC. 5. DEVELOPMENT OF INF RANGE GROUND LAUNCHED**
2 **MISSILE SYSTEM.**

3 (a) ESTABLISHMENT OF A PROGRAM OF RECORD.—
4 The Secretary of Defense shall establish a program to de-
5 velop a dual-capable road-mobile ground-launched cruise
6 missile system with a range of between 500 to 5,500 kilo-
7 meters. The system should be available for a flight test
8 not later than one year after the date of the enactment
9 of this Act.

10 (b) REPORT.—Not later than 120 days after the date
11 of the enactment of this Act, the Secretary of Defense
12 shall submit to the congressional defense committees a re-
13 port on the cost, schedule, and feasibility to modify the
14 Tomahawk, Standard Missile-3, Standard Missile-6,
15 Long-Range Stand Off Cruise Missile, and Army Tactical
16 Missile System missiles for ground-launch with a range
17 of between 500 and 5,500 kilometers.

18 **SEC. 6. NOTIFICATION REQUIREMENT RELATED TO RUS-**
19 **SIAN FEDERATION DEVELOPMENT OF NON-**
20 **COMPLIANT SYSTEMS.**

21 Not later than 15 days after the date of the enact-
22 ment of this Act, and every 90 days thereafter for five
23 years, the Director of National Intelligence shall submit
24 to the appropriate congressional committees and the
25 President a report including a determination whether the
26 Russian Federation has flight tested, produced, or pos-

1 sesses a system that is inconsistent with the INF Treaty
2 and has reached Initial Operational Capability, is de-
3 ployed, or is about to be deployed.

4 **SEC. 7. LIMITATION ON AVAILABILITY OF FUNDS FOR CER-**
5 **TAIN ACTIVITIES.**

6 None of the funds authorized to be appropriated or
7 otherwise made available for fiscal year 2017 or any other
8 fiscal year may be obligated or expended to extend the
9 New START Treaty, permit Russian flights over the
10 United States or United States allies pursuant to the
11 Open Skies Treaty, or permit the approval of new or up-
12 dated implementation decisions through the Open Skies
13 Consultative Commission unless the President certifies to
14 the appropriate congressional committees that the Russian
15 Federation has verifiably eliminated all missiles that are
16 in violation of or may be inconsistent with the INF treaty.

17 **SEC. 8. REPORT ON ANTI-AIR WARFARE DEFENSE CAPA-**
18 **BILITY.**

19 Not later than 90 days after the date of the enact-
20 ment of this Act, the Secretary of Defense shall submit
21 to the appropriate congressional committees a report on
22 the number and location of AEGIS Ashore sites with anti-
23 air warfare (AAW) capability necessary in Asia and Eu-
24 rope to defend deployed forces of the United States and

1 United States allies from Russian ground launched missile
2 systems with a range of 500 to 5,500 kilometers.

3 **SEC. 9. REVIEW OF RS-26 BALLISTIC MISSILE.**

4 (a) IN GENERAL.—The Secretary of State, in con-
5 sultation with the Secretary of Defense and the Director
6 of National Intelligence, shall conduct a review of the RS-
7 26 Ballistic Missile System.

8 (b) REPORT REQUIRED.—Not later than 90 days
9 after the date of the enactment of this Act, the Secretary
10 of State, in consultation with the Secretary of Defense and
11 the Director of National Intelligence, shall submit to the
12 appropriate congressional committees a report on the re-
13 view conducted under subsection (a). The report shall in-
14 clude—

15 (1) a determination whether the RS-26 Bal-
16 listic Missile is covered under the New START
17 Treaty or is a violation of the INF Treaty because
18 it has been flight-tested to ranges covered by the
19 INF treaty in more than one warhead configuration;
20 and

21 (2) if it is determined that the RS-26 is cov-
22 ered under the New START Treaty, a determination
23 whether the Russian Federation—

1 (A) has agreed through the Bilateral Con-
2 sultative Commission that such a system is lim-
3 ited under the New START central limits; and
4 (B) has agreed to an exhibition of such a
5 system.

6 (c) EFFECT OF DETERMINATION.—If the Secretary
7 of State, with the concurrence of the Secretary of Defense
8 and the Director of National Intelligence, determines that
9 the RS-26 is covered under the New START Treaty and
10 that the Russian Federation has not taken the steps de-
11 scribed under subsection (b)(2), the United States Govern-
12 ment shall consider for purposes of all policies and deci-
13 sions that the Russian Federation is in violation of the
14 INF Treaty.

15 **SEC. 10. UNITED STATES ACTIONS REGARDING MATERIAL**
16 **BREACH OF INF TREATY BY THE RUSSIAN**
17 **FEDERATION.**

18 (a) DECLARATION OF POLICY.—Congress declares
19 that because of the Russian Federation’s violations of the
20 INF Treaty, including the flight-test, production, and pos-
21 session of prohibited systems, its actions have defeated the
22 object and purpose of the INF Treaty, and thus constitute
23 a material breach of the INF Treaty.

24 (b) REPORT.—Not later than 15 months after the
25 date of the enactment of this Act, the President shall sub-

1 mit to the appropriate congressional committees a report
2 that contains a determination of the President of whether
3 the Russian Federation has flight-tested, produced, or is
4 in possession of a ground-launched cruise missile or
5 ground-launched ballistic missile with a range of between
6 500 and 5,500 kilometers during each of the four consecu-
7 tive 90-day periods beginning on the date of the enactment
8 of this Act.

9 (c) UNITED STATES ACTIONS.—If the determination
10 of the President contained in the report required to be
11 submitted under subsection (b) is that the Russian Fed-
12 eration has flight-tested, produced, or is in possession of
13 any missile described in subsection (b) during each of the
14 periods described in subsection (b), the President shall—

15 (1) suspend the application of the INF Treaty
16 with respect to the United States; and

17 (2) notify the other state parties to the INF
18 Treaty that the Russian Federation is in material
19 breach of the INF Treaty and of the decision of the
20 United States to suspend the application of the INF
21 Treaty with respect to the United States.

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