

111TH CONGRESS
2^D SESSION

H. R. 5338

To strengthen the United States commitment to transatlantic security by implementing the principles outlined in the Declaration on Alliance Security signed by the heads of state and governments of the North Atlantic Treaty Organization.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2010

Mr. TURNER (for himself, Mr. MARSHALL, Mr. SHUSTER, and Mr. THORNBERRY) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen the United States commitment to transatlantic security by implementing the principles outlined in the Declaration on Alliance Security signed by the heads of state and governments of the North Atlantic Treaty Organization.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “NATO First Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Policy on current United States force structure in Europe and report on future changes in composition and capabilities.
- Sec. 3. Codification of congressional notification requirement before permanent relocation of any United States military unit stationed outside the United States.
- Sec. 4. Modification and extension of authorities relating to program to build the capacity of foreign military forces to support the European Command and other geographic combatant commands.
- Sec. 5. Extended deterrence commitment to Europe.
- Sec. 6. Availability of funds for long-range missile defense in Europe.
- Sec. 7. Sense of Congress on missile defense and New Start Treaty with Russian Federation.
- Sec. 8. Air Force scholarships for Partnership for Peace nations to participate in the Euro-NATO Joint Jet Pilot Training Program.

3 **SEC. 2. POLICY ON CURRENT UNITED STATES FORCE**
 4 **STRUCTURE IN EUROPE AND REPORT ON FU-**
 5 **TURE CHANGES IN COMPOSITION AND CAPA-**
 6 **BILITIES.**

7 (a) FORCE STRUCTURE POLICY.—It is the policy of
 8 the United States that the current deployment of units
 9 of the United States Armed Forces at military installa-
 10 tions in European member nations of the North Atlantic
 11 Treaty Organization is a force-structure arrangement and
 12 set of military capabilities that are adequate to permit the
 13 United States—

14 (1) to satisfy the commitments undertaken by
 15 United States pursuant to article 5 of the North At-
 16 lantic Treaty, signed at Washington, District of Co-
 17 lumbia, on April 4, 1949, and entered into force on
 18 August 24, 1949 (63 Stat. 2241; TIAS 1964);

1 (2) to address the current security environment
2 in Europe, including United States participation in
3 theater cooperation activities; and

4 (3) to contribute to peace and stability in Eu-
5 rope.

6 (b) REPORT ON FORCE STRUCTURE CHANGES IN
7 COMPOSITION AND CAPABILITIES.—

8 (1) REPORT REQUIRED.—Not later than one
9 year after the date of the enactment of this Act, the
10 Secretary of Defense shall submit to the Committees
11 on Armed Services of the Senate and House of Rep-
12 resentatives a report evaluating potential changes in
13 the composition and capabilities of units of the
14 United States Armed Forces at military installations
15 in European member nations of the North Atlantic
16 Treaty Organization—

17 (A) to better achieve the policy objectives
18 specified in paragraphs (1), (2), and (3) of sub-
19 section (a); and

20 (B) to better utilize such units to respond
21 to other United States national security respon-
22 sibilities.

23 (2) MATTERS TO BE CONSIDERED.—As part of
24 the report, the Secretary of Defense shall consider—

1 (A) the stationing of advisory and assist
2 brigades at military installations in Europe;

3 (B) the expanded use of Joint Task Forces
4 to train and build mutual capabilities with part-
5 ner countries; and

6 (C) the stationing of units of the United
7 States Armed Forces to support missile defense
8 and cyber-security missions.

9 **SEC. 3. CODIFICATION OF CONGRESSIONAL NOTIFICATION**
10 **REQUIREMENT BEFORE PERMANENT RELO-**
11 **CATION OF ANY UNITED STATES MILITARY**
12 **UNIT STATIONED OUTSIDE THE UNITED**
13 **STATES.**

14 (a) CODIFICATION AND RELATED REPORT.—Chapter
15 6 of title 10, United States Code, is amended by inserting
16 after section 162 the following new section:

17 **“§ 162a. Congressional notification before permanent**
18 **relocation of military units stationed out-**
19 **side the United States**

20 “(a) NOTIFICATION REQUIREMENT.—The Secretary
21 of Defense shall notify Congress at least 30 days before
22 the permanent relocation of a unit stationed outside the
23 United States.

1 “(b) ELEMENTS OF NOTIFICATION.—The notifica-
2 tion required by subsection (a) shall include a description
3 of the following:

4 “(1) How relocation of the unit supports the
5 United States national security strategy.

6 “(2) How relocation of the unit supports the se-
7 curity commitments undertaken by the United
8 States pursuant to any international security treaty,
9 including the North Atlantic Treaty, the Treaty of
10 Mutual Cooperation and Security between the
11 United States and Japan, and the Security Treaty
12 Between Australia, New Zealand, and the United
13 States of America.

14 “(3) How relocation of the unit addresses the
15 current security environment in the affected geo-
16 graphic combatant command’s area of responsibility,
17 including United States participation in theater se-
18 curity cooperation activities and bilateral partner-
19 ship, exchanges, and training exercises.

20 “(4) How relocation of the unit impacts the sta-
21 tus of overseas base closure and realignment actions
22 undertaken as part of a global defense posture re-
23 alignment strategy and the status of development
24 and execution of comprehensive master plans for
25 overseas military main operating bases, forward op-

1 erating sites, and cooperative security locations of
2 the global defense posture of the United States.

3 “(c) EXCEPTIONS.—Subsection (a) does not apply in
4 the case of—

5 “(1) the relocation of a unit deployed to a com-
6 bat zone; or

7 “(2) the relocation of a unit as the result of clo-
8 sure of an overseas installation at the request of the
9 government of the host nation in the manner pro-
10 vided in the agreement between the United States
11 and the host nation regarding the installation.

12 “(d) DEFINITIONS.—In this section:

13 “(1) COMBAT ZONE.—The term ‘combat zone’
14 has the meaning given that term in section
15 112(c)(2) of the Internal Revenue Code of 1986.

16 “(2) GEOGRAPHIC COMBATANT COMMAND.—
17 The term ‘geographic combatant command’ means a
18 combatant command with a geographic area of re-
19 sponsibility that does not include North America.

20 “(3) UNIT.—The term ‘unit’ has the meaning
21 determined by the Secretary of Defense for purposes
22 of this section.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of such chapter is amended by inserting

1 after the item relating to section 162 the following new
2 item:

“162a. Congressional notification before permanent relocation of military units
stationed outside the United States.”.

3 (c) REPEAL OF SUPERCEDED NOTIFICATION RE-
4 QUIREMENT.—Section 1063 of the National Defense Au-
5 thorization Act for Fiscal Year 2010 (Public Law 111–
6 84; 123 Stat. 2469; 10 U.S.C. 113 note) is repealed.

7 **SEC. 4. MODIFICATION AND EXTENSION OF AUTHORITIES**
8 **RELATING TO PROGRAM TO BUILD THE CA-**
9 **PACITY OF FOREIGN MILITARY FORCES TO**
10 **SUPPORT THE EUROPEAN COMMAND AND**
11 **OTHER GEOGRAPHIC COMBATANT COM-**
12 **MANDS.**

13 (a) AUTHORITY.—Subsection (a) of section 1206 of
14 the National Defense Authorization Act for Fiscal Year
15 2006 (Public Law 109–163; 119 Stat. 3456), as most re-
16 cently amended by section 1206(a) of the Duncan Hunter
17 National Defense Authorization for Fiscal Year 2009
18 (Public Law 110–417; 122 Stat. 4625), is further amend-
19 ed by adding at the end the following:

20 “(3) To build the capacity of a foreign coun-
21 try’s national military forces in order for that coun-
22 try to support the theater priorities of the applicable
23 geographic combatant command.”.

24 (b) LIMITATIONS.—

1 (1) ANNUAL FUNDING LIMITATION.—Sub-
2 section (c)(1) of such section, as amended by section
3 1206(b) of the Duncan Hunter National Defense
4 Authorization Act for Fiscal Year 2009 (Public Law
5 110–417; 122 Stat. 4625), is further amended by
6 striking “\$350,000,000” and inserting
7 “\$500,000,000”.

8 (2) AVAILABILITY OF FUNDS FOR ACTIVITIES
9 ACROSS FISCAL YEARS.—Subsection (c)(4) of such
10 section is amended by striking “the next fiscal year”
11 and inserting “any of the next 2 fiscal years”.

12 (c) IMPLEMENTATION PLAN; DEFINITION.—Such
13 section is further amended—

14 (1) by redesignating subsection (g) as sub-
15 section (i); and

16 (2) by inserting after subsection (f) the fol-
17 lowing:

18 “(g) REPORT ON IMPLEMENTATION PLAN.—

19 “(1) IN GENERAL.—The Secretary of Defense
20 shall submit to the congressional committees speci-
21 fied in subsection (e)(3) a report on the plan for the
22 implementation of the program described in sub-
23 section (a)(3) and the allocation of funds under such
24 program for each of fiscal years 2011 through 2013.

25 Such plan shall be submitted in conjunction with the

1 budget submitted to Congress by the President pur-
2 suant to section 1105(a) of title 31, United States
3 Code, for each of fiscal years 2011 through 2013.

4 “(2) MATTERS COVERED.—The report required
5 under paragraph (1) shall contain a description of—

6 “(A) how the plan supports the United
7 States national security strategy;

8 “(B) how the plan addresses the current
9 security environment in each geographic com-
10 batant command’s area of responsibility, includ-
11 ing United States participation in theater secu-
12 rity cooperation activities and bilateral partner-
13 ship, exchanges, and training exercises; and

14 “(C) any comments resulting from an
15 interagency review of the plan that includes the
16 Department of State and other relevant Federal
17 departments and agencies.

18 “(h) DEFINITION.—In this section, the term ‘geo-
19 graphic combatant command’ means a combatant com-
20 mand with a geographic area of responsibility that does
21 not include North America.”.

22 (d) TWO-YEAR EXTENSION OF AUTHORITY.—Sub-
23 section (i) of such section, as redesignated by subsection
24 (d)(1) of this section and as most recently amended by
25 section 1206(c) of the Duncan Hunter National Defense

1 Authorization Act for Fiscal Year 2009 (Public Law 110–
2 417; 122 Stat. 4625), is further amended by—

3 (1) by striking “September 30, 2011” and in-
4 sserting “September 30, 2013”; and

5 (2) by striking “fiscal years 2006 through
6 2011” and inserting “fiscal years 2006 through
7 2013”.

8 **SEC. 5. EXTENDED DETERRENCE COMMITMENT TO EU-**
9 **ROPE.**

10 (a) **POLICY ON EXTENDED DETERRENCE COMMIT-**
11 **MENT TO EUROPE.**—It is the policy of the United States
12 that—

13 (1) it maintain its commitment to extended de-
14 terrence, specifically the nuclear alliance of the
15 North Atlantic Treaty Organization, as an impor-
16 tant component of ensuring and linking the national
17 security interests of the United States and the secu-
18 rity of its European allies;

19 (2) forward-deployed nuclear forces of the
20 United States shall remain based in Europe in sup-
21 port of the nuclear policy and posture of NATO; and

22 (3) the presence of nuclear weapons of the
23 United States in Europe—combined with NATO’s
24 unique nuclear sharing arrangements under which
25 non-nuclear members participate in nuclear planning

1 and possess specially configured aircraft capable of
2 delivering nuclear weapons—contributes to the cohe-
3 sion of NATO and provides reassurance to allies and
4 partners who feel exposed to regional threats.

5 (b) LIMITATION ON REDUCTIONS IN NUCLEAR
6 FORCES BASED IN EUROPE.—In light of the policy ex-
7 pressed in subsection (a), no action may be taken to effect
8 or implement the reduction of nuclear forces of the United
9 States that are based in Europe unless—

10 (1) the reduction in such nuclear forces is re-
11 quested by the government of the host nation in the
12 manner provided in the agreement between the
13 United States and the host nation regarding the
14 forces; or

15 (2) the President certifies that—

16 (A) the nuclear policy and nuclear posture
17 of NATO has changed, reducing the need for
18 such nuclear forces to be based in Europe;

19 (B) NATO member states have considered
20 the reduction in the High Level Group and
21 NATO has decided to support such reduction;

22 (C) the remaining nuclear forces of the
23 United States that are based in Europe after
24 such reduction provide a commensurate or bet-

1 ter level of safety, security, reliability, and
2 credibility as before such reduction;

3 (D) such reduction is compensated by
4 other measures (such as nuclear modernization,
5 conventional forces, and missile defense) which
6 together provide a commensurate or better de-
7 terrence capability and assurance of NATO
8 member states in a manner consistent with the
9 NATO Strategic Concept; and

10 (E) the Russian Federation has made com-
11 mensurate reductions to its deployed tactical
12 nuclear weapons.

13 (c) REPORT.—Upon any decision to reduce the nu-
14 clear forces of the United States that are based in Europe,
15 the President shall submit to the Committees on Armed
16 Services of the Senate and House of Representatives a re-
17 port containing—

18 (1) the certification required by subsection

19 (b)(2);

20 (2) justification for such reduction; and

21 (3) an assessment of how NATO member
22 states, in light of such reduction, assess the credi-
23 bility of the deterrence capability of the United
24 States in support of its commitments undertaken
25 pursuant to article 5 of the North Atlantic Treaty,

1 signed at Washington, District of Columbia, on April
2 4, 1949, and entered into force on August 24, 1949
3 (63 Stat. 2241; TIAS 1964).

4 (d) NOTICE AND WAIT REQUIREMENT.—The Presi-
5 dent may not commence a reduction in the nuclear forces
6 of the United States that are based in Europe for which
7 the certification required by subsection (b)(2) is made
8 until the expiration of a 180-day period beginning on the
9 date on which the President submits the report under sub-
10 section (c) containing the certification.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to the Secretary of Defense
13 and the Administrator for Nuclear Security a total of
14 \$300,000,000 for fiscal year 2011 for—

15 (1) developing the F-35 Lightning II aircraft
16 into a dual-capable aircraft by outfitting it with a
17 nuclear-capable delivery system; and

18 (2) supporting the life extension program for
19 the B61 gravity bomb.

20 **SEC. 6. AVAILABILITY OF FUNDS FOR LONG-RANGE MIS-**
21 **SILE DEFENSE IN EUROPE.**

22 (a) FINDINGS.—Congress finds the following:

23 (1) Missile defense promotes the collective secu-
24 rity of the United States and NATO and improves
25 linkages among member nations of NATO by de-

1 fending all members of NATO against the full range
2 of missile threats.

3 (2) The Director of National Intelligence, ap-
4 pearing before the Senate Select Committee on In-
5 telligence on February 2, 2010, testified that, “The
6 Iranian regime continues to flout UN Security
7 Council restrictions on its nuclear program . . . We
8 judge Iran would likely choose missile delivery as its
9 preferred method of delivering a nuclear weapon.
10 Iran already has the largest inventory of ballistic
11 missiles in the Middle East and it continues to ex-
12 pand the scale, reach, and sophistication of its bal-
13 listic missile forces—many of which are inherently
14 capable of carrying a nuclear payload.”.

15 (3) The Unclassified Report on Military Power
16 of Iran, dated April 2010, states that, “With suffi-
17 cient foreign assistance, Iran could probably develop
18 and test an intercontinental ballistic missile (ICBM)
19 capable of reaching the United States by 2015. Iran
20 could also have an intermediate-range ballistic mis-
21 sile (IRBM) capable of threatening Europe.”.

22 (4) However, phase 3 of the proposed phased,
23 adaptive approach for missile defense in Europe is
24 planned to provide coverage of all of Europe by

1 2018 and phase 4 is planned to provide additional
2 coverage of the United States by 2020.

3 (5) According to the February 2010 Ballistic
4 Missile Defense Review, the United States will con-
5 tinue the development and assessment of a two-stage
6 ground-based interceptor as part of a hedging strat-
7 egy and, as further noted by the Under Secretary of
8 Defense for Policy during testimony before the Com-
9 mittee on Armed Services of the House of Rep-
10 resentatives on October 1, 2009, “We keep the de-
11 velopment of the two-stage [ground-based inter-
12 ceptor] on the books as a hedge in case things come
13 earlier, in case there’s any kind of technological
14 challenge with the later models of the SM-3.”.

15 (b) POLICY.—It shall be the policy of the United
16 States to—

17 (1) field long-range missile defenses in Europe
18 that provide territorial defense of all NATO allies
19 from intercontinental and intermediate-range bal-
20 listic missiles by the time such threats materialize;

21 (2) ensure that the standard missile-3 block IIA
22 interceptors provide full coverage of Europe against
23 medium- and intermediate-range ballistic missiles
24 launched from the Middle East and that the stand-
25 ard missile-3 block IIB interceptors provide addi-

1 tional coverage of the United States against inter-
2 continental ballistic missiles launched from the Mid-
3 dle East; and

4 (3) continue the development and testing of the
5 two-stage ground-based interceptor to maintain it—

6 (A) in the event that the long-range bal-
7 listic missile threat materializes sooner than the
8 planned availability of the standard missile-3
9 block IIA or block IIB interceptor missiles;

10 (B) in the event of technical challenges as-
11 sociated with the standard missile-3 interceptor
12 missile; and

13 (C) as a complement to the missile defense
14 capabilities deployed in Alaska and California
15 for the defense of the United States.

16 (c) RESERVATION OF FUNDS.—Of the funds appro-
17 priated pursuant to an authorization of appropriations
18 made available for fiscal years 2012 and 2013 for the Mis-
19 sile Defense Agency, \$300,000,000 shall be available only
20 for long-range missile defense in Europe as described sub-
21 section (d).

22 (d) USE OF FUNDS.—Funds reserved under sub-
23 section (c) may be obligated and expended by the Sec-
24 retary of Defense—

1 (1) to accelerate the research, development,
2 test, evaluation, procurement, and fielding of a
3 standard missile-3 block IIA or block IIB interceptor
4 capable of intercepting intermediate or interconti-
5 nental ballistic missiles;

6 (2) on the research, development, test, evalua-
7 tion, procurement, and fielding of a two-stage
8 ground-based interceptor; and

9 (3) on an additional flight test of a two-stage
10 ground-based interceptor.

11 **SEC. 7. SENSE OF CONGRESS ON MISSILE DEFENSE AND**
12 **NEW START TREATY WITH RUSSIAN FEDERA-**
13 **TION.**

14 (a) FINDINGS.—Congress finds the following:

15 (1) The United States and the Russian Federa-
16 tion signed the Treaty between the United States of
17 America and the Russian Federation on Measures
18 for the Further Reduction and Limitation of Stra-
19 tegic Offensive Arms (commonly known as the “New
20 START Treaty”) on April 8, 2010.

21 (2) The preamble of the New START Treaty
22 states, “Recognizing the existence of the inter-
23 relationship between strategic offensive arms and
24 strategic defensive arms, that this interrelationship
25 will become more important as strategic nuclear

1 arms are reduced, and that current strategic defen-
2 sive arms do not undermine the viability and effec-
3 tiveness of the strategic offensive arms of the Par-
4 ties.”.

5 (3) Officials of the United States have stated
6 that the New START Treaty does not restrain the
7 program for missile defense of the United States at
8 bases in California and Alaska, nor does it restrain
9 the phased, adaptive approach for missile defense in
10 Europe.

11 (4) However, a statement from the office of the
12 Russian president states, “The Treaty between the
13 Russian Federation and the United States of Amer-
14 ica on the Reduction and Limitation of Strategic Of-
15 fensive Arms signed in Prague on April 8, 2010, can
16 operate and be viable only if the United States of
17 America refrains from developing its missile defence
18 capabilities quantitatively or qualitatively.”.

19 (5) Additionally, Russian Foreign Minister
20 Sergei Lavrov stated that Russia would have the
21 right to withdraw from the treaty “if the U.S.’s
22 build-up of its missile defense strategic potential in
23 numbers and quality begins to considerably affect
24 the efficiency of Russian strategic nuclear forces.”.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) there are no limitations on any phases of
4 the phased, adaptive approach to missile defense re-
5 sulting from ratification of the New START treaty
6 between the United States and Russia, signed on 8
7 April 2010;

8 (2) the United States should deploy all four
9 phases of the phased, adaptive approach for missile
10 defense in Europe to protect the United States, de-
11 ployed forces, and NATO allies against short, me-
12 dium, and long-range ballistic missile threats con-
13 sistent with the announced time lines of such
14 threats; and

15 (3) the ground-based midcourse defense system
16 in Alaska and California should be maintained,
17 evolved, and expanded because it is the only missile
18 defense capability as of the date of the enactment of
19 this Act that would protect the United States from
20 the growing threat of a long-range ballistic missile
21 attack.

1 **SEC. 8. AIR FORCE SCHOLARSHIPS FOR PARTNERSHIP FOR**
2 **PEACE NATIONS TO PARTICIPATE IN THE**
3 **EURO-NATO JOINT JET PILOT TRAINING PRO-**
4 **GRAM.**

5 (a) SCHOLARSHIPS AUTHORIZED.—Chapter 901 of
6 title 10, United States Code, is amended by adding at the
7 end the following new section:

8 **“§ 9325. Euro-NATO Joint Jet Pilot Training Pro-**
9 **gram: participation scholarships for Part-**
10 **nership for Peace nations**

11 “(a) ESTABLISHMENT OF SCHOLARSHIP PRO-
12 GRAM.—Under regulations prescribed by the Secretary of
13 Defense, the Secretary of the Air Force shall establish and
14 maintain a scholarship program to allow personnel of the
15 air forces of countries that are signatories of the Partner-
16 ship for Peace Framework Document to receive under-
17 graduate pilot training and necessary related training
18 through the Euro-NATO Joint Jet Pilot Training
19 (ENJJPT) program.

20 “(b) TRANSPORTATION, SUPPLIES, AND ALLOW-
21 ANCE.—Under such conditions as the Secretary of the Air
22 Force may prescribe, the Secretary may provide to a per-
23 son receiving a scholarship under the scholarship pro-
24 gram—

25 “(1) transportation incident to the training re-
26 ceived under the ENJJPT program;

1 “(2) supplies and equipment to be used during
2 the training;

3 “(3) flight clothing and other special clothing
4 required for the training;

5 “(4) billeting, food, and health services; and

6 “(5) a living allowance at a rate to be pre-
7 scribed by the Secretary, taking into account the
8 amount of living allowances authorized for a member
9 of the armed forces under similar circumstances.

10 “(c) RULES OF CONSTRUCTION.—(1) The provision
11 of scholarships under the scholarship program to per-
12 sonnel of an air force of a foreign country shall not be
13 construed or interpreted to imply diplomatic recognition
14 of the country as a member of the North Atlantic Treaty
15 Organization.

16 “(2) Nothing in this section shall be construed or in-
17 terpreted to supersede the authority of the ENJJPT
18 Steering Committee under the ENJJPT Memorandum of
19 Understanding. Countries whose air force personnel re-
20 ceive scholarships under the scholarship program shall not
21 have privilege of ENJJPT Steering Committee represen-
22 tation.

23 “(d) COST-SHARING.—For purposes of ENJJPT
24 cost-sharing, personnel of an air force of a foreign country

1 who receive a scholarship under the scholarship program
2 shall be counted as United States pilots.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by adding
5 at the end the following new item:

“9325. Euro-NATO Joint Jet Pilot Training Program: participation scholar-
ships for Partnership for Peace nations.”.

○