

115TH CONGRESS
1ST SESSION

H. R. 1182

To require certain actions regarding Russian Federation noncompliance with the INF Treaty, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2017

Mr. ROGERS of Alabama (for himself and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on Foreign Affairs, and Intelligence (Permanent Select), 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 require certain actions regarding Russian Federation noncompliance with the 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 De-
18 cember 8, 1987, and entered into force June 1,
19 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 encourage the
12 Russian Federation return to compliance, including
13 by—

14 (A) providing additional funds for the ca-
15 pabilities identified in section 1243(d) of the
16 National Defense Authorization Act for Fiscal
17 Year 2016 (Public Law 114–92; 129 Stat.
18 1062);

19 (B) establishing a program of record pur-
20 suant to section 5 for a dual-capable road-mo-
21 bile ground-launched cruise missile system with
22 a maximum range of 5,500 kilometers; and

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

1 ground-launched missile systems of the Russian
2 Federation that are in noncompliance with the
3 INF Treaty.

4 (b) AUTHORIZATION OF ADDITIONAL APPROPRIA-
5 TIONS.—

6 (1) IN GENERAL.—In addition to any other
7 amounts authorized to be appropriated for such pur-
8 poses, there is authorized to be appropriated
9 \$500,000,000 for fiscal year 2018 for—

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

13 (B) counterforce capabilities to prevent at-
14 tacks from these missiles;

15 (C) facilitating the acquisition and transfer
16 to allied countries of missile systems with
17 ranges between 500 and 5,500 kilometers; and

18 (D) countervailing strike capabilities to en-
19 hance the capabilities of the United States iden-
20 tified in section 1243(d) of the National De-
21 fense Authorization Act for Fiscal Year 2016
22 (Public Law 114–92; 129 Stat. 1062).

23 (2) DEVELOPMENT.—Of the amount authorized
24 to be appropriated by paragraph (1), \$100,000,000
25 is authorized to be appropriated for activities under-

1 taken to carry out section 5, including with respect
2 to research and development activities.

3 (3) OFFSET.—Notwithstanding the amounts
4 otherwise authorized to be appropriated for the Na-
5 tional Nuclear Security Administration for Defense
6 Nuclear Nonproliferation for fiscal year 2018, such
7 authorization of amounts is hereby reduced by
8 \$500,000,000.

9 **SEC. 5. DEVELOPMENT OF INF RANGE GROUND-LAUNCHED**
10 **MISSILE SYSTEM.**

11 (a) ESTABLISHMENT OF A PROGRAM OF RECORD.—
12 The Secretary of Defense shall establish a program of
13 record to develop a dual-capable road-mobile ground-
14 launched cruise missile system with a range of between
15 500 to 5,500 kilometers. The Secretary shall ensure that
16 such system is capable of achieving a flight test by not
17 later than one year after the date of the enactment of this
18 Act.

19 (b) REPORT.—Not later than 120 days after the date
20 of the enactment of this Act, the Secretary of Defense
21 shall submit to the congressional defense committees a re-
22 port on the cost, schedule, and feasibility to modify the
23 tomahawk, standard missile-3, standard missile-6, long-
24 range standoff cruise missile, and Army tactical missile
25 system missiles for ground launch with a range of between

1 500 and 5,500 kilometers in order to provide any of the
2 capabilities identified in section 1243(d) of the National
3 Defense Authorization Act for Fiscal Year 2016 (Public
4 Law 114–92; 129 Stat. 1062).

5 **SEC. 6. NOTIFICATION REQUIREMENT RELATED TO RUS-**
6 **SIAN FEDERATION DEVELOPMENT OF NON-**
7 **COMPLIANT SYSTEMS.**

8 Not later than 15 days after the date of the enact-
9 ment of this Act, and every 90 days thereafter during the
10 five-year period beginning on such date of enactment, the
11 Director of National Intelligence shall submit to the ap-
12 propriate congressional committees and the President a
13 report that includes a determination of each of the fol-
14 lowing:

15 (1) Whether the Russian Federation has flight
16 tested, produced, or possesses a system that is in-
17 consistent with the INF Treaty.

18 (2) Whether the Russian Federation possesses
19 a system that meets the requirements for initial
20 operational capability that is inconsistent with the
21 INF Treaty.

22 (3) Whether the Russian Federation has de-
23 ployed, or is about to deploy, a system that is incon-
24 sistent with the INF Treaty.

1 **SEC. 7. LIMITATION ON AVAILABILITY OF FUNDS FOR CER-**
2 **TAIN ACTIVITIES.**

3 None of the funds authorized to be appropriated or
4 otherwise made available for fiscal year 2018 or any other
5 fiscal year for the Department of Defense may be obli-
6 gated or expended to extend the implementation of the
7 New START Treaty for any year after 2021, permit
8 flights by the Russian Federation over the United States
9 or it allies pursuant to the Open Skies Treaty, or permit
10 the approval of new or updated implementation decisions
11 of the Open Skies Consultative Commission pursuant to
12 Article X of the Open Skies Treaty, or any license or au-
13 thorization to export any item or technology to a person
14 or entity in the Russian Federation unless the President
15 certifies to the appropriate congressional committees that
16 the Russian Federation has verifiably eliminated all mis-
17 siles that are in violation of or may be inconsistent with
18 the INF Treaty.

19 **SEC. 8. REPORT ON ANTI-AIR WARFARE DEFENSE CAPA-**
20 **BILITY.**

21 Not later than 90 days after the date of the enact-
22 ment of this Act, the Secretary of Defense shall submit
23 to the appropriate congressional committees a report on
24 the number and location of Aegis Ashore sites with anti-
25 air warfare capability necessary in Asia and Europe to de-
26 fend deployed forces of the United States and United

1 States allies from Russian ground-launched missile sys-
2 tems 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 of the Russian Federation.

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 ballistic
16 missile is covered under the New START Treaty or
17 is a violation of the INF Treaty because Russia has
18 flight-tested such missile to ranges covered by the
19 INF Treaty in more than one warhead configura-
20 tion; and

21 (2) if the Secretary determines that the RS-26
22 ballistic missile is covered under the New START
23 Treaty, a determination whether the Russian Fed-
24 eration—

1 (A) has agreed through the Bilateral Con-
2 sultative Commission that such a system is lim-
3 ited under the New START Treaty central lim-
4 its; and

5 (B) has agreed to an exhibition of such a
6 system.

7 (c) EFFECT OF DETERMINATION.—If the Secretary
8 of State, with the concurrence of the Secretary of Defense
9 and the Director of National Intelligence, determines that
10 the RS–26 ballistic missile is covered under the New
11 START Treaty and that the Russian Federation has not
12 taken the steps described under subsection (b)(2), the
13 United States Government shall consider for purposes of
14 all policies and decisions that the RS–26 ballistic missile
15 of the Russian Federation is a violation of the INF Trea-
16 ty.

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

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

1 (b) REPORT.—Not later than 15 months after the
2 date of the enactment of this Act, the President shall sub-
3 mit to the appropriate congressional committees a report
4 that contains a determination of the President of whether
5 the Russian Federation has flight-tested, produced, or is
6 in possession of a ground-launched cruise missile or
7 ground-launched ballistic missile with a range of between
8 500 and 5,500 kilometers during each of the four consecu-
9 tive 90-day periods beginning on the date of the enactment
10 of this Act.

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

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

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

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