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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

In this Act:
(1) **Appropriate Congressional Committees.**—The term “appropriate congressional committees” means—

(A) the Select Committee on Intelligence, the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

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


(3) **Intelligence Community.**—The term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(4) **New START Treaty.**—The term “New START Treaty” means the Treaty between the


SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The 2014, 2015, and 2016 Department of State reports entitled, “Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments”, all stated that the United States has determined that “the Russian Federation is in violation of its obligations under the INF Treaty not to possess, produce, or flight-test a ground-launched cruise missile (GLCM) with a range capability of 500 km to 5,500 km, or to possess or produce launchers of such missiles”.

(2) The 2016 report also noted that “the cruise missile developed by Russia meets the INF Treaty definition of a ground-launched cruise missile with a range capability of 500 km to 5,500 km, and as
such, all missiles of that type, and all launchers of
the type used or tested to launch such a missile, are
prohibited under the provisions of the INF Treaty’’.

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

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

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

(6) In April 2014, General Breedlove, the Su-
preme Allied Commander Europe, correctly stated,
“A weapon capability that violates the INF, that is
introduced into the greater European land mass, is
absolutely a tool that will have to be dealt with . . .
It can’t go unanswered.’’.
(7) The Department of Defense, in its September 2013 report, Report on Conventional Prompt Global Strike Options if Exempt from the Restrictions of the Intermediate-Range Nuclear Forces Treaty Between the United States of America and the Union of Soviet Socialist Republics, stated that it has multiple validated military requirement gaps due to the prohibitions imposed on the United States as a result of its compliance with the INF Treaty.

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

(9) A material breach of the INF Treaty by the Russian Federation affords the United States the right to invoke such breach as grounds for suspending the operation of the treaty in whole or in part.

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

(a) Statement of United States Policy.—It is the policy of the United States as follows:
(1) The actions undertaken by the Russian Federation in violation of the INF Treaty constitute a material breach of the treaty.

(2) In light of the Russian Federation’s material breach of the INF Treaty, the United States is legally entitled to suspend the operation of the INF Treaty in whole or in part for so long as the Russian Federation continues to be in material breach.

(3) For so long as the Russian Federation remains in noncompliance with the INF Treaty, the United States should take actions to bring the Russian Federation back into compliance, including—

(A) providing additional funds to the activities and systems identified in section 1243(d) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 1062);

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

(C) aggressively seeking additional missile defense assets in the European theater to protect United States and NATO forces from the
Russian INF Treaty noncompliant Ground Launch Cruise Missile.

(b) Authorization of Additional Appropriations.—In addition to any other amounts authorized to be appropriated for such purposes, there are authorized to be appropriated—

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

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

(B) counterforce capabilities to prevent attacks from these missiles;

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

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

(2) $100,000,000 for activities undertaken to advance the policy described in subsection (a)(3)(B), including research, development, and evaluation activities.
SEC. 5. DEVELOPMENT OF INF RANGE GROUND LAUNCHED MISSILE SYSTEM.

(a) Establishment of a Program of Record.—The Secretary of Defense shall establish a program to develop a dual-capable road-mobile ground-launched cruise missile system with a range of between 500 to 5,500 kilometers. The system should be available for a flight test not later than one year after the date of the enactment of this Act.

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

SEC. 6. NOTIFICATION REQUIREMENT RELATED TO RUSSIAN FEDERATION DEVELOPMENT OF NON-COMPLIANT SYSTEMS.

Not later than 15 days after the date of the enactment of this Act, and every 90 days thereafter for five years, the Director of National Intelligence shall submit to the appropriate congressional committees and the President a report including a determination whether the Russian Federation has flight tested, produced, or pos-
sesses a system that is inconsistent with the INF Treaty and has reached Initial Operational Capability, is deployed, or is about to be deployed.

SEC. 7. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN ACTIVITIES.

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

SEC. 8. REPORT ON ANTI-AIR WARFARE DEFENSE CAPABILITY.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report on the number and location of AEGIS Ashore sites with anti-air warfare (AAW) capability necessary in Asia and Europe to defend deployed forces of the United States and
United States allies from Russian ground launched missile systems with a range of 500 to 5,500 kilometers.

SEC. 9. REVIEW OF RS–26 BALLISTIC MISSILE.

(a) In General.—The Secretary of State, in consultation with the Secretary of Defense and the Director of National Intelligence, shall conduct a review of the RS–26 Ballistic Missile System.

(b) Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense and the Director of National Intelligence, shall submit to the appropriate congressional committees a report on the review conducted under subsection (a). The report shall include—

(1) a determination whether the RS–26 Ballistic Missile is covered under the New START Treaty or is a violation of the INF Treaty because it has been flight-tested to ranges covered by the INF treaty in more than one warhead configuration; and

(2) if it is determined that the RS–26 is covered under the New START Treaty, a determination whether the Russian Federation—
(A) has agreed through the Bilateral Consultative Commission that such a system is limited under the New START central limits; and

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

(c) Effect of Determination.—If the Secretary of State, with the concurrence of the Secretary of Defense and the Director of National Intelligence, determines that the RS–26 is covered under the New START Treaty and that the Russian Federation has not taken the steps described under subsection (b)(2), the United States Government shall consider for purposes of all policies and decisions that the Russian Federation is in violation of the INF Treaty.

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

(a) Declaration of Policy.—Congress declares that because of the Russian Federation’s violations of the INF Treaty, including the flight-test, production, and possession of prohibited systems, its actions have defeated the object and purpose of the INF Treaty, and thus constitute a material breach of the INF Treaty.

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

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

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

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