

114TH CONGRESS  
2D SESSION

# S. 3007

To prohibit funds from being obligated or expended to aid, support, permit, or facilitate the certification or approval of any new sensor for use by the Russian Federation on observation flights under the Open Skies Treaty unless the President submits a certification related to such sensor to Congress and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 2016

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

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## A BILL

To prohibit funds from being obligated or expended to aid, support, permit, or facilitate the certification or approval of any new sensor for use by the Russian Federation on observation flights under the Open Skies Treaty unless the President submits a certification related to such sensor to Congress 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 “Open Skies Treaty  
5 Compliance Assurance Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

9 (B) the Committee on Armed Services, the  
10 Committee on Foreign Affairs, and the Perma-  
11 nent Select Committee on Intelligence of the  
12 House of Representatives.

13 (2) **COVERED STATE PARTY.**—The term “cov-  
14 ered state party” means a foreign country that—

15 (A) is a state party to the Open Skies  
16 Treaty; and

17 (B) is a United States ally.

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

22 (4) **OBSERVATION AIRCRAFT, OBSERVATION**  
23 **FLIGHT, AND SENSOR.**—The terms “observation air-  
24 craft”, “observation flight”, and “sensor” have the  
25 meanings given such terms in Article II of the Open  
26 Skies Treaty.

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

5 **SEC. 3. CERTIFICATION OF NEW SENSORS.**

6        (a) LIMITATION.—Notwithstanding any other provi-  
7        sion of law, no funds may be obligated or expended to aid,  
8        support, permit, or facilitate the certification or approval  
9        of any new sensor, including to carry out an initial or exhi-  
10       bition observation flight of an observation aircraft, for use  
11       by the Russian Federation on observation flights under  
12       the Open Skies Treaty unless the President, in consulta-  
13       tion with the Secretary of State, the Secretary of Defense,  
14       the Secretary of Homeland Security, and the Director of  
15       National Intelligence, submits to the appropriate commit-  
16       tees of Congress the certification described in subsection  
17       (b)(1).

18       (b) CERTIFICATION.—

19           (1) IN GENERAL.—The certification described  
20        in this subsection is a certification for a new sensor  
21        referred to in subsection (a) that—

22                   (A) the capabilities of the new sensor do  
23                   not exceed the capabilities imposed by the Open  
24                   Skies Treaty, and safeguards are in place to  
25                   prevent the new sensor, or any information ob-

1           tained therefrom, from being used in any way  
2           not permitted by the Open Skies Treaty;

3           (B) the Secretary of Defense, the com-  
4           manders of relevant combatant commands, the  
5           directors of relevant elements of the intelligence  
6           community, and the Federal Bureau of Inves-  
7           tigation have in place mitigation measures with  
8           respect to collection against high-value United  
9           States assets and critical infrastructure by the  
10          new sensor;

11          (C) each covered state party has been noti-  
12          fied and briefed on concerns of the intelligence  
13          community regarding upgraded sensors used  
14          under the Open Skies Treaty, Russian Federa-  
15          tion warfighting doctrine, and intelligence col-  
16          lection in support thereof; and

17          (D) the Russian Federation is in compli-  
18          ance with all of its obligations under the Open  
19          Skies treaty, including the obligation to permit  
20          properly notified covered state party observation  
21          flights over all of Moscow, Chechnya, Abkhazia,  
22          South Ossetia, and Kaliningrad.

23          (2) SPECIFIC SENSOR APPROVAL.—The certifi-  
24          cation described in paragraph (1) shall be required  
25          for each sensor and platform for which the Russian

1 Federation has requested approval under to the  
2 Open Skies Treaty.

3 (c) WAIVER AUTHORITY.—

4 (1) IN GENERAL.—The President may waive  
5 the requirements of subparagraph (D) of subsection  
6 (b)(1) if, not later than 30 days prior to certifying  
7 or approving a new sensor for use by the Russian  
8 Federation on observation flights under the Open  
9 Skies Treaty, the President submits a certification  
10 to the appropriate committees of Congress that the  
11 certification or approval of the new sensor is in the  
12 national security interest of the United States that  
13 includes the following:

14 (A) A written explanation of the reasons it  
15 is in the national security interest of the United  
16 States to certify or approve the sensor.

17 (B) The date that the President expects  
18 the Russian Federation to come into full com-  
19 pliance with all of its Open Skies Treaty obliga-  
20 tions, including the overflight obligations de-  
21 scribed in subparagraph (D) of subsection  
22 (b)(1).

23 (C) A detailed description of efforts made  
24 by the United States Government to bring the

1           Russian Federation into full compliance with  
2           the Open Skies Treaty.

3           (2) FORM.—Each certification submitted under  
4           paragraph (1) shall be submitted in unclassified  
5           form, but may include a classified annex.

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