

Congress of the United States
Washington, DC 20515

November 18, 2019

Robert C. O'Brien
National Security Advisor
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20520

Dear Mr. O'Brien:

We write to express our concerns regarding the future of the Open Skies Treaty, which plays an important role in advancing Euro-Atlantic security. These concerns were first brought to your attention in a letter dated October 7, and a similar letter was sent to Secretary Pompeo and Secretary Esper on October 8. We have attached copies of this correspondence. Given the importance of the Treaty, which is a key element of the existing arms control framework that allows the U.S. and our allies to monitor Russia's military maneuvers, we are again bringing this matter to your attention and seeking clarity regarding the Administration's intentions.

We are specifically disturbed by reports indicating that both the State Department and the Department of Defense have been ordered by the White House not to discuss the Open Skies Treaty with Congress. We are also concerned that the White House may have used biased analysis as it pertains to potential Treaty withdrawal, failing to ensure an objective process and neglecting to properly coordinate with the departments and agencies responsible for the Treaty's implementation.

Furthermore, we cannot continue to walk away from commitments we have made to our allies in NATO to hold Russia accountable for their actions. During his confirmation testimony on October 30, 2019, Deputy Secretary of State John Sullivan, the Administration's nominee for Ambassador to Russia, said that there would need to be substantial evidence to support withdrawal, and that the Administration would consult with Congress, as well as our allies and other Treaty signatories, prior to any such decision. To date we have received any to support withdrawal, nor any analysis of the impact that this withdrawal would have to our allies, who continue to raise concerns about potential U.S. withdrawal.

Congress has a constitutional duty to provide rigorous oversight of the executive branch's operations, and the Administration should not seek to hide information from Congress or otherwise prevent us from performing appropriate oversight. This stonewalling only serves to undermine collaboration between the executive and legislative branches of our government on matters of national security.

Robert C. O'Brien
November 18, 2019
Page Two

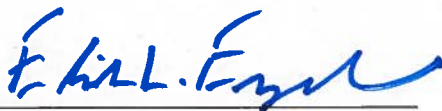
We ask that you clarify the Administration's position on the Open Skies Treaty and whether any White House official directed State and Defense Department personnel not to brief or discuss the Administration's plans regarding the Open Skies Treaty with Congress. On October 30, Deputy Secretary of State Sullivan testified that the Administration would consult with Congress and our allies prior to taking any decision to withdraw from the Treaty. We appreciate this important commitment.

We ask that the Administration provide the Committees with detailed, written responses (with a classified annex, if necessary), followed by a briefing, no later than December 13, 2019 to the following:

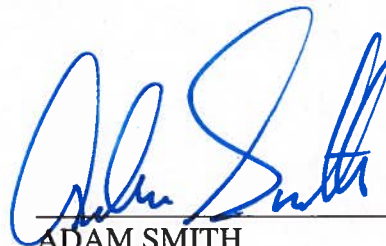
- An analysis of flights conducted by U.S. and allies and 2018 and 2019 under the treaty, as well as a description of the diplomatic, military, intelligence utility of the data collected, to include other aspects in addition to the imagery.
- Details regarding mitigation measures in place for U.S. assets, located both inside and outside the United States, to address Open Skies collection risks posed by Open Skies Treaty overflights.
- Communications from NATO allies and partners through diplomatic and military channels expressing their viewpoints of potential U.S. withdrawal from the Treaty.

It is our hope that we can work together to advance our national security interests. We request your personal engagement on this to ensure that the United States does not unwisely and rashly withdraw from the Open Skies Treaty, which continues to serve U.S., allied and partner national security interests. We look forward to hearing from you immediately on any steps the Administration has taken pertaining to the Open Skies Treaty.

Sincerely,



ELIOT L. ENGEL
Chairman
House Foreign Affairs Committee



ADAM SMITH
Chairman
House Armed Services Committee

CC: Secretary of State Mike Pompeo
Secretary of Defense Mark Esper
Acting Director of National Intelligence Joseph Maguire
Deputy National Security Advisor Matthew Pottinger

Congress of the United States
Washington, DC 20515

October 8, 2019

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

The Honorable Mark T. Esper
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Pompeo and Secretary Esper:

We understand the Administration is considering withdrawing from the Open Skies Treaty and urge you not to do so. Withdrawing from the Treaty would be contrary to U.S. national security, and is apparently moving forward without any notice or consultation with Congress. We understand agencies have been directed not even to discuss this matter with Congress.

Pulling out of the Open Skies Treaty, an important multilateral arms control agreement, would be yet another gift from the Trump Administration to Putin. The Open Skies Treaty is a critical element of U.S. and European security, and a decision to withdraw would be another blow to regional stability as well as Ukrainian security.

The Treaty has been an essential tool for United States efforts to constrain Russian aggression in Ukraine. In December of 2018, the United States conducted an extraordinary flight under Open Skies that the Department of Defense stated was “intended to reaffirm U.S. commitment to Ukraine and other partner nations.” Further, when the Ukraine crisis first emerged, the United States used images collected by U.S. surveillance missions under the Open Skies Treaty to publically demonstrate that Russian forces had invaded Ukrainian territory. Withdrawing from the Open Skies Treaty would be perceived as casting further doubt on the status of the United States commitment to Ukraine’s security and would advance the Russian narrative that the United States is an unreliable partner in the region.


Former Defense Secretary Mattis has said to Congress that the Treaty “contributes to greater transparency and stability in the Euro-Atlantic region, which benefits both the United States and our allies and partners.”

The Administration has provided no justification for a withdrawal from the Open Skies Treaty. Not only is there no case for withdrawal on the grounds of national security, there has been no consultation with the Congress or with our allies about this consequential decision. Any action by this Administration to withdraw from critical international treaties without the approval of the Senate is deeply concerning. If the President withdraws from this landmark Treaty, it will fundamentally demean and devalue the United States commitment to treaties and other international obligations.

Beginning with Senate approval of the Treaty almost three decades ago, Congress has affirmed that the Open Skies Treaty is an important element of U.S. national security on multiple occasions. In 2016, the Senate passed S. Res. 544, confirming the Open Skies Treaty as a key element of the Euro-Atlantic security architecture and critical to promoting transparency in arms control efforts. In the 2019 National Defense Authorization Act (NDAA), Congress approved funding for new surveillance aircraft expressly requested by the Defense Department to support surveillance activities under the Open Skies Treaty. The House-passed 2020 NDAA also mandated restrictions and consultations with allies prior to withdrawing from this Treaty. That the Administration may now be choosing to withdraw from the Treaty would signal a troubling reversal and a lack of coherent strategic thinking.

We request that you not move forward with any action to withdraw or impair the United States as a party to the Treaty absent, at minimum, meaningful consultation with Congress. We look forward to your prompt response.

Sincerely,



Robert Menendez
Ranking Member
Senate Foreign Relations Committee



Jack Reed
Ranking Member
Senate Armed Services Committee



Eliot L. Engel
Chairman
House Foreign Affairs Committee



Adam Smith
Chairman
House Armed Services Committee

ELIOT L. ENGEL, NEW YORK
CHAIRMAN

JASON STEINBAUM
STAFF DIRECTOR



MICHAEL T. MCCAUL, TEXAS
RANKING REPUBLICAN MEMBER

BRENDAN P. SHIELDS
REPUBLICAN STAFF DIRECTOR

OCT 07 2019

One Hundred Sixteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

October 7, 2019

Robert C. O'Brien
National Security Advisor
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. O'Brien:

I am deeply concerned by reports that the Trump Administration is considering withdrawing from the Open Skies Treaty and strongly urge you against such a reckless action. This treaty has provided important military transparency for its 34 signatory countries since it entered into force in 2002. American withdrawal would only benefit Russia and be harmful to our allies' and partners' national security interests.

The Open Skies Treaty allows the United States and our allies and partners in Europe to monitor Russian military deployments. Observation flights under the Treaty have generated additional information regarding Russian military action in Ukraine and provided a check on further Russian aggression there. NATO allies and partners, and Ukraine in particular, have repeatedly stressed the importance of the Open Skies Treaty for their efforts to monitor Russia's military.

Withdrawal risks dividing the transatlantic alliance and would further undermine America's reliability as a stable and predictable partner when it comes to European security. If the Administration is indeed considering a change of status on the Treaty, it must be part of a transparent process that includes a thorough interagency review and consultation with Congress, and that provides other signatories a clear understanding of your intentions. To my knowledge, the Administration has not held significant consultations with our allies and partners on this matter. Such consultations are a prerequisite to successfully navigate any major policy shift with the Treaty.

Robert C. O'Brien
October 7, 2019
Page Two

Make no mistake, Congress is aware of some treaty implementation concerns regarding Russia. Russia continues to operate in unexpected ways. Therefore, I support the Administration's efforts to ensure full applicability of the Treaty to Kaliningrad and to the Georgian territories of Abkhazia and South Ossetia, and I support the restrictions put in place on Russian flights over the United States in response. But it is clear that these implementation concerns do not rise to the level of material breach of the Treaty, an excuse that is being peddled as the potential reason for withdrawal.

U.S. relations with Russia have become more acrimonious and complicated in the last decade. Dialogue and interaction at this time of heightened tension and increased potential for miscalculation with Russia should be a priority. The United States should prepare for the challenge that Russia presents – not abandon mechanisms that provide the United States with an important tool in maintaining surveillance on Russia.

I request your personal engagement on this matter to ensure that the United States does not unwisely and rashly withdraw from the Open Skies Treaty, which continues to serve American national security interests and is particularly important as a check against further Russian aggression against Ukraine.

Sincerely,



ELIOT L. ENGEL
Chairman