

United States Senate

WASHINGTON, DC 20510

February 28, 2020

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

Dear Secretary Pompeo:

We are writing to express our serious concerns about a potential United States withdrawal from the Open Skies Treaty, which would harm both U.S. and allied security interests.

The Open Skies Treaty is an important multilateral agreement that operates as a critical transparency tool for the United States and our allied treaty partners. It provides the United States and our partners real-time, comprehensive images of Russian military facilities. For the last 17 years, the United States has robustly utilized the treaty, overflying Russia nearly three times as often as Russia overflew the United States. In addition, the treaty serves as a key confidence-building measure: for example, flights over Ukraine have demonstrated the United States' commitment to European security and provide shareable and incontrovertible images of Russian aggression.

On February 20th, Secretary of Defense Esper declared that America cannot continue to tolerate Russian "noncompliance" and that the United States must review the best path forward for our nation. We too are concerned about the limitations the Russian Federation has placed upon Open Skies flights over Kaliningrad and Georgia. However, these concerns do not negate the important benefits the United States receives from the Open Skies Treaty, nor did they prevent the United States from conducting a full slate of Open Skies flights over Russia in 2019. Unlike Russia's violation of the Intermediate-Range Nuclear Forces (INF) Treaty, the Open Skies concerns of the United States and other countries are focused on specific practices of Russian implementation that do not fundamentally undermine the security benefits of the treaty.

It is important to note that the United States has already taken reciprocal steps to limit Russian overflights of the United States by restricting flights over the Pacific Fleet in Hawaii and the missile defense interceptor fields at Fort Greely, Alaska. In the past, the United States has been able to resolve comparable Open Skies compliance problems through diplomacy. For example, in 2017 the United States was able to resolve a long-standing dispute with Russia over how to deal with overflights during major events and in a separate diplomatic discussion U.S. concerns about altitude restrictions over Chechnya were resolved in 2016.

A U.S. withdrawal is likely to leave the United States at a disadvantage, because it will not end an agreement that our European partners continue to value. Russia could continue its flights over

our military installation in Europe, but without United States oversight or influence over the technical specifications of the data gathered during those overflights.

The Open Skies Treaty continues to enjoy bipartisan support in Congress. This past year, Congress appropriated \$41.5 million to replace the Boeing OC-135B aircraft used for Open Skies overflights with a new aircraft. Congress clearly expressed concern about a precipitous withdrawal from the Open Skies Treaty in the National Defense Authorization Act for Fiscal Year 2020 (Public Law No: 116-92), which required that the Executive Branch “consult Congress and wait four months before withdrawing.”

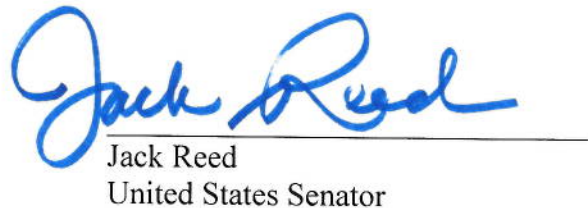
Under the Constitution, treaties are a shared responsibility between the Senate and the executive branch. Moreover, federal law requires the administration to determine that withdrawing from the Open Skies Treaty is in the best interest of United States national security and that other parties to the Treaty have been consulted about the withdrawal (Section 1234 of Public Law No: 116-92). We expect the Administration to act consistently with the Constitution and the law, including robust prior consultation with Congress before any decision to withdraw from the Open Skies Treaty.

If this administration moves forward with a precipitous unilateral withdrawal from the Treaty the United States will be less safe and secure.

We look forward to your response.

Sincerely,


Robert Menendez
United States Senator


Jack Reed
United States Senator