

116TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prohibit actions to terminate or withdraw the United States from international treaties without affirmative approval from both Houses of Congress, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To prohibit actions to terminate or withdraw the United States from international treaties without affirmative approval from both Houses of 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 “Preventing Actions  
5 Undermining Security without Endorsement Act” or the  
6 “PAUSE Act”.

7 **SEC. 2. FINDINGS.**

8       Congress makes the following findings:

1           (1) The COVID–19 global pandemic has high-  
2           lighted the need for United States leadership to ad-  
3           dress the full range of international security chal-  
4           lenges, which the Government of the United States  
5           can do by reaffirming its steadfast commitment to  
6           those mutually beneficial treaties and agreements  
7           forged with its European and Indo-Pacific allies,  
8           along with other states parties.

9           (2) For more than 70 years, the United States  
10          has shown a bipartisan commitment to the North  
11          Atlantic Treaty Organization (NATO), specifically to  
12          the principle of collective defense enshrined in Arti-  
13          cle 5 of the North Atlantic Treaty, signed at Wash-  
14          ington April 4, 1949.

15          (3) Section 1242 of the National Defense Au-  
16          thorization Act for Fiscal Year 2020 (Public Law  
17          116–92) prohibited the use of funds for the United  
18          States withdrawal from the North Atlantic Treaty in  
19          recognition that the NATO alliance remains a cor-  
20          nerstone for peace and prosperity throughout the  
21          world.

22          (4) On January 22, 2019, the House of Rep-  
23          resentatives passed H.R. 676 (116th Congress) on a  
24          357–22 vote, prohibiting the use of funds for the  
25          United States withdrawal from the North Atlantic

1 Treaty, and on December 17, 2019, the Committee  
2 on Foreign Relations of the Senate reported out  
3 S.J.Res. 4 (116th Congress), which if enacted into  
4 law, would require approval of two-thirds of the Sen-  
5 ate, or both Houses of Congress, before the Presi-  
6 dent could withdraw the United States from the  
7 treaty.

8 (5) The Treaty on Open Skies, signed at Hel-  
9 sinki March 24, 1992, provides a critical confidence-  
10 building measure for Euro-Atlantic security to the  
11 mutual benefit of the 34 States Parties to the trea-  
12 ty, and the Open Skies Consultative Commission  
13 (OSCC) is one of the few remaining operational dip-  
14 lomatic forums from which the United States can  
15 engage with the Russian Federation.

16 (6) Although the Government of the United  
17 States is right to diplomatically press the Govern-  
18 ment of the Russian Federation to return to full  
19 compliance with its obligations under the Treaty on  
20 Open Skies, withdrawal or termination of the treaty  
21 would deprive United States allies and partners of  
22 the benefits derived from observation missions over  
23 Russian territory and Russian occupied Eastern  
24 Ukraine, missions that have vastly outnumbered

1 Russian overflights of United States territory since  
2 entry into force of the treaty.

3 (7) The Mutual Defense Treaty Between the  
4 United States and the Republic of Korea, signed at  
5 Washington October 1, 1953, the ratification of  
6 which the Senate advised and consented to on Janu-  
7 ary 26, 1954, was born from mutual sacrifice during  
8 the Korean War, is based on shared values and in-  
9 terests, and remains critical to the national security  
10 of the United States nearly 7 decades after its sign-  
11 ing.

12 (8) A February 2020 report from the Depart-  
13 ment of State confirmed, in part, that verifiable lim-  
14 its on “Russia’s strategic nuclear force” under the  
15 New START Treaty “currently contribute to the na-  
16 tional security of the United States”.

17 (9) A decision by the President to allow the  
18 New START Treaty to expire on February 5, 2021,  
19 without the United States having first successfully  
20 concluded a verifiable and binding agreement in its  
21 place, would lead to the United States losing visi-  
22 bility into the location, movement, and disposition of  
23 the strategic arsenal of the Russian Federation to  
24 the detriment of the national security of the United  
25 States and its allies.

1           (10) The Constitution of the United States pro-  
2           vides Congress an important role in the treaty proc-  
3           ess, requiring the advice and consent of two-thirds  
4           of the Senate for approval of a resolution of ratifica-  
5           tion.

6 **SEC. 3. SENSE OF CONGRESS.**

7           It is the sense of Congress that—

8           (1) the President should refrain from taking  
9           any action to withdraw or terminate any inter-  
10          national treaty to which the Senate has given its ad-  
11          vice and consent to ratification without proper con-  
12          sultation with, and affirmative approval from, Con-  
13          gress;

14          (2) the 1979 Supreme Court decision in Gold-  
15          water v. Carter, 444 U.S. 996 (1979), is not control-  
16          ling legal precedent with respect to the role of Con-  
17          gress in the withdrawal or termination of the United  
18          States from an international treaty, as the Court di-  
19          rected the lower court to dismiss the complaint and  
20          did not address the constitutionality of the decision  
21          by President Carter to terminate the Mutual De-  
22          fense Treaty between the United States of America  
23          and the Republic of China, signed at Washington  
24          December 2, 1954 (commonly referred to as the  
25          “Sino-American Mutual Defense Treaty”); and

1           (3) the United States should take every action  
2           to reinforce its global reputation as a country that  
3           fully complies with its obligations under the inter-  
4           national treaties to which it is a party.

5 **SEC. 4. AFFIRMATIVE CONGRESSIONAL APPROVAL FOR**  
6                           **TERMINATION OR WITHDRAWAL FROM AN**  
7                           **INTERNATIONAL TREATY.**

8           No action to terminate or withdraw the United States  
9           from any international treaty to which the Senate has  
10          given its advice and consent to ratification may occur un-  
11          less—

12           (1) the Secretary of Defense and the Secretary  
13          of State meet the requirements under section 5; and

14           (2) there is enacted into law a joint resolution  
15          that approves such action.

16 **SEC. 5. JUSTIFICATION, CERTIFICATIONS, DETERMINA-**  
17                           **TION, AND STRATEGY ON ACTIONS TO TERMI-**  
18                           **NATE OR WITHDRAW THE UNITED STATES**  
19                           **FROM AN INTERNATIONAL TREATY.**

20          (a) **IN GENERAL.**—Not later than 180 days before  
21          the provision of notice of intent to terminate or withdraw  
22          the United States from any international treaty to which  
23          the Senate has given its advice and consent to ratification,  
24          the Secretary of Defense and the Secretary of State, in  
25          consultation with the Director of National Intelligence,

1 shall each submit to the appropriate committees of Con-  
2 gress—

3 (1) a detailed justification for the withdrawal  
4 from or termination of the treaty;

5 (2) if the justification described in paragraph  
6 (1) includes that a state party to the treaty is in  
7 material breach of one or more obligations under the  
8 treaty, a detailed explanation of the steps taken by  
9 that state party to return to compliance with such  
10 obligations;

11 (3) a certification that all other state parties to  
12 the treaty have been consulted with respect to the  
13 justification described in paragraph (1);

14 (4) a certification that withdrawal from or ter-  
15 mination of the treaty would be in the best national  
16 interests of the United States; and

17 (5) a comprehensive strategy to mitigate  
18 against lost capacity of benefits, including potential  
19 new bilateral or multilateral confidence-building  
20 measures.

21 (b) FORM.—The submission required by subsection  
22 (a) shall be submitted in unclassified form, but may in-  
23 clude a classified annex.

24 (c) APPLICABILITY TO NEW STRATEGIC ARMS RE-  
25 Duction Treaty.—This section shall apply to a decision

1 by the President to not renew the New START Treaty  
2 for up to an additional 5 years.

3 **SEC. 6. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE COMMITTEES OF CON-  
6 GRESS.—The term “appropriate committees of Con-  
7 gress” means—

8 (A) the Committee on Armed Services and  
9 the Committee on Foreign Relations of the Sen-  
10 ate; and

11 (B) the Committee on Armed Services and  
12 the Committee on Foreign Affairs of the House  
13 of Representatives.

14 (2) NEW START TREATY.—The term “New  
15 START Treaty” means the Treaty between the  
16 United States of America and the Russian Federa-  
17 tion on Measures for the Further Reduction and  
18 Limitation of Strategic Offensive Arms, signed at  
19 Prague April 8, 2010.