

Congress of the United States
Washington, DC 20515

May 16, 2019

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

Dear Secretary Pompeo:

We are deeply concerned by recent reporting that the 2019 State Department *Report on Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments*, which the State Department submitted to Congress on April 15, may have been the product of political appointees disregarding intelligence or distorting its meaning in order to potentially “lay the groundwork to justify military action” against countries mentioned in the report.¹ These allegations underscore our concern that the Department has failed to meet its statutory obligations in the April 15 report to Congress.

It is further reported that that attempts to politicize the U.S. Intelligence Community’s normally objective assessments of Iran and others’ adherence to international obligations led to intense disagreements within the Department and the interagency.² Our nation knows all too well the perils of ignoring and ‘cherry-picking’ intelligence in foreign policy and national security decisions, as evidenced by a prior White House’s disregard of the intelligence community’s analysis on Iraq and its selective use of Iraq-related intelligence to justify the march to war in 2003.

The Unclassified Compliance Report Does Not Comply With the Law:

By law, the Department is required to submit to Congress a “detailed report . . . to the maximum extent practicable in unclassified form,” regarding compliance by the United States and other countries with “arms control, nonproliferation, and disarmament” agreements.³ The

¹ <https://www.reuters.com/article/us-usa-arms-armscontrol-exclusive/exclusive-dispute-flares-among-u-s-officials-over-trump-administration-iran-arms-control-report-idUSKCN1RT2R2>

² *Id.*

³ See 22 U.S.C. §2593a.

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unclassified 2018 Report was 45 pages long. The unclassified 2017 report was 54 pages long. This year, the unclassified Report totals 12 pages,⁴ and contains no meaningful discussion of either the United States or Russia,⁵ which have the world's largest nuclear arsenals. We are unaware of any vast improvement in arms control compliance that would justify a report that is 75%-80% shorter than it has been in recent years. Furthermore, we are perplexed by the Department's decision to bury unclassified content—previously discussed in the unclassified report in earlier years—in the classified annex, apparently to shield it from public view.⁶ The Department's unclassified report does not fulfill in good faith the requirements of 22 U.S.C. § 2593a(a).

Selective Inclusion of Unclassified Information Raises Questions About Politicized Intelligence

Congress has mandated that the Compliance Report be a factual, apolitical document, but this year's unclassified report consists largely of hypotheticals or opinion. Given that this report addresses the gravest of issues—nuclear programs of countries like Russia, North Korea, and Iran—it is critical that it contain strictly factual information based on the best analysis of our intelligence community. Unfortunately, in several crucial places, this is absent. Worse, the failure to report accurately and in detail on these countries is compounded by the fact that the Trump Administration has not submitted reporting about the Iranian nuclear program under Section 135 of the International Atomic Energy Act, as mandated by the Iran Nuclear Agreement Review Act.⁷ Without clear, factual, and up-to-date information about the Iranian nuclear

⁴ The Department has noted that a “longer unclassified version of this report will be submitted following full declassification review of the lengthy classified annex.” See Letter from Assistant Secretary of State for Legislative Affairs Mary Elizabeth Taylor, dated April 15, 2019. PDF attachment to email from Principal Deputy Assistant Secretary of State for Legislative Affairs Charles Faulkner, April 15, 2019, 6:57 PM. There is no legal basis for submitting multiple versions, of varying lengths, of the unclassified report.

⁵ Russia was discussed extensively in recent years' unclassified reports. See, e.g., 2017 Compliance Report, pp. 11-20, 36-40, 44-48; 2018 Compliance Report, pp. 10-18; 31-39.

⁶ The classified Annex contains dozens of paragraphs that have already been portion-marked as “(U),” indicating that their content is fully unclassified; many of those wholly unclassified paragraphs are similar to sections included in prior years' unclassified reports. This further supports our conclusion that the Department has not complied with the statutory mandate. We are also concerned that, in hiding unclassified information from the public in this fashion, the Department has violated Executive Order 13,526, which prohibits using classification to “delay the release of information that does not require protection in the interest of the national security.”

⁷ This reporting requirement is contained in a freestanding statute and is not contingent upon U.S. participation in the JCPOA. Rather, the plain language of the statute shows that the obligation, which came into effect 180 days after the United States entered into the JCPOA, is an ongoing one. Congress has given the Administration ample opportunity to weigh in on these issues, and yet, the Administration is overdue on at least two reports.

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program, the executive branch is denying information to Congress needed to keep the American people safe.

More shockingly, the 2019 Report makes no substantive mention of Russia, whose arms programs the United States itself has said violate international agreements such as the Intermediate-Range Nuclear Forces (INF) Treaty. With Russian missile deployments violative of the INF Treaty dotting NATO's Eastern Flank, these omissions are glaring and represent a failure to report adequately under the statute.

It is not possible for Congress to be properly informed—or for the United States to have a sound foreign policy in a dangerous world—when an Administration submits a mandated report to Congress that selectively ignores facts or injects non-factual information about certain threats to our country.

Request for Briefing and Records

In light of the above, and in addition to the request we plan to make to the Intelligence Community, the Committees hereby request that the Department provide the following **no later than May 23, 2019**:

1. A briefing from the State Department on the process led by the Bureau of Arms Control, Verification, and Compliance for compiling information, drafting, and coordinating the Compliance Report for approval. This briefing should include:
 - a description of the offices and agencies involved, as well as their responsibilities for the Compliance Report process, and the role of political appointees in finalizing the report;
 - information on how the Compliance Report bureaucratic process this year differed from past years, including for the Compliance Report submitted to Congress in 2018;
 - the nature of feedback received from interagency officials regarding the coordination of the Compliance Report this year compared to years past;

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- a description of and explanation for changes in the structure of the report this year from years past;
 - a description of how the Department decided to minimize, in its unclassified Report, the missile proliferation threats of Russia and North Korea, vis a vis other serious missile proliferators, including Iran;
 - a discussion of any changes in compliance determinations in this year's report as compared to prior years, as well as the basis for such determinations.
2. Documents, to be provided **no later than May 23, 2019** sufficient to demonstrate the factual bases for assertions and explanations provided in this briefing.

Thank you for your cooperation in this matter. Please feel free to contact the House Foreign Affairs Committee at 202-225-5021 for further information. We look forward to receiving the requested information.

Sincerely,



ELIOT L. ENGEL
Chairman
House Foreign Affairs Committee



ADAM SMITH
Chairman
House Armed Services Committee



ADAM SCHIFF
Chairman
House Permanent Select Committee on Intelligence