

AMENDMENT TO H.R. 4310
OFFERED BY MR. BROOKS OF ALABAMA

At the appropriate place in title XII, insert the following new sections:

1 **SEC. 12___ . LIMITATION ON FUNDS TO PROVIDE THE RUS-**
2 **SIAN FEDERATION WITH ACCESS TO MISSILE**
3 **DEFENSE TECHNOLOGY.**

4 (a) **LIMITATION ON FUNDS FOR CLASSIFIED TECH-**
5 **NOLOGY AND DATA.—**

6 (1) **IN GENERAL.—**None of the funds made
7 available for fiscal years 2012 or 2013 for the De-
8 partment of Defense may be used to provide the
9 Russian Federation with access to information that
10 is classified or was classified as of January 2, 2012,
11 regarding—

12 (A) missile defense technology of the
13 United States, including hit-to-kill technology;
14 or

15 (B) data, including sensitive technical
16 data, warning, detection, tracking, targeting, te-
17 lemetry, command and control, and battle man-
18 agement data, that support the missile defense
19 capabilities of the United States.

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1 (2) APPLICABILITY.—The limitation in para-
2 graph (1) shall apply with respect to the use of
3 funds on or after the date of the enactment of this
4 Act.

5 (b) LIMITATION ON FUNDS FOR OTHER TECH-
6 NOLOGY AND DATA.—

7 (1) IN GENERAL.—None of the funds made
8 available for fiscal years 2012 or 2013 for the De-
9 partment of Defense may be used to provide the
10 Russian Federation with access to missile defense
11 technology or technical data not described in sub-
12 section (a) unless—

13 (A) the President submits to the appro-
14 priate congressional committees—

15 (i) a report that contains a description
16 of—

17 (I) the specific missile defense
18 technology or technical data to be pro-
19 vided to the Russian Federation, the
20 reasons for providing such technology
21 or data, and how the technology or
22 technical data is intended to be used;

23 (II) the measures necessary to
24 protect the technology or technical
25 data;

1 (III) the specific missile defense
2 technology or technical data of the
3 Russian Federation that the Russian
4 Federation is providing the United
5 States with access to; and

6 (IV) the status and substance of
7 discussions between the United States
8 and the Russian Federation on missile
9 defense matters; and

10 (ii) written certification by the Presi-
11 dent that providing the Russian Federation
12 with access to such missile defense tech-
13 nology or technical data—

14 (I) includes an agreement on pro-
15 hibiting access to such technology or
16 data by any other country or entity;

17 (II) will not enable the develop-
18 ment of countermeasures to any mis-
19 sile defense system of the United
20 States or otherwise undermine the ef-
21 fectiveness of any such missile defense
22 system; and

23 (III) will correspond to equitable
24 access by the United States to missile

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1 defense technology or technical data
2 of the Russian Federation; and

3 (B) a period of 30 days has elapsed fol-
4 lowing the date on which the President submits
5 to the appropriate congressional committees the
6 report and written certification under subpara-
7 graph (A).

8 (2) APPLICABILITY.—The limitation in para-
9 graph (1) shall apply with respect to the use of
10 funds on or after the date of the enactment of this
11 Act.

12 (c) FORM.—The report described in clause (i) of sub-
13 section (b)(1)(A) and the certification described in clause
14 (ii) of such subsection shall be submitted in unclassified
15 form, but may contain a classified annex, if necessary.

16 (d) APPROPRIATE CONGRESSIONAL COMMITTEES
17 DEFINED.—In this section, the term “appropriate con-
18 gressional committees” means—

19 (1) the Committee on Armed Services and the
20 Committee on Foreign Relations of the Senate; and

21 (2) the Committee on Armed Services and the
22 Committee on Foreign Affairs of the House of Rep-
23 resentatives.

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1 **SEC. 12**____. **INTERNATIONAL AGREEMENTS RELATING TO**
2 **MISSILE DEFENSE.**

3 (a) **SENSE OF CONGRESS.**—It is the sense of Con-
4 gress that an agreement regarding missile defense co-
5 operation between the United States and the Russian Fed-
6 eration that is negotiated with the Russian Federation
7 through the North Atlantic Treaty Organization
8 (“NATO”) or a provision to amend the charter of the
9 NATO–Russia Council, should not be considered legally
10 or politically binding unless the agreement is—

11 (1) specifically approved with the advice and
12 consent of the Senate pursuant to article II, section
13 2, clause 2 of the Constitution; or

14 (2) specifically authorized by an Act of Con-
15 gress.

16 (b) **MISSILE DEFENSE AGREEMENTS.**—

17 (1) **IN GENERAL.**—Chapter 3 of title 10, United
18 States Code, is amended by adding at the end the
19 following new section:

20 **“§ 130f. International agreements relating to missile**
21 **defense**

22 **“(a) IN GENERAL.**—In accordance with the under-
23 standing under subsection (b)(1)(B) of the Resolution of
24 Advice and Consent to Ratification of the New START
25 Treaty of the Senate, any agreement with a country or
26 international organization or amendment to the New

1 START Treaty (including an agreement made by the Bi-
2 lateral Consultative Commission established by the New
3 START Treaty) concerning the limitation of the missile
4 defense capabilities of the United States shall not be bind-
5 ing on the United States, and shall not enter into force
6 with respect to the United States, unless after the date
7 of the enactment of this section, such agreement or
8 amendment is—

9 “(1) specifically approved with the advice and
10 consent of the Senate pursuant to article II, section
11 2, clause 2 of the Constitution; or

12 “(2) specifically authorized by an Act of Con-
13 gress.

14 “(b) ANNUAL NOTIFICATION.—Not later than Janu-
15 ary 31 of each year, beginning in 2013, the President shall
16 submit to the congressional defense committees and the
17 Committee on Foreign Relations of the Senate and the
18 Committee on Foreign Affairs of the House of Representa-
19 tives a notification of—

20 “(1) whether the Russian Federation has recog-
21 nized during the previous year the sovereign right of
22 the United States to pursue quantitative and quali-
23 tative improvements in missile defense capabilities;
24 and

1 “(2) whether during any treaty negotiations or
2 other Government-to-Government contacts between
3 the United States and the Russian Federation (in-
4 cluding under the auspices of the Bilateral Consult-
5 ative Commission established by the New START
6 Treaty) during the previous year a representative of
7 the Russian Federation suggested that a treaty or
8 other international agreement include, with respect
9 to the United States—

10 “(A) restricting missile defense capabili-
11 ties, military capabilities in space, or conven-
12 tional prompt global strike capabilities; or

13 “(B) reducing the number of non-strategic
14 nuclear weapons deployed in Europe.

15 “(c) NEW START TREATY DEFINED.—In this sec-
16 tion, the term ‘New START Treaty’ means the Treaty be-
17 tween the United States of America and the Russian Fed-
18 eration on Measures for the Further Reduction and Limi-
19 tation of Strategic Offensive Arms, signed on April 8,
20 2010, and entered into force on February 5, 2011.”.

21 “(2) CLERICAL AMENDMENT.—The table of sec-
22 tions at the beginning of such chapter is amended
23 by inserting after the item relating to section 130e
24 the following new item:

“130f. International agreements relating to missile defense.”.

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1 (c) DEFENSE TECHNOLOGY COOPERATION AGREE-
2 MENTS.—

3 (1) IN GENERAL.—Subchapter II of chapter
4 138 of title 10, United States Code, is amended by
5 adding at the end the following new section:

6 **“§ 2350n. Defense technology cooperation agreements**
7 **between the United States and the Rus-**
8 **sian Federation**

9 “(a) IN GENERAL.—None of the funds made avail-
10 able for fiscal year 2012 or any fiscal year thereafter for
11 the Department of Defense may be used to implement a
12 defense technology cooperation agreement entered into be-
13 tween the United States and the Russian Federation until
14 a period of 60 days has elapsed following the date on
15 which the President transmits such agreement to the con-
16 gressional defense committees.

17 “(b) DEFENSE TECHNOLOGY COOPERATION AGREE-
18 MENT DEFINED.—In this section, the term ‘defense tech-
19 nology cooperation agreement’ means a cooperative agree-
20 ment related to research and development entered into
21 under section 2358 of this title or any other provision of
22 this title.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
24 tions at the beginning of such subchapter is amend-

1 ed by inserting after the item relating to section
2 2350m the following new item:

“2350n. Defense technology cooperation agreement between the United States
and the Russian Federation.”.

3 (d) LIMITATION ON MISSILE DEFENSE NEGOTIA-
4 TION.—

5 (1) IN GENERAL.—None of the funds made
6 available for fiscal years 2012 or 2013 for the De-
7 partment of Defense ~~or the Department of State~~
8 may be used to implement an agreement regarding
9 missile defense entered into with the Russian Fed-
10 eration until the date that is 30 days after the date
11 on which the President transmits to the appropriate
12 congressional committees the draft agreement dis-
13 cussed between the United States and the Russian
14 Federation at Deauville, France, in May 2011.

15 (2) APPLICABILITY.—The limitation in para-
16 graph (1) shall apply with respect to the use of
17 funds on or after the date of the enactment of this
18 Act.

19 (3) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES DEFINED.—In this subsection, the term “ap-
21 propriate congressional committees” means—

22 (A) the Committee on Armed Services and
23 the Committee on Foreign Relations of the Sen-
24 ate; and

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1 (B) the Committee on Armed Services and
2 the Committee on Foreign Affairs of the House
3 of Representatives.

