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START I TREATY INSPECTIONS AND MONITORING PROTOCOL CONTINUATION ACT OF 2009

NOVEMBER 20, 2009.—Ordered to be printed

Mr. KERRY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. 2727]

The Committee on Foreign Relations, having had under consideration the bill S. 2727 to provide for continued application of arrangements under the Protocol on Inspections and Continuous Monitoring Activities Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms in the period following the Protocol's termination on December 5, 2009, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE

The purpose of the START I Treaty Inspections and Monitoring Protocol Continuation Act of 2009 is to authorize the President to accord to eligible officials of the Russian Federation the privileges and immunities provided for in Article II, paragraph 7, of the Protocol on Inspections and Continuous Monitoring Activities Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow July 31, 1991, in the period following the treaty's termination on December 5, 2009, in

order to facilitate the continued application in the United States of the arrangements provided for in the protocol.

II. COMMITTEE ACTION

Senator Lugar introduced S. 2727 on November 4, 2009. By voice vote on November 17, 2009, the committee ordered that S. 2727 be reported favorably.

III. DISCUSSION

The Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (START, or START I), signed at Moscow on July 31, 1991, will expire on December 5, 2009. U.S. and Russian negotiators have been working to finalize a successor agreement to START, with the intention of completing negotiations by December 5. It is unlikely, however, that a new treaty would be transmitted to the Senate, receive Senate approval, and enter into force until well into 2010.[1] Accordingly, the period between the December 5, 2009, termination date for START and the date of entry into force of a new treaty could represent a significant break in the long-established verification and confidence-building procedures under START.

The United States has been negotiating a "bridging arrangement" with the Russian Federation for the interim period between START's expiration and the time a new treaty can be brought into force. S. 2727 is not intended to conflict with any such bridging arrangement; rather, it merely provides a specific authority to the President to confer privileges and immunities in those cases in which he concludes that they are needed.

START created a system of data exchanges and more than 80 types of notifications covering movement, changes in status, conversion, elimination, testing and technical characteristics of new and existing strategic offensive arms. These data are confirmed through inspections under START's Protocol on Inspections and Continuous Monitoring Activities, which allows for 12 different types of inspection to be carried out under START. The United States has carried out more than 600 inspections in Russia, Kazakhstan, Belarus and Ukraine since START entered into force. Four hundred similar inspections have been carried out in the United States under the treaty by Russian inspection teams.

Article II, paragraph 7, of the protocol specifies some eight privileges and immunities that shall be enjoyed by inspectors under the treaty (relating to persons, premises, aircraft and crew, correspondence, immunity from duties, and similar matters). To ensure that those inspections occurring in the United States that had been covered by the protocol's grant of privileges and immunities could continue after termination of START and before a new treaty enters into force, section 2 of S. 2727 would authorize the President to grant the privileges and immunities specified in the protocol to Russian officials conducting inspections in the United States in a manner consistent with the provisions of the protocol. Section 3 of S. 2727 specifies that an official of the Russian Federation would

[1] For comparison, although START was signed on July 31, 1991, the President did not submit the treaty to the Senate until November of that year.

be eligible for privileges and immunities only if the United States has invited the inspector to perform within U.S. territory an inspection or monitoring activity consistent with the protocol. The privileges and immunities would be granted only to allow for the exercise of official functions in relation to inspection and monitoring and would not be for the personal benefit of the recipient Russian official. There is no requirement under this bill that the President exercise this authority.

Pursuant to sections 3 and 4 of the bill, the interim authority that S. 2727 provides would be available only between December 5, 2009 and either June 5, 2010, or the date of the entry into force of a successor agreement to START, whichever occurs earlier.

IV. COST ESTIMATE

In accordance with rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee notes that this estimate of the costs of this legislation prepared by the Congressional Budget Office was not available at the time this report was filed.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee notes that no changes to existing law are made by this bill.

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