

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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August 5, 2019

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

Dear Mr. Secretary:

Nearly one year ago, the Department of State determined that the use of a chemical nerve agent by the Russian Federation against a political opponent was in violation of the Chemical and Biological Weapons Control and Warfare Elimination (CBW) Act of 1991. Although the Trump Administration imposed a first round of sanctions on Russia in August 2018, and finally announced that it would impose a second round as required by the CBW Act on August 1, 2019, we write today to request information about why the Trump Administration failed for the better part of a year to fully impose sanctions on Russia as required by that Act.

As you know, on March 4, 2018, British citizen and former Russian military intelligence officer Sergei Skripal, his daughter, and a police officer were exposed to the nerve agent Novichok. During an interview on March 12, 2018, your predecessor, Secretary of State Rex Tillerson, called the attack a “really egregious act,” that was “almost beyond comprehension.” Secretary Tillerson further noted the specific chemical agent used in the attack “clearly came from Russia.”¹ President Trump notably fired Secretary Tillerson the following day.²

The CBW Act requires the executive branch to impose certain sanctions when it determines that a foreign government “has made substantial preparation to use or has used chemical or biological weapons.”³ In response to the poisoning of Mr. Skripal and his daughter, on March 15, 2018, former Foreign Affairs Committee Chairman Ed Royce sent a formal request to the White House urging the President to determine whether the attack on Mr. Skripal and his daughter violated the CBW Act, and whether Moscow should consequently be subject to

¹ *Poisoning of Russian Ex-Spy Is ‘Almost Beyond Comprehension,’ Tillerson Says*, New York Times (Mar. 12, 2018) (online at www.nytimes.com/2018/03/12/world/africa/tillerson-chad-nigeria.html?module=inline).

² *Tillerson Fired by Trump Hours After Blaming Russia for Chemical Attack in U.K.*, The Intercept (Mar. 13, 2018) (online at <https://theintercept.com/2018/03/13/tillerson-fired-trump-hours-blaming-russia-chemical-attack-uk/>).

³ Pub. L. No. 102-182 (1991).

sanctions.⁴ On March 23, 2019, Senator Bob Menendez and five other Democratic Senators made a similar request.⁵

On July 26, 2018, Chairman Royce again urged the President to comply with the CBW Act, noting the administration had already missed a statutorily-required deadline to report whether the Russian Government was responsible for the attack. Chairman Royce emphasized that enforcement of the CBW Act is “critical to deterring additional attacks.”⁶

On August 6, 2018, the Secretary of State determined that the Russian attack met the standard under the CBW Act, and on August 27, 2018, the United States imposed the first round of sanctions on Russia under the CBW Act.⁷ One month later, U.K. prosecutors filed criminal charges against two Russian intelligence officers, identified as Alexander Petrov and Ruslan Boshirov, for the attempted murder of the Skripals.⁸

In addition to an initial round of sanctions for the use of chemical or biological weapons, the CBW Act requires the President to impose further punitive measures, unless he certifies within three months that the offending government is no longer using chemical or biological weapons, has provided reliable assurances it will refrain from using them in the future, and will allow on-site inspections by internationally recognized, impartial observers to ensure it is not using chemical or biological weapons.⁹

If the President cannot make such a determination, the executive branch is required, pursuant to 22 U.S.C. § 5605, to impose at least three of the following measures:

1. Prohibiting the extension of any “loan or financial or technical assistance to that country by international financial institutions”;
2. Prohibiting any U.S. bank from making “any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products”;

⁴ Letter from Chairman Edward R. Royce, Committee on Foreign Affairs, to President Donald J. Trump (Mar. 15, 2018) (online at <https://republicans-foreignaffairs.house.gov/press-release/chairman-royce-urges-president-sanction-russia-chemical-attack/>).

⁵ Letter from Sen. Robert Menendez et al., to President Donald J. Trump (Mar. 23, 2018) (online at www.menendez.senate.gov/news-and-events/press/menendez-colleagues-formally-request-president-trump-provide-congress-a-report-on-salisbury-nerve-agent-attack)

⁶ Letter from Chairman Edward R. Royce, Committee on Foreign Affairs, to President Donald J. Trump (July 26, 2018) (online at <https://republicans-foreignaffairs.house.gov/press-release/royce-formally-requests-administration-comply-with-chemical-and-biological-weapons-and-warfare-elimination-act/>).

⁷ Department of State, *Imposition of Chemical and Biological Weapons Control and Warfare Elimination Act Sanctions on Russia* (Aug. 8, 2018) (online at www.state.gov/imposition-of-chemical-and-biological-weapons-control-and-warfare-elimination-act-sanctions-on-russia/).

⁸ *U.K. Charges 2 Men in Novichok Poisoning, Saying They're Russian Agents*, New York Times (Sept. 5, 2018) (online at www.nytimes.com/2018/09/05/world/europe/russia-uk-novichok-skripal.html?module=inline).

⁹ Pub. L. No. 102-182 (1991).

3. Prohibiting exports to that country of “all other goods and technology (excluding food and other agricultural commodities and products)”;
4. Restricting on the importation into the U.S. of “articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country”;
5. Downgrading or suspending diplomatic relations with the country; and
6. Suspending foreign air carriers owned or controlled by the offending government from flying to or from the United States.¹⁰

On November 6, 2018, the Department of State informed Congress the Administration could not make this certification, and since Russia has obviously taken none of these necessary steps, the Administration was required by law to enact the second round of sanctions.¹¹

However, those sanctions went un-imposed for months, despite repeated assurances from the Department of State that the Administration planned to hold Russia fully accountable. For example, on September 13, 2018, Assistant Secretary of State for Economic and Business Affairs, Manisha Singh testified to the Foreign Affairs Committee that “we plan to impose a very severe second round of sanctions under the CBW [Act]” which would include “banking sanctions, prohibition on procurement of defense articles, aid money—it’s a laundry list of items that will penalize the Russian government.”¹² On November 6, 2018, when announcing that the Administration could not make the certification necessary to avoid sanctions then-Department spokesperson Heather Nauert said, “We intend to proceed in accordance with the terms of the CBW Act, which directs the implementation of additional sanctions.”¹³ That same day, then-Chairman Royce issued a public statement saying:

It is unacceptable that the administration lacks a plan – or even a timeline – for action on the second round of mandatory sanctions required by U.S. law. ... The Trump Administration needs to act quickly to uphold its own determination. Hesitation only encourages more Russian aggression.¹⁴

¹⁰ 22 U.S.C. § 5605.

¹¹ *U.S. Says to Issue Chemical Weapons-Related Sanctions Against Russia*, Reuters (Nov. 6, 2018) (online at www.reuters.com/article/us-usa-russia-sanctions/u-s-says-to-issue-chemical-weapons-related-sanctions-against-russia-idUSKCN1NB2M7).

¹² Committee on Foreign Affairs, Testimony of Assistant Secretary of State Manisha Singh, *Hearings on Oversight of U.S. Sanctions Policy*, 115th Cong. (Sept. 13, 2018).

¹³ *U.S. Intends More Sanctions on Russia Over Chemical Weapons: Spokeswoman*, Reuters (Nov. 6, 2018) (online at www.reuters.com/article/us-usa-russia-sanctions-law/u-s-intends-more-sanctions-on-russia-over-chemical-weapons-spokeswoman-idUSKCN1NB2O8).

¹⁴ House Committee on Foreign Affairs, *Royce Statement on Russia Sanctions Deadline* (Nov. 6, 2018) (online at <https://republicans-foreignaffairs.house.gov/press-release/royce-statement-on-russia-sanctions-deadline/>).

Three days later, Senator Menendez issued a statement calling for the second round to be imposed “swiftly,” but they were not, and he again wrote to you on January 24, 2019, calling for the second round of sanctions to be imposed as required by law.¹⁵

In March and July 2019, press reports indicated that the Department of State and the Department of the Treasury had vetted a proposed list of sanctions and presented them to the White House, but “senior folks in the administration haven’t made the decision or given the green light to roll them out,” according to a former government official.¹⁶

On July 29, 2019, Foreign Affairs Committee Chairman Eliot Engel and Ranking Member Michael McCaul sent a letter to President Trump urging the Administration to impose the second round of sanctions as required by the CBW Act, noting, “Failure by the Administration to respond to Russia’s unabashed aggression is unacceptable and would necessitate that Congress take corrective action.”¹⁷

On August 1, 2019, President Trump finally issued an executive order announcing he would impose additional sanctions on Russia as required by the CBW Act.¹⁸ However, the Trump Administration’s failure to impose these sanctions in a timely manner, despite your Department’s stated intent to do so and the repeated urging of both Republican and Democratic members of Congress, raises serious questions about President Trump’s commitment to holding Russia accountable for its use of chemical weapons. These delays only serve to embolden those responsible, invite future attacks, and weaken the credibility of the United States.

We therefore request that you produce answers to the following questions and provide the requested information by August 23, 2019:

1. Following the Secretary of State’s August 6, 2018, determination that the Russian attack met the standard under the CBW Act, who authorized the first round of sanctions against Russia that went into effect on August 27, 2018?

¹⁵ Senator Robert Menendez, United States Senate, *Menendez Calls on Pres. Trump to Impose Mandatory Sanctions on Russia for Chemical Weapons Use* (Nov. 9, 2018) (online at www.menendez.senate.gov/news-and-events/press/menendez-calls-on-pres-trump-to-impose-mandatory-sanctions-on-russia-for-chemical-weapons-use-); Letter from Senator Robert Menendez, United States Senate, to Secretary of State Mike Pompeo, Department of State (Jan. 24, 2019) (online at www.menendez.senate.gov/news-and-events/press/menendez-blasts-trump-admins-refusal-to-sanction-russia-for-chemical-weapon-attack).

¹⁶ *U.S. Ready to Impose Russia Sanctions for U.K. Poison Attack, Sources Say*, Bloomberg (Mar. 29, 2019) (online at www.bloomberg.com/news/articles/2019-03-29/u-s-said-to-have-prepared-new-russia-sanctions-for-u-k-attack); *Mystery Surrounds Elusive Sanctions on Russia*, The Hill (Jul. 18, 2019) (online at <https://thehill.com/policy/national-security/453624-mystery-surrounds-elusive-sanctions-on-russia>).

¹⁷ Letter from Eliot E. Engel, Chairman, and Michael T. McCaul, Ranking Member, Committee on Foreign Affairs, to President Donald J. Trump (Jul. 25, 2019) (online at https://foreignaffairs.house.gov/_cache/files/4/4/4429d7fc-0378-4841-8465-f155d2570fdc/29DDD1C202F4B8A9CC0E29D46C442A0B.ele-mccaul-letter-to-president-trump-on-cbw-act.pdf).

¹⁸ The White House, *Executive Order on the Administration of Proliferation Sanctions and Amendment of Executive Order 12851* (Aug. 1, 2019) (online at www.whitehouse.gov/presidential-actions/executive-order-administration-proliferation-sanctions-amendment-executive-order-12851/).

2. Who made the determination, relayed to Congress on November 6, 2018, that the Administration could not make the certification regarding Russia necessary to avoid a second round of sanctions?
3. Please provide a copy of the measures that the Department of State recommended to the White House to impose as the second round of sanctions on Russia as legally required by the CBW Act.
4. Did the State Department recommend any waivers to the sanctions provided to the White House? If so, please provide a justification for why those waivers are essential to the national security interests of the United States.
5. Please provide a complete list of State Department and White House officials who approved the imposition of the second round of sanctions against Russia, as required by the CBW Act, and the date when each official provided this approval.
6. Please provide an explanation for why the imposition of the second round of sanctions was delayed until August 1, 2019.
7. Please provide any and all transcripts, records, or notes related to the President's July 31, 2019, call with Russian President Vladimir Putin.
8. Please provide all communications between the Department of State and the White House related to implementation of the CBW Act with regards to Russia.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact staff on the Subcommittee on National Security at (202) 225-5051.

Sincerely,



Stephen F. Lynch
Chairman
Subcommittee on National Security

Enclosure

cc: The Honorable Jody B. Hice, Ranking Member