AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

115TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
115–978

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT, AND DIRECTING THE SECRETARY OF STATE, TO TRANSMIT TO THE HOUSE OF REPRESENTATIVES COPIES OF ALL DOCUMENTS, RECORDS, COMMUNICATIONS, TRANSCRIPTS, SUMMARIES, NOTES, MEMORANDA, AND READ-AHEADS IN THEIR POSSESSION REFERRING OR RELATING TO CERTAIN COMMUNICATIONS BETWEEN PRESIDENT DONALD TRUMP AND PRESIDENT VLADIMIR PUTIN

SEPTEMBER 25, 2018.—Referred to the House Calendar and ordered to be printed

---

Mr. ROYCE of California, from the Committee on Foreign Affairs, submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 1017]

The Committee on Foreign Affairs, to whom was referred the resolution (H. Res. 1017) requesting the President, and directing the Secretary of State, to transmit to the House of Representatives copies of all documents, records, communications, transcripts, summaries, notes, memoranda, and read-aheads in their possession referring or relating to certain communications between President Donald Trump and President Vladimir Putin, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

TABLE OF CONTENTS

	Page
Summary	2
Background	2
Committee Consideration and Vote	4
Committee Oversight Findings	5
New Budget Authority, Tax Expenditures, and Federal Mandates	5
Directed Rule Making	5
Non-Duplication of Federal Programs	5
Performance Goals and Objectives	5
Congressional Accountability Act	5
New Advisory Committees	5
Earmark Identification	6
Section-by-Section Analysis	6
Dissenting Views	7

79–008

SUMMARY

House Resolution 1017 requests the President, and directs the Secretary of State, to provide the House of Representatives with copies of every document, record, communication, transcript, summary, note, memorandum, and read-ahead in the possession of the President or the Secretary of State that refer or relate to matters proposed, discussed, agreed to or otherwise covered during, in connection with, or in preparation for communications between President Donald Trump and Russian President Vladimir Putin in Helsinki, Finland, on July 15 or July 16, 2018.

BACKGROUND

According to House rules and precedents, House Resolution 1017 qualifies for consideration as a resolution of inquiry, one of the methods sometimes used by the House to obtain information held by the executive branch. Although the resolution does not have any cosponsors (far short of the 25 Members, including 10 committee members, typically required under committee rules), clause 7 of rule XIII of the Rules of the House directs the committee to act on resolutions of inquiry within 14 legislative days. Otherwise, a privileged motion to discharge the committee is in order on the House floor. The privilege under House rules is the only reason the committee considered this measure, which the chairman opposed and the committee reported adversely.

During the past several years, the Committee on Foreign Affairs has conducted hard-hitting, bipartisan oversight of U.S. policy toward Russia, resulting in significant legislation, some of which is detailed below. Unfortunately, House Resolution 1017 does not fall into that category.

This partisan resolution clearly intrudes into judicially recognized areas of executive privilege, and, if pursued, would likely require years of contested—and ultimately fruitless—litigation. Even if it were somehow to prevail, the resolution would set a dangerous and harmful precedent with respect to presidential communications. It demands from the President every document, communication, transcript, summary, note, or memo that relates to matters proposed, discussed, agreed to, or otherwise covered during, in connection with, or in preparation for his meeting with Russian President Vladimir Putin in Helsinki, Finland back in July of this year.

Opposing this resolution has nothing to do with supporting the President's statements at the Helsinki summit. Both at the time and subsequently, Chairman Royce has publicly stated his strong disagreement with the President's remarks at the July 16, 2018 press conference, and has noted that Vladimir Putin is not our friend, and that there is simply no comparing the actions of the United States with those of Putin's Russia. Ultimately, the Helsinki summit was a squandered opportunity to challenge Vladimir Putin's false narratives on issues including Ukraine, Syria, and Russia's ongoing interference in our democracy.

While House Resolution 1017 may appeal to some for partisan political reasons, it ultimately is not a wise approach to oversight, and would threaten and distract from the bipartisan legislative and investigative efforts of the committee.

The resolution's extraordinarily broad demand for documents conflicts with the strongest form of executive privilege recognized by the courts, the so-called "presidential communications privilege." Rooted in the constitutional separation of powers, presidential communications privilege applies to direct decision-making by the President and also protects communications made, solicited, or received by his close advisors while preparing advice for him. Among other things, it helps to ensure that the President receives the candid and unfiltered advice necessary to fulfill the constitutional responsibilities of the office. While not absolute, these privileges are at their strongest when they deal with the President's core constitutional powers, such as his authority to conduct diplomatic discussions with foreign leaders. Once asserted, the presidential communications privilege presumptively applies, and the legal burden is on the party seeking to overcome the privilege.

Concern for protecting these constitutional prerogatives is not new. In fact, it stretches back to the beginning of our Republic, and was the view expressed by President George Washington when he was presented with the first resolution of inquiry from the House of Representatives, 218 years ago:

> "The nature of foreign negotiations requires caution, and their success must often depend on secrecy; . . . [A] full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated . . . might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers . . . . To admit, then, a right in the House of Representatives to demand and to have as a matter of course all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent." [George Washington, *Message to the House Regarding Documents Relative to the Jay Treaty* (March 30, 1796).]

Even in today's world of mass media and instant communications, presidents still have and need the authority to meet, speak, and negotiate privately with foreign leaders.

Consider the historic 1978 Camp David Accords, a diplomatic triumph that strengthened our national security. That agreement was preceded by two weeks of confidential negotiations among the American, Israeli and Egyptian heads of state, sequestered in the woods of Maryland. During that time, some were genuinely concerned that President Carter might undermine the security of our ally Israel. Yet Congress was not privy to every utterance.

By constitutional design, Members of Congress are not in the room for all such discussions. The House majority did not demand transcripts of every conversation President Obama had with the Russians when, in March 2012, an open microphone caught him asking President Medvedev for some "space" on missile defense issues, explaining that he would have "more flexibility" after his November 2012 reelection.

House Resolution 1017 has implications far beyond our current President or our last President. It concerns the ability of all presidents to engage with foreign leaders.

Unfortunately, this resolution goes against the grain of this committee's important, bipartisan work to confront Russia's dangerous acts, which has included:

- Powerful sanctions on Russian hackers and intelligence agencies, passed as part of the Countering America's Adversaries Through Sanctions Act (Public Law 115–44), which the administration needs to better utilize;
- Additional sanctions to punish Russia for propping up the murderous Assad regime in Syria (H.R. 1677), which the Senate needs to pass and send on to the President's desk;
- Successfully pushing for the imposition of new mandatory Russia sanctions under the Chemical and Biological Weapons and Warfare Elimination Act (22 U.S.C. 5604(b)), following Russia's use of a military-grade chemical weapon to poison British citizen Sergei Skripal and his daughter on British soil;
- Creating a strong, reformed export controls process that will better protect U.S. advances in emerging technology like robotics and artificial intelligence (Subtitle B of Title XVII of Public Law 115–232);
- Legislatively authorizing the President to provide defensive military systems to Ukraine, and to strengthen its cyber defenses against Russian attacks;
- Reforming the Broadcasting Board of Governors to help revitalize U.S. efforts to counter Russian propaganda and disinformation;
- Enacting the Global Magnitsky Human Rights Accountability Act (Sec. 1261 *et seq.* of Public Law 114–328)– named after a Russian businessman who was murdered by corrupt Russian authorities—to hold regimes accountable for human rights abuses; and
- Passing the Cyber Deterrence and Response Act (H.R. 5576), to name, shame and sanction foreign actors who carry out cyber attacks against the United States.

These activities—rather than constitutionally questionable, partisan maneuvers with little chance of success—are the types of activities that should continue to occupy the Committee on Foreign Affairs. For these reasons, the committee voted to express its opposition to House Resolution 1017.

COMMITTEE CONSIDERATION AND VOTE

On September 13, 2018, the committee marked up House Resolution 1017 pursuant to notice, in open session. The committee agreed to a motion to report the resolution adversely to the House by a record vote of 23 ayes to 18 noes.

On the vote to report H. Res. 1017 to the House adversely:

Voting aye: Royce, Smith (NJ), Ros-Lehtinen, Rohrabacher, Chabot, Wilson (SC), McCaul, Marino, Brooks, Cook, Perry, Meadows, Yoho, Kinzinger, Zeldin, Donovan, Sensenbrenner, Wagner, Mast, Rooney, Fitzpatrick, Garrett, and Curtis.

Voting no: Engel, Sherman, Sires, Connolly, Deutch, Keating, Cicilline, Bera, Frankel, Castro, Kelly (IL), Boyle, Titus, Torres, Schneider, Suozzi, Espaillat, and Lieu.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of Rules of the House of Representatives, the committee reports that findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of House Rule X, are incorporated in the descriptive portions of this report, particularly in the "Background" section.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

Clause 3(c)(2) of House Rule XIII and the Unfunded Mandates Reform Act (Public Law 104-4) are inapplicable because House Resolution 1017 does not provide new budget authority or increased tax expenditures.

DIRECTED RULE MAKING

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(i) of H. Res. 5 during the 115th Congress, the committee notes that House Resolution 1017 contains no directed rule-making provisions.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House Rule XIII, the committee states that no provision of this resolution establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

PERFORMANCE GOALS AND OBJECTIVES

The rule requiring a statement of performance goals and objectives is inapplicable to this resolution.

CONGRESSIONAL ACCOUNTABILITY ACT

House Resolution 1017 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

House Resolution 1017 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

House Resolution 1017 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House Rule XXI.

SECTION-BY-SECTION ANALYSIS

The resolution is comprised of a single clause identifying the materials being requested from the President and the Secretary of State.

DISSENTING VIEWS

H. Res. 1017 is a resolution of inquiry introduced by Congressman Brendan Boyle on July 24, 2018 to further the oversight duties of the House Committee on Foreign Affairs related to President Trump's dealings with President Vladimir Putin of the Russian Federation.

Congress has a constitutional responsibility to conduct oversight of the executive branch. To fulfill this duty, Congress regularly requests and directs the executive branch to provide relevant congressional committees with documents and information related to the President's conduct of international relations. This has been true since our country was founded.

Rule X of the House of Representatives charges the Committee on Foreign Affairs with oversight of United States relations with foreign nations. To fulfill this responsibility, our committee must obtain documents and other information related to the President's meetings with foreign leaders. Unfortunately, despite repeated requests, our committee still has not conducted basic oversight of President Trump's interactions with President Putin. We have not received briefings or relevant documents from the executive branch. H. Res. 1017 would help rectify this gap.

In accordance with the standard procedures for resolutions of inquiry, H. Res.1017 would request that the President, and direct that the Secretary of State, transmit to the House of Representatives copies of documents in their possession that refer or relate to matters covered during, in connection with, or in preparation for communications between President Donald Trump and President Vladimir Putin in Helsinki, Finland on July 15 or July 16, 2018.

President Trump's visit with President Putin consisted of two parts—a private meeting with President Putin, attended by only one Russian and one American interpreter, and a joint press conference following the meeting. The visit took place just days after the 2018 North Atlantic Treaty Organization (NATO) Summit and a trip to the United Kingdom, where President Trump repeatedly undermined and insulted our closest allies and the NATO alliance.

Building on these counterproductive actions, the President used the press conference to undermine America's intelligence community. The January 2017 Intelligence Community Assessment, "Assessing Russian Activities and Intentions in Recent U.S. Elections," released by the Office of the Director of National Intelligence, concluded that Russia interfered in the 2016 presidential election to undermine public faith in the U.S. democratic process and help the Trump campaign. Despite this conclusion, President Trump stood side-by-side with President Putin to publicly accept the Russian president's denials.

In addition to these disturbing actions, President Trump did not allow any aides to attend his meeting with President Putin. Al-

though some have sought to characterize this decision as routine, it was highly unusual. Under normal circumstances, an American president would include aides in a meeting with a foreign head of state. These aides would be responsible for providing additional information to the President, answering questions, and taking notes to ensure the United States Government could maintain an accurate account of the topics discussed and any decisions or commitments made.

Due to President Trump's choice to conduct this meeting in secret, no one in the United States Government, aside from President Trump and one interpreter, truly know what was discussed. Disturbingly, the Russian Government appears to have a better understanding of what transpired in the meeting than members of our own government. Senior American officials, including the Secretaries of State and Defense, as well as the Director of National Intelligence, were left in the dark as to what occurred.

None of these senior officials can reliably testify to Congress on the Trump-Putin meeting because none of them were present. Thus, to conduct oversight, Congress must rely on written records that the Administration produced prior to and after the meeting. Unfortunately, President Trump, in his continued quest for secrecy, has not shared relevant documents with Congress. This lack of transparency would be troubling under any circumstances, but it is especially concerning in the face of numerous unresolved questions about Russia's role in the 2016 presidential election and President Trump's Russian business ties.

Although the President could attempt to argue that some documents described in this resolution are subject to executive privilege, this does not provide a good justification for refusing to pass the resolution. Assertions of executive privilege are not absolute. If the President did assert privilege, Congress could overcome the assertion by showing a sufficient need for the information. Additionally, the President could choose not to assert privilege. In just one example, President Reagan chose not to assert privilege for numerous documents, including excerpts from his personal diaries, during congressional oversight of the Iran-Contra affair. Ultimately, executive privilege belongs to the executive. Congress does not need to assert it for him in this case.

Similarly, documents could be provided to Congress in classified form, thus protecting sensitive national security information that may have been discussed in relation to the Trump-Putin meeting. Congress receives classified information from the executive branch on a daily basis as part of our normal course of business. Yet the majority on the committee has not been willing to explore this option with respect to this resolution.

By choosing to report the resolution adversely, our colleagues in the majority are keeping Congress and the American people in the dark. In light of President Trump's disturbing pattern of highly unusual comments and actions on Russia and NATO, there is no justification for voting against oversight.

We are disappointed that the Majority refused to support this effort, choosing to provide cover to the President rather than fulfilling their obligations under the Constitution and the Rules of the House of Representatives. Nevertheless, we remain committed to

putting our country's national security first and using all of the tools at our disposal to carefully scrutinize President Trump's efforts to hide his dealings with President Putin.

BRENDAN F. BOYLE.
ELIOT L. ENGEL.

○