

THE MISSILE DEFENSE ACT OF 1995: THE SENATE'S HISTORIC OPPORTUNITY

Americans concerned about the growing threat of ballistic missiles can take comfort in the National Defense Authorization Bill for Fiscal Year 1996, S. 1026, recently reported from the Senate Armed Services Committee. Soon the full Senate will begin consideration of S. 1026, which contains a new Missile Defense Act. If enacted, it could infuse new life into the nation's ballistic missile defense (BMD) program, crippled by the neglect—and in some cases the outright opposition—of the Clinton Administration. But supporters of missile defense in the Senate should not be complacent. They should expect floor amendments from BMD's traditional opponents attacking key provisions of the BMD section.

THE "NEW, IMPROVED" MISSILE DEFENSE ACT

S. 1026 replaces the Missile Defense Act of 1991 with a new Missile Defense Act designed to put the nation on a clear course toward deployment of Theater Missile Defenses (TMD) against shorter-range regional missile threats and a National Missile Defense (NMD) of the U.S. homeland against long-range strategic ballistic missiles. It also includes a Cruise Missile Defense initiative for the first time. And it addresses, though does not completely resolve, the problem of the 1972 ABM Treaty, which limits defense of the homeland against strategic ballistic missiles (but does not limit theater defenses).

The most positive and significant elements of the new Missile Defense Act are:

- ✓ **Section 234**, which accelerates Theater Missile Defense and focuses the TMD program on four "core" systems.
- ✓ **Section 235**, which calls for deployment of a ground-based National Missile Defense with multiple sites, to be operational by the year 2003.
- ✓ **Section 237**, calling for a transition from the ABM Treaty regime to a strategic doctrine that is not based on Mutual Assured Destruction, or "MAD." It would establish a Senate Select Committee to conduct a one-year review of the Treaty's validity in today's new strategic environment, and recommend a course of action for gaining relief from the Treaty's limitations. Relief from the Treaty will be necessary before a multiple-site National Missile Defense can become operational.
- ✓ **Section 238**, which establishes an ABM Treaty "demarcation" or technical performance threshold that determines whether a BMD system is a theater defense system not limited by the Treaty or a Treaty-limited defense against "strategic ballistic missiles." If the BMD system in question is flight-tested against a target missile with a range less than 3,500 kilometers and a velocity of less than 5 kilometers per second, then it is a theater defense system and is not covered by the Treaty. If the system is flight-tested against a target missile with a range and velocity above this threshold, then the system is a strategic defense and is covered by the Treaty.

LIKELY ATTACKS ON BMD IN THE SENATE

The Heritage Foundation has proposed an even more robust BMD program to meet the most critical threat to the U.S. homeland, to U.S. forces abroad, and to America's allies—the threat of ballistic missiles.¹ While the Senate bill does not go as far as the Heritage Foundation “Team B” proposal, it still represents considerable progress toward an effective defense. For that very reason, there may be an attack by opponents of the Missile Defense Act. This would come in the form of floor amendments by Senators traditionally opposed to missile defense.

Possible Amendment #1: Striking or reducing recommended funding levels. The Senate bill adds \$490.5 million to the Administration's budget request for the Pentagon's Ballistic Missile Defense Organization, for a total of \$3.4 billion. This includes \$45.0 million for the Navy Lower Tier system, \$170.0 million for Navy Upper Tier, and \$300.0 million for National Missile Defense.

Recommended Response: Even with these additions, a \$3.4 billion BMD program represents less than 1.5 percent of the defense budget—to meet the most serious threat to U.S. security. The U.S. has conducted BMD research for over ten years, and proven technology is now available. The time has come to build and field BMD systems to protect Americans. That requires adequate funds.

Possible Amendment #2: Watering down the demarcation standard between permissible TMD and Treaty-limited strategic defenses (Section 238).

Recommended Response: Despite the vigorous opposition of both houses of Congress, the Administration has persisted in misguided efforts to expand the ABM Treaty to include limits on modern theater defense systems, which are more capable than the systems that existed when the Treaty entered into force in 1972. Unless the Senate wants the ABM Treaty to become an ABM-TMD Treaty and cripple the performance of the most promising theater systems, this provision is necessary.

Possible Amendment #3: Eliminating the Select Committee to review the ABM Treaty (Section 237).

Recommended Response: Section 237 would not force the abrogation or amendment of the Treaty, though it could lead to changes in the Treaty at some future point. But the ABM Treaty is 23 years old, a relic of the Cold War. Today's strategic environment is totally different from that of 1972. Ballistic missile technology and weapons of mass destruction are proliferating worldwide, and the U.S. faces potential missile threats from many regions, not just the former Soviet Union. No treaty should be an end in itself. When the conditions that led to a treaty's ratification change, that treaty should change. The ABM Treaty itself acknowledges this principle, and contains provisions for withdrawal when it no longer serves the national interest.

Possible Amendment #4: Eliminating or altering a multiple-site NMD (Section 235).

Recommended Response: A single NMD site—for example, at Grand Forks, North Dakota—would be Treaty compliant but would not protect all of the continental United States, and certainly not Alaska or Hawaii, from a missile attack in the Northern Hemisphere. Coastal regions also would be vulnerable to missiles launched from submarines or from locations in the Third World. The choice is simple: to protect the U.S. homeland against a limited attack or remain within a treaty that is both technologically and strategically outmoded.

CONCLUSION

The Senate has an historic opportunity to reinvigorate the BMD program and put the United States on the path to actual defenses for the homeland and forces abroad. As President Ronald Reagan once said, “If not now, when? If not us, who?” But supporters of missile defense in the Senate must act boldly, steadfastly, and with vision. Otherwise the U.S. will remain mired in the failed orthodoxies of the past that have left Americans needlessly vulnerable to the most threatening weapons in the world today.

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¹ See *Defending America: a Near- and Long-Term Plan to Deploy Missile Defenses* (Washington, D.C.: The Heritage Foundation, 1995).