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WHITE HOUSE STEPS BACK FROM NATIONAL MISSILE DEFENSE—AGAIN

THOMAS MOORE

The Clinton Administration's antipathy toward anti-missile protection for the American people apparently runs so deep that it soon may reject the most significant national missile defense (NMD) legislation put forth in recent years. In the face of overwhelming public and congressional support for this legislation, however, President Bill Clinton and his national security advisers are attempting to distort its meaning and nullify it by presidential decree rather than employ the veto, which is the proper way for a President to block legislation he opposes.

NMD: Closer to Reality. By a 97–3 margin, the Senate recently approved S. 257, the National Missile Defense Act sponsored by Senators Thad Cochran (R–MS) and Daniel Inouye (D–HI). Shortly afterward, the House passed H.R. 4, sponsored by Representatives Curt Weldon (R–PA) and John Spratt (D–SC), by a vote of 317–105, which establishes in law the policy to deploy a NMD. The Senate version stipulates that deployment should be “as soon as is technologically possible.”

The Senate also enacted two amendments to S. 257 that do not alter this policy of NMD deployment. The first stipulates that funding for the NMD system will be “subject to the annual authorization of appropriations and the annual appropriation of funds” by Congress. The second states, “It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces.”

The White House had threatened to veto the

Senate bill because it calls for deployment as soon as technologically feasible. But after the amendments were added, it became clear that the majority of Senators of both parties would vote in favor of S. 257. The veto threat collapsed, and the bill passed by a stunning margin.

House–Senate conferees now must meet to reconcile the language of the two bills. The final bill reported by the conferees should make clear that it is the intent of Congress to deploy a NMD as soon as technologically feasible. This would affirm the primacy of the rule of law and the need to protect the country from the world's most threatening weapons.

White House Obfuscation. Despite the overwhelming show of sentiment in Congress for deploying a NMD, the Clinton Administration continues to oppose the legislation. On March 19, the White House sent a confusing cable to U.S. embassies informing diplomats that the two amendments added to the Senate bill meant “no deployment decision has been made” even if the Senate version became the primary source of the bill—which is the

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likely outcome of the House–Senate conference. Supporters of the legislation were dismayed at the Administration's cable. In a press release on March 26, House Majority Leader Dick Armey (R–TX) stated:

Once again, the President's agility with language is making it difficult to do the nation's business. Under the plain meaning of [S. 257], the United States would commit to deploy a national missile defense.... Now we learn that the Administration is telling foreign governments that those words do not mean what they obviously mean. Earlier this week I was prepared to encourage my House colleagues to skip a conference and accept the Senate missile defense language. If the President is prepared to interpret the Senate language to mean whatever he wants it to mean, that's clearly no longer an option. We'll need a House–Senate conference to search for words that might have a fixed meaning for the President. Whether such words exist is, sadly, an open question. If the President objects to deploying a missile defense, he should express that view in a veto message, not in secret cables.

Congress's Clear Intent. S. 257 and H.R. 4 are clear, simple, and straightforward bills that would establish a policy to deploy a missile defense for the United States, a policy that does not now exist. The March 19 State Department cable reveals the Clinton Administration's commitment to maintaining its policy of vulnerability to ballistic missiles. The Administration is attempting to use the addition of the two amendments to S. 257 to justify de facto nullification of an NMD bill. But House–Senate conferees should consider what the amendments say before accepting the Administration's view that they invalidate the policy to deploy a NMD.

The first amendment merely restates an obvious, existing fact of law—that NMD funding is subject to the annual authorization and appropriation process by Congress. With only a few exceptions, all discretionary programs are funded through this

process. Moreover, no program in the Department of Defense receives *all* its funding when the deployment decision is made. To suggest that this amendment would change how a NMD is funded under S. 257, or that it somehow would change the intent of Congress to deploy a NMD, is absurd on its face. S. 257 would make the policy decision to deploy a NMD, and the amendment reiterates that funding would be applied through the regular congressional process to effect that decision. The inclusion of this amendment makes no difference as a matter of law and does not alter the clear meaning of the bill.

The second amendment, offered by Senators Mary Landrieu (D–LA) and Olympia Snowe (R–ME), establishes a policy goal to seek continued negotiated reductions in Russia's nuclear forces. Adopted as an entirely separate section of S. 257, it is in no way included as a prerequisite to or condition of NMD deployment. The principal sponsor of S. 257, Senator Cochran, accepted the amendment because there clearly was no linkage between the two policies. A reduction in the number of Russia's nuclear arms is a goal sought by NMD supporters as well as arms control devotees. Anti-missile protection and nuclear arms reductions are wholly compatible. Indeed, NMD deployment actually may hasten reductions in nuclear arsenals everywhere by making these weapons less useful.

Conclusion. Conferees on S. 257 and H.R. 4 should not allow the Clinton Administration's use of semantic legerdemain to nullify, in effect, Congress's clear intent to deploy a national missile defense. If the conferees succumb to such White House disinformation efforts, the momentum toward deploying a NMD will be derailed.

Moreover, allowing President Clinton to invalidate an act of Congress outside the proper constitutional process would set a dangerous precedent. The true intent of both houses was demonstrated by the large majorities in favor of both bills. If the President truly opposes this bill, he should veto it outright and not try to go around Congress and the constitutional process by employing deceptive spin.

—Thomas Moore is Director of The Kathryn and Shelby Cullom Davis International Studies Center at The Heritage Foundation.