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THE PRESIDENT ON NATIONAL MISSILE DEFENSE: OF TWO MINDS AND NO COMMITMENT

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For some time, President Bill Clinton has tried to have it both ways on missile defense—to claim in principle that he favors defending America from missile attack but do little or nothing to make it happen. Now he has taken this two-faced policy to new heights. On July 23, shortly after signing the National Missile Defense Act (H.R. 4), which mandates deployment of a missile defense system “as soon as is technologically possible,” he released a statement disavowing that a decision to deploy missile defenses had been made.

How does the President justify this contradiction? By asserting that signing H.R. 4 does not constitute a decision to deploy and that he will not make a decision to do so until June of next year—at the earliest. This blatant misinterpretation of the law, however, has fooled no one on Capitol Hill; instead, it has provoked a flurry of debate on how to protect Americans from the growing threat of missile attack from such rogue regimes as Iran and North Korea. Despite the President’s duplicity, the language of H.R. 4 is unambiguous: The decision to deploy a national missile defense system was made the moment he signed the bill into law.

Now the only question is *how* to make it happen. Congress may have to act independently to implement the steps needed to deploy missile defenses. It should stipulate in legislation what specific development and testing programs are required, and within what time frame, to allow the U.S. military

to determine the system to deploy as soon as technologically possible.

Straddling the Fence. President Clinton has stated on several occasions, including when he signed H.R. 4, that he is not opposed to missile defense. But his actions since taking office prove otherwise. For example, in 1993, he canceled the Strategic Defense Initiative (SDI) program to develop and deploy a national missile defense system. In 1995, when the National Intelligence Estimate of the threat of missile attack was released, he downplayed the threat as an excuse for delaying a deployment decision, arguing that missile defenses were not needed for at least another decade. In 1997, his Administration signed agreements with four former Soviet states to revive the old Anti-Ballistic Missile (ABM) Treaty and strengthen it by broadening its restrictions on missile defenses. He has refused to submit these agreements to the Senate for its advice and consent, as required by the Constitution. To appease Russia, his

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Administration continues to restrict development and testing of missile defense technologies.

The President's decision to sign and then effectively renounce H.R. 4 is his latest attempt to have it both ways. To justify his statement, he notes that implementing the act requires additional authorizations and appropriations—which implies that the decision to deploy has not been made. But this legislative process has nothing to do with whether a *decision* to deploy has been made. Such routine congressional action in this case is called for in order to determine the *kind* and *number* of missile defense systems that eventually will be developed and deployed.

The President has also stated that, according to the bill, the United States will need to seek negotiated reductions in Russia's nuclear forces. But H.R. 4 makes it clear that Congress's decision to make deployment the policy of the United States is not contingent on the outcome of arms control negotiations with Russia. A separate section of the act, as signed by the President, states unambiguously that "It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces." Implying that deployment is contingent on Russia's approval of negotiated reductions in nuclear weapons effectively gives Russia veto power over missile defense for America. Such language is *not* in the bill.

Protecting the Rights of Americans. Article II, Section 3 of the U.S. Constitution obligates the President to "take care that the laws be faithfully executed." The President's claim that H.R. 4, in effect, does not mean what it says contravenes this obligation. The President's decision to delay the deployment of missile defenses is a breathtaking usurpation of authority and power: a slap in the face of Congress, which passed H.R. 4 by an overwhelming margin, and by implication the people who elected its Members. Providing for the common defense is the federal government's first responsibility, and it should not be taken lightly. Americans have a right to missile defense, and because of the growing threat from such countries

as North Korea, Congress was right to pass H.R. 4 to ensure that we are defended sooner, not later.

The only effective response to the President's rhetorical end run is for Congress to insist that the people's rights be respected. Steps must be taken to facilitate the development, testing, and deployment of missile defense systems. Although the Administration's policy on testing missile defense technologies precludes these tests today, legislation such as the Realistic Tests for Realistic Threats National Security Act (H.R. 2596) would ensure that such tests are conducted against target missiles that mirror the growing threat. H.R. 2596, for example, requires that the Pentagon test both the Navy Theater Wide and the Theater High Altitude Area Defense systems against a target missile with characteristics resembling the Taepo Dong-1 rocket launched unexpectedly over Japan by North Korea last August.

Conclusion. When Congress passed and the President signed the National Missile Defense Act, the decision to deploy a missile defense system for America became law. Now the only question is *how* it will be achieved. Congress should ensure that steps are taken to deploy missile defense in the near term. It also should insist that the President submit to the Senate the agreements signed with the former Soviet states that would revive the old ABM Treaty and limit the types of systems the military could deploy. Congress should not allow the President to ignore laws he does not like. Nor should it sit idly by as the President signs a bill and then turns around and renounces it.

Providing for the common defense and upholding the rule of law are constitutional principles with a common purpose—to protect the liberty of Americans. Congress must act to prevent the President from once again riding roughshod over its legislative authority, the Constitution, and the rights of the people.

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