

# Background

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## An Alternative to New START

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**Abstract:** *Finding an effective alternative to New START should begin by recognizing that today's world of emerging new independent nuclear weapons powers demands a different concept of strategic deterrence than the retaliation-based deterrence of the Cold War. An effective alternative could be negotiated as a follow-on treaty to the Moscow Treaty. The new treaty should be based on the protect and defend strategy, which will make arms control more effective and more relevant to today's and tomorrow's security challenges.*

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The Treaty Between the Russian Federation and the United States of America on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (New START), which was signed on April 8, 2010, is fundamentally flawed.<sup>1</sup> While New START contains a variety of specific flaws, the more important flaws are general and result from the Obama Administration's misguided approach to deterrence and arms control.<sup>2</sup>

However, the fundamental flaws with New START should not lead to the conclusion that arms control cannot play a helpful role in securing U.S. vital interests in the post-Cold War world. As during the Cold War, there is a right way and a wrong way to negotiate arms control treaties and execute such treaties after they enter into force. The right way to pursue arms control is to observe the principle of negotiating from a position of strength. This enduring principle suggests what alternative arms control treaties and other agreements the U.S. should seek if the U.S. Senate rec-

### Talking Points

- The New START strategic nuclear arms control agreement with Russia is flawed primarily because it is based on the Obama Administration's misguided approach to arms control generally by returning to Cold War-style arms control with Russia.
- This misguided approach uses arms control to support a U.S. strategic posture that is geared to responding to a strategic attack after such an attack has inflicted devastating damage on the U.S. and its allies.
- A better approach to arms control would use arms control to bolster the ability of the U.S. to protect and defend itself and its allies against a strategic attack before it takes place.
- The substantive alternative to New START would be based on sustaining and augmenting the basic provisions of the existing Strategic Offensive Reductions Treaty (SORT), which remains in force.

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ognizes the fundamental flaws with New START and rejects the treaty.

Finding an effective alternative to New START begins with the recognition that today's world with emerging new independent nuclear weapons powers demands a different concept of strategic deterrence than what was applied during the Cold War. This new concept of deterrence relies on the federal government seeking to protect and defend the United States and its allies against strategic attacks and convincing would-be adversaries that any attempted attacks will fail to achieve their political and military purposes.<sup>3</sup>

This concept of deterrence by denial sharply contrasts with the concept of deterrence by the threat of retaliation that was applied during the Cold War. It also sharply contrasts with President Barack Obama's declared policy of nuclear disarmament in which arms control would become the holistic solution to nuclear security. However, it is unclear how any concept of strategic deterrence, much less the clearly excluded concept based on retaliation with nuclear weapons, would apply to the President's policy of nuclear disarmament.

Ultimately, the proper alternative to New START is derived from this underlying concept of deterrence by denial, which leads to the adoption of a protect and defend strategy.

### **The Administration's Flawed Approach to Arms Control**

Finding a better alternative to New START should begin with identifying the flaws in the Obama Administration's general approach to strategic deterrence and the derived approach to arms control. To put it mildly, the Obama Administra-

tion's approach to deterrence is contradictory. On one hand, its approach is grounded in the Cold War theory that deterrence is based on the threat to retaliate for a strategic attack on the U.S. or its allies with a devastating nuclear counterstrike. Under this theory, arms control is focused on limiting arms in a

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***New START is a throwback to the bipolar world of the Cold War with Russia as a substitute for the former Soviet Union.***

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way that preserves the second-strike (retaliatory) capacity of two adversarial states. On the other hand, the Obama Administration's commitment to nuclear disarmament does not appear to be based on any concept of deterrence. It is certainly not based on maintaining a retaliatory capacity with nuclear weapons.

New START embodies this central contradiction. Since retaliatory deterrence is based on the predominant theory applied during the Cold War, New START is a throwback to the bipolar world of the Cold War with Russia as a substitute for the former Soviet Union. Accordingly, it fails to account for the ongoing rise of new independent nuclear powers and the characteristics of the world order that will logically follow from the rise of these powers.

New START proponents just assume that the complexities of a proliferated world will not challenge this theory of deterrence, and this assumption is a key rationale for New START. This assumption is misplaced, particularly in reducing the number of nuclear weapons or maintaining "arms race stability."<sup>4</sup> Arms race instability was obvious under the retaliatory deterrence policy of the Cold War: The

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1. Treaty Between the Russian Federation and the United States of America on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, April 8, 2010, at <http://www.state.gov/documents/organization/140035.pdf> (July 30, 2010).
  2. For a description of the specific flaws with New START, see Baker Spring, "Twelve Flaws of New START That Will Be Difficult to Fix," Heritage Foundation *Background* No. 2466, September 16, 2010, at <http://www.heritage.org/Research/Reports/2010/09/Twelve-Flaws-of-New-START-That-Will-Be-Difficult-to-Fix>. New START Working Group, "An Independent Assessment of New START," Heritage Foundation *Background* No. 2410, April 30, 2010, at <http://www.heritage.org/research/reports/2010/04/an-independent-assessment-of-new-start-treaty>.
  3. Baker Spring, "Congressional Commission Should Recommend a 'Damage Limitation' Strategy," Heritage Foundation *Background* No. 2172, August 14, 2008, at <http://www.heritage.org/research/reports/2008/08/congressional-commission-should-recommend-damage-limitation-strategy>.

number of deployed U.S. strategic nuclear warheads increased from less than 4,000 in 1960 to more than 14,000 by the end of the Cold War in 1990. (See Chart 1.) The Soviet strategic nuclear arsenal grew in a similar manner. Second, Administration officials have acknowledged that the treaty's effectiveness is predicated on preserving a second-strike capacity of the U.S. nuclear force against Russia.<sup>5</sup> Thus, New START is consistent with the Cold War theory of deterrence, which is based on a balance of terror and assumes that attempts to defend the United States and its allies against strategic attack are destabilizing. This determination is found in New START's preamble. Third, New START puts maintaining the postures necessary to make credible nuclear threats at the heart of the U.S.–Russian bilateral relationship and thus serves to replicate the adversarial relationship between the U.S. and the Soviet Union.

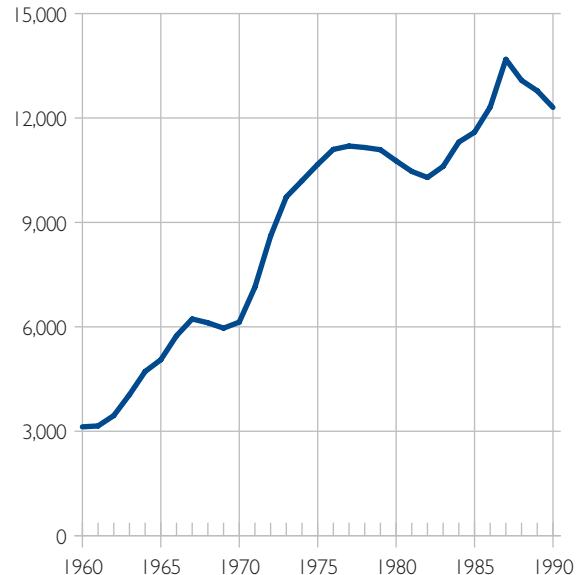
Taken together, these aspects of New START make the treaty's success dependant on a highly destructive nuclear force that is designed to target noncombatants and maximize the damage to the enemy's economic capacity.

New START also defines itself as an essential stepping stone toward a world without nuclear weapons. This aspect of the treaty along with its bias against strategic defenses is also spelled out in the preamble. In the view of the Obama Administration in particular, New START is an essential aspect of a disarmament policy that is predicated on the notion that the proper U.S. response to each unwelcome development in the proliferation of nuclear weapons and the means to deliver them is to take another substantive step toward U.S. nuclear disarmament.

Stated another way, the Administration sees New START as an effective response to the Iranian

### U.S. Strategic Nuclear Arsenal During the Cold War

Total Warheads



Source: Natural Resources Defense Council, "Table of U.S. Strategic Offensive Force Loadings," November 25, 2002, at <http://www.nrdc.org/nuclear/nudb/databl.asp> (August 25, 2010).

Chart 1 • B 2471  [heritage.org](http://heritage.org)

and North Korean nuclear programs. Of course, New START imposes no restrictions on Iran or North Korea and is not a nonproliferation agreement in any meaningful sense. The problem with the logic behind this policy is that U.S. pursuit of nuclear disarmament while the nuclear nonproliferation problem is growing worse will likely increase the chances that nuclear weapons will be used.<sup>6</sup> In the parlance of arms control analysts, this is called crisis instability.

4. The Heritage Foundation conducted an exercise to test this assumption, and the test revealed that it is highly questionable. See Nuclear Stability Working Group, "Nuclear Games II: An Exercise Examining the Dynamic of Missile Defenses and Arms Control in a Proliferated World," Heritage Foundation *Special Report* No. 83, July 26, 2010, at <http://www.heritage.org/research/reports/2010/07/nuclear-games-ii-an-exercise-in-examining-the-dynamic-of-missile-defenses-and-arms-control>.
5. "Hearing to Receive Testimony on Implementation of the New START," Committee on Armed Services, U.S. Senate, 111th Cong., 2nd Sess., July 20, 2010, p. 5, at <http://armed-services.senate.gov/Transcripts/2010/07%20July/10-61%20-%207-20-10.pdf> (August 25, 2010).
6. Nuclear Stability Working Group, "Nuclear Games II."

Ultimately, New START embodies the worst aspects of Cold War–style deterrence and its propensity to spark a nuclear arms race and the worst aspects of a policy of U.S. nuclear disarmament and its propensity to increase the risk that nuclear weapons will be used. In short, New START is not just contradictory. It reflects a combination of policies that are at odds with the fundamental purposes of arms control: preserving peace and stability and achieving lower levels of nuclear armaments.

### Arms Control Under a Protect and Defend Strategy

The alternative approach to the contradictory deterrence and disarmament policy embodied in New START is based on posturing U.S. strategic forces to defend both the U.S. and its allies. This deterrence-by-denial approach to strategic nuclear arms control will likely succeed because it more effectively addresses the requirements for reducing the risk of the use of nuclear weapons and reducing the number of strategic nuclear arms in today's and tomorrow's world.

First, an arms control approach stemming from a defensively oriented deterrence policy is better matched to reducing the risk of the use of nuclear weapons in a setting in which strategic nuclear weapons have proliferated. The concept of retaliatory deterrence was formed from game and game theoretic applications derived from two-player models, which reflected the bipolar world of the Cold War.<sup>7</sup> These models are poorly suited to countering the unique incentives to use nuclear weapons arising in a world with multiple independent strategic nuclear powers.

This is the case for two reasons. In a world with multiple independent strategic nuclear powers, arms control measures that enhance the vulnerability of these powers to attack are too inflexible to handle the complexities that are present. This inflexibility only increases the likelihood of a mis-

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calculation. In addition, the Cold War deterrence model for arms control assumes the presence of rational actors in the leadership positions of strategic powers. This assumption becomes increasingly tenuous as the number of independent strategic powers grows.<sup>8</sup>

Effectively, Cold War–style arms control flows from a model that is similar to two scorpions in a bottle. Clearly, applying this dynamic to a situation of seven or eight scorpions in a bottle is problematic. An arms control approach that follows from a deterrence-by-denial strategy or protect and defend strategy would enhance flexibility by figuratively breaking the bottle and spreading out the scorpions.

U.S. leaders have intuitively come to understand this problem in one critical area. U.S. Cold War deterrence theory is not used to address the potential problem of nuclear-armed terrorists. While this understanding does not offer opportunities for direct arms control applications because terrorist organizations are not valid arms control partners, it does demonstrate that the U.S., whether it recognizes it or not, is moving away from Cold War policies of deterrence by the threat of nuclear retaliation. In fact, it is moving toward a policy of deterrence by denial. Fortunately, these steps can put strategic nuclear arms control on a better path.

The second advantage for arms control stemming from a protect and defend strategy is that it removes the incentive for states to increase the number of strategic nuclear arms, particularly in a proliferated setting. The retaliation-based deterrence policies of the Cold War make nuclear weapons the crown

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7. For a description of these games and game theoretic applications, see Steven J. Brams and D. Marc Kilgore, *Game Theory and National Security* (New York: Basil Blackwell, 1988).
  8. For a more general and in-depth description of the application of deterrence theory during the Cold War and beyond, see Keith B. Payne, *The Great American Gamble: Deterrence Theory and Practice from the Cold War to the Twenty-First Century* (Fairfax, Virginia: National Institute Press, 2008).

jewel of the broader strategic postures of any state with nuclear arms. This dynamic explains why the U.S. and the Soviet Union built so many nuclear weapons during the Cold War.

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***Today there are no verification and transparency measures in place between the U.S. and Russia.***

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By contrast, the protect and defend strategy calls for broader strategic postures that are more reliant on conventional armaments (prompt global strike weapons) and strategic defenses, including ballistic missile defenses. The extension of a concept for deterrence that relies more heavily on conventional and defensive systems has the natural effect of creating more room for arms control to reduce the number of nuclear weapons in the world. This effect is reinforced by the need of states to shift scarce financial resources away from nuclear weapons to conventional and defensive systems.

### **The Broader Arms Control Agenda for the Protect and Defend Strategy**

Pursuing strategic arms control under the protect and defend strategy calls for the U.S. to undertake efforts to negotiate and bring into force a variety of different agreements. The steps required for pursuing these agreements were described in general terms in a *Background* published by The Heritage Foundation on May 4, 2009.<sup>9</sup> While intervening events necessitate modifying the steps described in that *Background*, the overall approach remains valid. The steps the U.S. should take are:

#### **Step #1: The U.S. should negotiate and bring into force a transparency and verification protocol to the Strategic Offensive Reductions Treaty.**

The Strategic Offensive Reductions Treaty (SORT or Moscow Treaty) was signed in Moscow on May 24,

2002. Instead of negotiating a transparency and verification protocol to SORT, the Obama Administration chose the more ambitious and time-consuming alternative of negotiating New START. As a result, today there are no verification and transparency measures in place between the U.S. and Russia. Further, the content of New START requires stringent verification measures, but the verification measures in New START are inadequate to the task.<sup>10</sup> Accordingly, negotiating a transparency and verification protocol to the Moscow Treaty should be the first order of business in strategic nuclear arms control with Russia.

#### **Step #2: The U.S. should initiate negotiations on an alternative to New START that would reduce the number of strategic nuclear arms in both the U.S. and Russian arsenals.**

Once a transparency and verification protocol to the Moscow Treaty is concluded and more careful planning has been completed regarding the overall U.S. strategic posture, the Obama Administration should begin negotiations on an alternative to New START that considers incremental strategic nuclear arms reductions. This negotiating process should be initiated through a joint U.S.–Russian statement that expresses both countries' commitment to the protect and defend strategy and describes how a new strategic arms control treaty to reduce strategic nuclear arms on both sides fits into that strategy.

Ultimately, this treaty could be pursued as one of a package of agreements. The other agreements could include an agreement on cooperation in strategic defenses and another for taking steps to counter nuclear terrorism.

#### **Step #3: Pursue arms control agreements with other states with strategic nuclear arms based on the protect and defend strategy.**

As the U.S. and Russia work to conclude an alternative treaty to New START that is based on the pro-

9. Andrei Shoumikhin and Baker Spring, "Strategic Nuclear Arms Control for the Protect and Defend Strategy," Heritage Foundation *Background* No. 2266, May 4, 2009, pp. 15–19, at <http://www.heritage.org/research/reports/2009/05/strategic-nuclear-arms-control-for-the-protect-and-defend-strategy>.

10. New START Working Group, "New START: Potemkin Village Verification," Heritage Foundation *Background* No. 2428, June 24, 2010, at <http://www.heritage.org/Research/Reports/2010/06/New-START-Potemkin-Village-Verification>, and Paula A. DeSutter, "Verification and the New START Treaty," Heritage Foundation *Lecture* No. 1160, July 12, 2010, at <http://www.heritage.org/research/lecture/verification-and-the-new-start-treaty>.

tect and defend strategy, the U.S. will likely want to apply the same approach to arms control with other states with strategic nuclear arms. This can be done bilaterally or multilaterally. One strength of the protect and defend strategy for the pursuit of arms control is that it is designed to account for the presence of new independent nuclear powers, making it readily adaptable to arms control negotiations with states other than Russia.

### Setting the Stage for an Alternative to New START

The U.S. and Russia could fashion a direct alternative to New START that would reduce the numbers of U.S. and Russian operationally deployed strategic nuclear warheads below the 1,700 to 2,200 range set by the Moscow Treaty. This alternative is best described as a follow-on treaty to the Moscow Treaty and could fittingly be called SORT II. Because the Moscow Treaty expires at the end of 2012, SORT II would ideally enter into force before December 31, 2012. However, this is not essential because Article IV of the Moscow Treaty permits the two states to extend the treaty by agreement.

Regardless of when the Moscow Treaty expires, the Obama Administration should start preparing now because it must complete a number of preliminary tasks before starting these negotiations with Russia.

**New Targeting Plan and Strategic Posture.** First, the U.S. needs to establish a global strategic targeting plan to meet the requirements of the protect and defend strategy, which revolves around the requirement to hold at risk the means of strategic attack on the U.S. and its allies. Therefore, the strategy requires that both civilian and military officials work to draw up a plan for identifying the targets around the world that constitute these means of strategic attack. It is unclear whether the Obama Administration has taken substantive steps in this direction.

The same lack of clarity surrounds the shaping of a new strategic targeting policy. The Administration's April 2010 Nuclear Posture Review says very little about targeting policy. The February 2010 Ballistic Missile Defense Review Report identifies the threats that the Phased Adaptive Approach, the Administration's missile defense plan, is designed to address, but the Administration has given virtually no indication how the offensive and defensive targeting requirements will be integrated.<sup>11</sup> Neither has the Administration explained how the targeting approaches for nuclear-armed and conventionally armed missiles weapons will be integrated in the overall U.S. strategic force. In this area, the Administration has said only that the number of prompt global strike (conventionally armed) weapons in the overall strategic posture will remain small to fit under New START's limits on the number of strategic delivery vehicles and warheads in the U.S. arsenal and that the subject matter is under review.<sup>12</sup>

Ultimately, the U.S. will have a strategic posture worthy of the name only if it establishes a clear targeting policy. The establishment of this policy begins with identifying and cataloguing the means of strategic attack on the U.S. and its allies on a global basis to generate a targeting list. This list should be fully integrated. Specifically, it should not list targets in one country in isolation from targets in other countries. The establishment of this policy concludes with applying the three components of the U.S. strategic posture—nuclear strike weapons, prompt global strike weapons, and defensive weapons—against the target set, with an appropriate level of redundancy.

**New Warhead Limit.** The Administration will also want to establish a new warhead limit to support SORT II negotiations. New START includes a central limit of 1,550 accountable deployed warheads on either side. Leaving aside the treaty's warhead discount rule for bombers and the uncertainty it creates in how many real warheads the U.S. will deploy, how the Administration arrived at the figure

11. U.S. Department of Defense, "Ballistic Missile Defense Review Report," February 2010, pp. 3–9, at [http://www.defense.gov/bmdr/docs/BMDR%20as%20of%2026JAN10%200630\\_for%20web.pdf](http://www.defense.gov/bmdr/docs/BMDR%20as%20of%2026JAN10%200630_for%20web.pdf) (August 17, 2010).

12. U.S. Department of State, Bureau of Verification, Compliance, and Implementation, "Conventional Prompt Global Strike," April 8, 2010, at <http://www.state.gov/t/vci/rls/139913.htm> (August 17, 2010).

of 1,550 in the first place is unclear. The Administration has asserted that it views this number as a reasonable first step toward further reductions and eventually eliminating all nuclear weapons, but it has not stated what operational considerations went into negotiating this particular number.

Accordingly, it is impossible to state specifically what number of actual operationally deployed strategic nuclear warheads should be acceptable to the U.S. in SORT II negotiations. It might be below the range of 1,700 to 2,200 found in the Moscow Treaty. It might even be 1,550 as in New START, with the difference that it covers real warheads, or it might be a different number. Ultimately, the answer depends on the completion of a new targeting plan and strategic posture.

**Consultations with U.S. Allies.** Finally, the U.S. will need to undertake advanced consultations with U.S. allies on extended deterrence under the protect and defend strategy. Ultimately, the strategy is about adjusting U.S. strategic and arms control policies to the likelihood that new independent nuclear powers will emerge. Thus, concurrent adjustments in the U.S. policies of extended deterrence and assurance to its allies are a central concern.

Under the protect and defend strategy, the foundation of extended deterrence will change. During the Cold War, extended deterrence and assurance policies operated under the same principle that applied to the U.S. itself. This element of deterrence policy rested on the U.S. threat to inflict unacceptable damage on the Soviet Union and its Warsaw Pact client states for an attack on U.S. allies. Under the protect and defend strategy, deploying forces to deter aggression against U.S. allies would bolster the U.S. policies of extended deterrence and assurance by ensuring that the political and military goals of such aggression will not be realized. Convincing U.S. allies of the wisdom of this new approach of extended deterrence and assurance will require an aggressive agenda of public and private diplomacy with U.S. allies. It will also involve explaining to the allies how arms control and nonproliferation policies will strengthen this new approach of extended deterrence and assurance.

## The Central Components of SORT II

While these preparatory steps are needed to define the details of what should be included in SORT II, it is still possible to identify several central components of such an agreement:

### **Component #1: A provision in the preamble that reaffirms the right of all states to individual and collective self-defense and that specifically references Article 51 of the U.N. Charter.**

New START's preamble omits any reference to this inherent right. It is a significant omission because U.S. strategic forces are a tangible part of the military capabilities that the U.S. maintains in exercising this right. Further, including this statement would signal that both the U.S. and Russia are committed to structuring their strategic policies and forces in accordance with the defensive purposes identified in Article 51. The reference to the element of Article 51 on collective self-defense should bolster the U.S. policies of extended deterrence and assurance for the benefit of its allies.

### **Component #2: A provision in the preamble citing the principle of not purposefully targeting noncombatants and civilian objects.**

New START fails to recognize that the strategic offensive arms that it limits, but still permits, are to be postured and operated in a manner consistent with the principle of not purposely targeting noncombatants and solely to fulfill legitimate military objectives. This may not have been an oversight because Deputy Under Secretary of Defense James N. Miller told the Senate Armed Services Committee on July 20, 2010, that the U.S. will be able to respond to Russian cheating under New START because it has "assured second strike capabilities" in its nuclear force.<sup>13</sup> For historical reasons, it is reasonable to conclude that a second strike could be directed against civilians and economic infrastructure.

SORT II, by contrast, ought to refer to the principle of not purposely targeting noncombatants and civil infrastructure, recognizing that the principle will specifically apply to offensive strategic nuclear arms because they will be the sole subject of the

13. "Hearing to Receive Testimony on Implementation of the New START," p. 5.

treaty. On the other hand, it will serve to point toward the application of this principle to other elements of the broader strategic postures of the U.S.

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***The protect and defend strategy seeks to change the overall U.S. strategic posture to deter and defeat acts of aggression through fundamentally defensive measures.***

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and Russia. Its inclusion in the preamble will reinforce the guiding principles of the protect and defend strategy.

**Component #3: A provision in the preamble citing the principle of nonaggression and tying it to a commitment by both parties not to posture or use strategic offensive nuclear forces for aggressive purposes.**

The protect and defend strategy seeks to change the overall U.S. strategic posture to deter and defeat acts of aggression through fundamentally defensive measures. However, this does not mean that a fundamentally defensive strategic policy and posture cannot include offensive forces. Including this provision in the SORT II preamble is designed to commit both the U.S. and Russia to fundamentally defensive strategic policies and postures, particularly in regard to their strategic offensive nuclear arms.

**Component #4: A provision in the preamble encouraging the exploration of defensive and conventional options to meet strategic force requirements.**

SORT II is not designed to limit and should not limit defensive and conventional strategic arms in any way. Accordingly, it would be useful if the preamble included a provision that encourages the development and deployment of defensive and conventional strategic arms in combination with the lower levels of strategic offensive nuclear arms permitted by the treaty. Such a provision would reemphasize the point that development and deployment of defensive and conventional strategic arms will not lead to an arms race and can actually facilitate reductions in strategic offensive nuclear arms.

**Component #5: A central limit on only the number of real operationally deployed strategic nuclear warheads.**

The Moscow Treaty limited only the numbers of operationally deployed strategic nuclear warheads. New START, by contrast, would impose limits on deployed delivery vehicles and deployed and non-deployed launchers and heavy bombers, as well as accountable deployed warheads. The approach adopted by the Moscow Treaty is the better option and should be carried over to SORT II. First, New START's limits on delivery vehicles and launchers ultimately impose limits on conventional strategic offensive arms as well. A strategic nuclear arms control treaty should not limit conventional weapons. Second, it effectively encourages placing multiple warheads on each delivery vehicle, and particularly intercontinental ballistic missiles (ICBMs). Third, it creates warhead accounting rules that complicate the objective of reducing warhead numbers. While the number applied to the limitation on operationally deployed strategic nuclear arms must await the completion of the targeting policy review, as with the Moscow Treaty, this limitation could fall within a range, as opposed to relying on a precise number.

**Component #6: A verification regime tailored to verifying the numbers of operationally deployed strategic nuclear warheads on both sides.**

One weakness with the Moscow Treaty is that it relied on the START verification provisions, at least while START remained in force. It would have been better if the Moscow Treaty included verification provisions that had extended for the life of the treaty and that were specifically tailored to verifying the numbers of operationally deployed strategic warheads. If the Administration follows the earlier recommendation for negotiating and bringing into force a verification and transparency protocol to the Moscow Treaty, this protocol could serve as a model for the SORT II verification and transparency provisions.

**Component #7: A provision on de-MIRVing nuclear-armed ICBMs.**

U.S. policy has long seen nuclear ICBMs armed with multiple independently targeted reentry



vehicles (MIRVs) as destabilizing. Accordingly, SORT II should include a provision that prohibits MIRVed ICBMs.

**Component #8: A provision permitting strategic nuclear modernization.**

Article V of New START explicitly permits both the U.S. and Russia to modernize their strategic offensive arms. Article I of the Moscow Treaty also permits modernization. SORT II should continue this feature.

**Component #9: A provision to permit nuclear powers that are not parties to the treaty to be observers at the treaty's implementing body.**

Proponents of New START assert that the treaty will limit nuclear proliferation and thereby address the real security concerns arising from proliferation. This is simply untrue. New START is a bilateral treaty with Russia, which is not a proliferation concern because Russia is a recognized nuclear weapons state under the Nuclear Non-Proliferation Treaty.<sup>14</sup> New START imposes no limitations on the nuclear programs of Iran, North Korea, or any other state except the U.S. and Russia. It is a throwback to Cold War-style bilateral arms control.

It is time for the U.S. to start to take substantive steps toward selective multilateralization of the arms control process. While the most likely approach is to undertake a series of formal and informal arms control initiatives with proliferating states, SORT II can offer an additional avenue.

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***“The conditions that might make possible the global elimination of nuclear weapons are not present today and their creation would require a fundamental transformation of the world political order.”***

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Article III of the Moscow Treaty established the Bilateral Implementation Commission (BIC), which meets twice a year. SORT II should transform the

BIC into a Bilateral Implementation and Multilateral Consultative Commission (BIMCC). Under this body, the U.S. and Russia would be responsible for implementing the SORT provisions, but would extend observer status to invited nuclear weapons states. The primary purpose for extending observer status to other nuclear weapons states would be to educate them about the transparency measures that the U.S. and Russia implement under the treaty and to explore options for them to adopt similar transparency steps unilaterally.

**Component #10: A five-year time frame for the treaty.**

START remained in force for 15 years. New START is scheduled to have a 10-year life span. One of the problems stemming from the proliferation of nuclear weapons, vertical and horizontal, is that external events can dramatically and negatively affect the parties' security. Further, these events can unfold relatively quickly.

For example, China could decide to dramatically increase its arsenal of strategic nuclear weapons during the 10-year life of New START. Clearly, this would be an issue of concern for both the U.S. and Russia because they would be operating under the New START limitations. Accordingly, SORT II should have a shorter duration of five years.

**The Subjects to Exclude from SORT II**

One problem with New START is that it addresses issues that should not have been subject to its provisions. Accordingly, the SORT negotiations and the treaty should avoid this problem by excluding certain subjects:

**Exclusion #1: Nuclear disarmament.**

The final report of the Congressional Commission on the Strategic Posture of the United States cautioned, “The conditions that might make possible the global elimination of nuclear weapons are not present today and their creation would require a fundamental transformation of the world political order.”<sup>15</sup>

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14. This is not to say that the U.S. should not be concerned about Russian cooperation with states that are proliferation threats, such as Iran.

Clearly, addressing nuclear disarmament issues at this time is premature. Nevertheless, the preamble to New START contains a provision that ties the treaty to the purpose of global nuclear disarmament. Further, supporters of New START talk about it as an essential stepping-stone along the path to nuclear disarmament.

At present, the arms control process should not be linked directly to the purpose of nuclear disarmament. Therefore, SORT II should not address nuclear disarmament in any way.

#### **Exclusion #2: Limits on conventionally armed weapons.**

New START, both as a statement of principle in the preamble and in terms of the application of numerical limitations within the body of the treaty, imposes restrictions on conventional armaments. This is wrong. Strategic nuclear arms control should focus on limiting strategic nuclear arms.

Therefore, SORT II should not address conventional strategic arms in any way. Applying central limitations only to operationally deployed nuclear warheads would largely avoid this problem. Leaving conventionally armed strategic weapons out of SORT II would permit Russia and the U.S. to explore the use of these weapons to meet military requirements that otherwise might remain the responsibility of strategic nuclear forces.

#### **Exclusion #3: Limits on strategic defenses, including missile defenses.**

The most controversial aspect of New START being debated in the U.S. Senate is its limits on U.S. missile defense options. These limitations are sweeping and specific. The sweeping restriction is found in the treaty's preamble, which establishes a logic that assumes that reductions in strategic offensive nuclear arms must be matched by reductions in U.S. strategic defensive capabilities. The specific

limitations include banning the conversion of offensive missile launchers into launchers for defensive interceptors and limits on the missile targets used in missile defense tests.<sup>16</sup>

The protect and defend strategy is based on strategic defense systems, including missile defense systems, assuming the status of full partners in the broader U.S. strategic posture. Therefore, limits on missile defense in strategic nuclear arms control agreements are not only unwarranted, but also self-defeating. This is particularly the case in the sweeping language in the New START preamble, which effectively undermined the theoretical underpinnings of the protect and defend strategy.

Accordingly, SORT II negotiations and the resulting treaty should not limit strategic defensive systems, particularly not missile defense systems.

#### **Exclusion #4: Limits on nonstrategic nuclear weapons.**

One criticism against New START is that it does not limit nonstrategic (tactical) nuclear weapons. Given that Russia reportedly has a several-fold advantage over the U.S. in this class of weapons, the criticism is warranted insofar as the U.S. wants to impose limits on Russia in this area.

The practical problem for the U.S. is that Russia's lopsided advantage means the U.S. has no cards to play in such a negotiation. Negotiating with Russia over tactical nuclear weapons at present would be analogous to the U.S. negotiations with the Soviet Union over intermediate-range nuclear forces (INF) before the U.S. and NATO deployed INF in 1983. The outcome can only favor Russia.

Therefore, SORT II negotiations should not extend to tactical nuclear weapons. In the meantime, the U.S. ought to treat Russia's bloated tactical nuclear arsenal and stockpile as a noncompliance issue. The Congressional Commission on the Strate-

15. Congressional Commission on the Strategic Posture of the United States, *America's Strategic Posture* (Washington, D.C.: United States Institute of Peace, 2009), p. xvi, at [http://www.usip.org/files/America%27s\\_Strategic\\_Posture\\_Auth\\_Ed.pdf](http://www.usip.org/files/America%27s_Strategic_Posture_Auth_Ed.pdf) (September 14, 2010).

16. For descriptions of these specific restrictions, see New START Working Group, "An Independent Assessment of New START," pp. 6–8, and Baker Spring, "Another Limit Imposed by the New START Treaty," *Heritage Foundation WebMemo* No. 2939, June 18, 2010, at <http://www.heritage.org/research/reports/2010/06/another-limit-imposed-by-the-new-start-treaty>.

gic Posture of the United States has stated unequivocally that Russia is not fulfilling its commitments to limit this class of weapons under the Presidential Nuclear Initiatives (PNIs) of the early 1990s.<sup>17</sup> Ultimately, direct negotiations with Russia on limiting tactical nuclear weapons must await the initiation of a U.S. program to modernize its own tactical nuclear force and at least plans to expand this force, particularly forces forward deployed in Europe.

## Conclusion

Some may assume that the criticisms of New START stem from the politics and excessive partisanship in Washington. Others may assume that these critics are philosophically opposed to arms control. Such assumptions are wrong on both fronts. The problems with New START are substantive and run very deep.

Ultimately, New START is the logical product of the Obama Administration's outdated and wrong-headed approach to arms control. It is outdated because it depends on the Cold War theory of retaliation-based deterrence and seeks to reestablish with Russia the relationship based on mutual nuclear threats that the U.S. had with the Soviet

Union during the Cold War. As a result, the Obama Administration is permitting arms control to sidestep the more important security concerns arising from the proliferation of nuclear arms and the means to deliver them. It is wrong-headed because the Administration's drive toward nuclear disarmament runs very serious risks that it may unintentionally increase the likelihood that nuclear weapons will be used.

The substantive alternative to a retaliation-based deterrence approach to arms control is the protect and defend strategy. This strategy is not based on a desire to destroy arms control, but to protect and defend the United States and its allies against strategic attack and to use arms control to advance this purpose. It will make arms control more effective and more relevant to the security challenges facing the United States today and tomorrow. New START is standing in the way.

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17. Congressional Commission on the Strategic Posture of the United States, *America's Strategic Posture*, p. 13.