

# WebMemo



Published by The Heritage Foundation

No. 3038  
October 19, 2010

## Protective Agreement to Limit Missile Defense and Space Systems Should Delay New START

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It appears that the Obama Administration is challenging the U.S. Senate regarding the ratification of the new strategic arms control treaty with Russia called New START and its potential negative consequences for U.S. missile defense options—so much so that a group of Senators have felt compelled to send an October 18 letter to Secretary of State Hillary Clinton asking for further details. From the outset, the Administration has asserted that New START will not limit the missile defense options of the U.S., including the option to deploy components of a missile defense system in space. The Senate has made it clear that it does not want the agreement with Russia to limit U.S. missile defense options.

According to a recent report in Bloomberg, however, Russian Foreign Minister Sergei Lavrov is claiming that the U.S. and Russia are on the verge of concluding a side agreement<sup>1</sup> that an earlier report in *The Washington Times* indicates will limit U.S. missile defense options.<sup>2</sup> If so, the Obama Administration's insistence that the side bargain constitutes a "missile defense cooperation agreement" is cynical at best. Further, it is possible that this side agreement could limit U.S. space capabilities, which has additional negative implications for missile defense.

These Senators are prepared to stand up to the Obama Administration's challenge. Specifically, Senators Jeff Sessions (R-AL), James Inhofe (R-OK), David Vitter (R-LA), John Cornyn (R-TX), Roger Wicker (R-MS), and John Thune (R-SD) are moving to address the problems with this purported

side agreement. The letter they have sent to Secretary Clinton demands that the Administration make available to Senators the documents and records regarding these side agreement negotiations. Further, they have made it clear that Senate access to these details should come before the full Senate takes up New START.

**Missile Defense and Space Limitations Masquerading as Cooperation.** That the Obama Administration would be engaged in negotiations with Russia on genuine cooperation in the area missile defense should be expected and encouraged.

It is objectionable, however, to use these negotiations as a cover for doing the opposite of what the Administration advertised—i.e., curtailing missile defenses. As such, there is clear justification for the Senators' demand that they and their colleagues receive the record of these negotiations.

For their part, Russian leaders have, on a number of occasions, voiced their view that the U.S. missile defense program is aimed against their country and stated their desire to curtail it. The Obama Administration, for its part, has been less than forthright in its assertions that New START itself does not impose restrictions on U.S. missile defense options. New

This paper, in its entirety, can be found at:  
<http://report.heritage.org/wm3038>

Produced by the Douglas and Sarah Allison  
Center for Foreign Policy Studies

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

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START contains implied and direct restrictions or impediments to various sections of the U.S. missile defense program, including:

- Strategic stability;
- Target missiles and their launchers used in missile defense tests;
- The conversion of missile and missile defense launchers;
- The exchange of telemetric data from missile defense tests; and
- The jurisdiction and operation of the Bilateral Consultative Commission (the treaty's implementing body).

Further, the Administration offered a unilateral statement to Russia at the time New START was signed that states in effect that the U.S. intends to limit its missile defense program so that it will not affect the strategic balance with Russia. This statement contradicts the reality that in order to be effective against states other than Russia—states that will possess long-range ballistic missiles—the U.S. missile defense system will have to defend against missiles similar to those possessed by Russia.

Finally, a truly effective U.S. missile defense system will rely on space-based systems. The Obama Administration's space capability policies have raised suspicions as well. First, the National Space Policy released by the Administration on June 28 commits it to international cooperation in the area

of space, including for the purpose of arms control.<sup>3</sup> Second, it appears that the Administration wants to apply the moniker of "code of conduct" to these agreements as a basis for arguing that they are not arms control agreements as defined under U.S. law and therefore not subject to Senate consent. Nevertheless, an international agreement to limit how U.S. space systems are operated is no less an arms control agreement than one that limits the development, testing, and deployment of such systems. Specifically, as this side agreement "limits the Armed Forces," it is, under U.S. law, an arms control agreement—no matter what the Administration wants to call it.

**Transparency Is Critical to National Security.** Under present circumstances, it would undermine U.S. security not to force the Obama Administration to be more transparent regarding the ongoing negotiations with Russia for a side agreement regarding missile defense. Such transparency is also needed in the related area of space arms control. The Administration, despite the lack of justification for its position, wants the Senate to consent to the ratification of New START in the upcoming lame duck session of Congress. Clearly, Senate consideration of New START can wait.

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1. Lucian Kim, "U.S.-Russia Accord on Missile Defense Almost Ready, Lavrov Says," Bloomberg, October 1, 2010, at <http://www.bloomberg.com/news/2010-10-01/u-s-russia-close-to-reaching-agreement-on-missile-defense-lavrov-says.html> (October 8, 2010).
2. Bill Gertz, "Missile Defense Deal?," *The Washington Times*, June 16, 2010, at <http://www.washingtontimes.com/news/2010/jun/16/inside-the-ring-382424672> (October 8, 2010).
3. The White House, "National Space Policy," June 28, 2010, at [http://www.whitehouse.gov/sites/default/files/national\\_space\\_policy\\_6-28-10.pdf](http://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf) (October 8, 2010).