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New START: Critical Limits on U.S. Missile Defense Options Persist

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The State Department continues to assert that the new strategic nuclear arms control treaty with Russia, called New START, imposes “no constraints on deploying the most effective missile defenses possible.”¹

This sweeping assertion is simply inaccurate. New START limits U.S. missile defense options at two levels. The first level is the essential context within which the treaty exists and that—according to both the Obama Administration and Russian leaders—permits the treaty to be viable and effective. The second level is within the text of the treaty itself, where there are several direct limitations or other requirements regarding missile defense.

New START: Based on a Bias Against Missile Defense. Given the trends in the proliferation of nuclear weapons and the means to deliver them, the most important step that the U.S. needs to take is to move away from the deterrence policy of the Cold War. That policy bases deterrence on the U.S. threatening to retaliate for a strategic attack on the U.S. or its allies with a devastating nuclear counter-strike. The U.S. needs to move toward a deterrence policy based on protecting and defending the people, territory, institutions, and infrastructure of the U.S. and its allies against looming or attempted strategic attacks. This requires an unfettered commitment to strategic defensive systems, including ballistic missile defenses. New START does nothing to facilitate this transition.

Indeed, it is the declared policy of both the Obama Administration and the Russian govern-

ment to limit missile defenses so as to preserve the retaliation-based deterrence policy of the Cold War. Specifically, the February 2010 Ballistic Missile Defense Review Report of the Obama Administration makes it clear that the White House is limiting the program so that it does not affect the strategic balance with Russia or even China. The Russian government issued a unilateral statement at the time New START was signed that confirms that, in its view, both quantitative and qualitative limitations on the U.S. missile defense program are so essential that Moscow is prepared to withdraw from the treaty if these limitations are not honored.

Both sides affirmed this bias against broader strategic defensive capabilities—which by implication includes missile defenses—by including language in the preamble to New START that states that current defenses do not undermine the effectiveness of strategic offensive arms. There are two problems with this language beyond its implication that it is inappropriate to field strategic defenses that weaken offensive strategic forces. First, effective strategic defenses, including missile defenses, by definition will limit the effectiveness of strategic offensive arms at the margin. Second, limiting these defenses to preserve U.S. vulnerability to Russian strategic

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nuclear strikes will result in less effective defenses against any and all countries that have strategic offensive arsenals, including Iran and North Korea.

New START Imposes Direct Restrictions on U.S. Missile Defense Options. New START itself imposes restrictions on U.S. missile defense options in at least five areas.

1. *Paragraph 9 of the Preamble.* As described above, this language in the Preamble established a bias against missile defense in the essential context of New START. It also establishes a logic that will impose ever-greater restrictions on missile defense as the U.S. and Russia pursue additional arms control steps. This logic will also direct that U.S. missile defense capabilities be reduced in accordance with the reduction in the strategic offensive arms of Russia because the defenses will otherwise “undermine the viability and effectiveness” of Russia’s offensive strategic force.
2. *Paragraph 3 of Article V.* This provision prohibits conversion of offensive strategic missile launchers to launchers of defensive interceptors and vice versa. While the Obama Administration has no plans in its missile defense program to convert launchers of offensive strategic missiles to launchers of defensive interceptors, it is a step that the U.S. has taken in the past. A currently unforeseen circumstance could make it advantageous for the U.S. to take this step in the future.
3. *Limits on some kinds of strategic target missiles and their launchers used in missile defense tests.* There is an array of provisions in New START that limit and restrict certain types of missiles and missile launchers that are used as targets in missile defense tests. Specifically, these are target missiles that share a first stage with strategic missiles limited by the treaty and their associated launchers.
4. *Article XII and Part Six of the Protocol.* These provisions of New START create an implementing body, called the Bilateral Consultative Commission (BCC), and gives it a broad mandate to promote the objectives of the treaty. This broad mandate could permit it to impose additional restrictions on the U.S. missile defense program.

5. *Article IX, Part Seven of the Protocol and the Annex on Telemetric Information to the Protocol.* These provisions could be interpreted in a way that could lead the U.S. to share telemetric information from missile defense tests. While the provisions, even if applied to missile defense tests, do not impose a direct restriction on the conduct of a missile defense tests, they could as a practical matter. It is possible that the sharing of telemetric information from missile defense tests could be used by the recipient to determine what kinds of missiles U.S. defensive systems are able of countering effectively and what kinds of missiles they are less effective in countering.

Admitted Restrictions on Missile Defense.

The Obama Administration’s determined advocacy of New START would lead the outside observer to conclude that that treaty contains neither weaknesses nor flaws, including in the area limiting U.S. missile defense options. But even New START advocates on the Senate Foreign Relations Committee no longer believe the Obama Administration’s assertions regarding the treaty’s impact on missile defense.

The committee voted to report New START to the Senate on September 16. In so doing, the committee adopted a resolution of ratification that includes conditions, an understanding, and declarations that are designed to protect the U.S. missile defense options against limitations that could be imposed on it by the treaty—either indirectly to preserve its viability and effectiveness against circumstances external to its object and purpose or directly by the provisions within the treaty itself. While these provisions in the resolution may not be fully effective in achieving their purpose of protecting U.S. missile defense options, they serve as testaments to the fact that New START, either directly or indirectly, imposes restrictions on these options.

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1. U.S. Department of State, “The New START Treaty: It’s Time for the Senate to Vote,” November 3, 2010, at <http://www.state.gov/t/avc/rls/150374.htm> (November 9, 2010).