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National Missile Defense and the ABM Treaty: Overview of Recent Events

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Summary

The Clinton Administration has announced a \$6.6 billion addition to the DOD Budget for FY1999-FY2005 to support deployment of a National Missile Defense System (NMD). It also restructured the program towards deployment by 2005, rather than 2003, if it decides in June 2000 to deploy an NMD. It plans to negotiate with Russia to modify the 1972 ABM Treaty. Some in Congress applauded the funding for NMD deployment, but they question the Administration's commitment. Others criticized the Administration's plans to modify, rather than withdraw from the ABM Treaty. Still others believe these negotiations could undermine not only the ABM Treaty, but also arms control agreements limiting U.S. and Russian offensive nuclear forces. The Russians have voiced concerns about the Administration's plans, stating that the ABM Treaty remains the cornerstone of strategic stability between the two nations and that a U.S. NMD system could undermine Russia's nuclear deterrent. This report will be updated if events warrant.

Background

In 1996, the Clinton Administration adopted a new policy, the 3 plus 3 strategy, to guide the development and deployment of national missile defenses (NMD). Under this strategy, the United States would seek to develop an NMD system to defend against attacks from small numbers of ballistic missiles launched by hostile nations, or, perhaps, from an accidental or unauthorized launch of Russian or Chinese missiles. The United States would develop NMD technologies during the first 3 year period, then deploy an NMD system during the next 3 years if the threats warranted and the technology had matured enough to address the threat. If the Administration concluded that the United States did not yet face a threat that justified deployment, or that the technology was not yet ready, it would delay a decision to deploy NMD and continue to develop technologies.

The Clinton Administration planned to conduct the NMD research and development program within the limits of the 1972 Anti-Ballistic Missile (ABM) Treaty. It also argued that the United States might be able to deploy an effective treaty-compliant NMD system,

although it recognized that some Treaty modifications might be needed. The ABM Treaty, as amended in 1974, permits deployment of up to 100 ABM interceptor missiles at one site — either an ICBM field or the nation's capital — and bans mobile, sea-based, or space-based ABM components.

Many in Congress criticized the 3+3 strategy. Some argued that the United States is already threatened by nations — such as China and North Korea — with missiles that can reach U.S. soil. Some also noted that, under this strategy, NMD technologies could remain in development indefinitely, with no eventual deployment of an effective NMD system. In addition, many believe that an ABM Treaty-compliant system could not protect the entire United States against emerging missile threats. Consequently, some in Congress have sought to pass legislation mandating a date-certain for the NMD deployment, requiring that the system provide protection for all 50 states or U.S. territory, and calling on the United States to either negotiate changes in the ABM Treaty or withdraw from the Treaty. These bills had not been enacted into law by the end of 1998.

NMD Changes Announced in January 1999

On January 20, 1999, Secretary of Defense Cohen announced several changes to the Clinton Administration's NMD program. The Administration stated that these changes would not alter the basic policy in the 3+3 strategy, but would, instead, demonstrate the Administration's commitment to NMD and bolster implementation of the existing policy.

Budget. Secretary Cohen announced that the Department of Defense had added \$6.6 billion dollars for NMD to the Future Years Defense Program (FYDP) for FY1999-2005. This included \$600 million that Congress added for missile defense in the FY1999 Omnibus Appropriations Act (P.L. 105-277), and brought funding for NMD during the FYDP to \$10.5 billion. Secretary Cohen stated that these added funds would “support a possible deployment of a limited NMD system.”¹ He emphasized that the Administration had not yet decided to deploy the system, and that it would not address the decision until June 2000. In a briefing on the following day, the White House emphasized that none of the funds for deployment activities were included in the DOD budgets for FY1999 or FY2000; instead, they were added to future years to “protect the deployment option in the event a decision is made in the year 2000 or later to field this system.”²

Program. Secretary Cohen announced that the Department of Defense had restructured the NMD program to project a deployment date of 2005, rather than 2003, assuming the United States decided in June 2000 to proceed with deployment. He stated that this change was designed to reduce the amount of risk in the program and “maximize the probability of programmatic success.” But he noted that the deployment might occur before 2005 if the “testing goes flawlessly.”³ According to General Lester Lyles, the Director of the Ballistic Missile Defense Organization, this schedule allowed a more manageable test program and would defer key decisions until tests were complete.

¹Department of Defense News Briefing. January 20, 1999.

²News Briefing by Bob Bell, Special Assistant to the President, National Security Council. January 21, 1999.

³Department of Defense News Briefing. January 20, 1999.

Specifically, DOD would be able to evaluate a key booster test scheduled for FY2001 and a test of the final configuration of the exoatmospheric kill vehicle in early FY2003 before beginning NMD deployment.⁴

Threat. Until recently, the Clinton Administration assessment of long-range missile threats to the United States reflected intelligence estimates that rogue nations would not have missiles that could reach the continental United States for 10-15 years. Many outside the Administration disagreed with this assessment. In the FY1997 Defense Authorization Act, Congress mandated that the CIA appoint an independent panel to review the emerging missile threat to the United States. In July 1998, this panel, chaired by former Secretary of Defense Donald Rumsfeld, reported that a threat to the United States could emerge sooner than 2010, and that countries such as North Korea or Iran might have long-range missiles within 5 years of deciding to develop such systems. The Commission's conclusions gained credibility in late August 1998 when North Korea tested a 3-stage missile. Although most observers agree that the third stage of this missile failed, many concluded that North Korea had demonstrated the staging technology needed to develop longer-range missiles.

In his statement on January 20, Secretary of Defense Cohen acknowledged that "there is a threat, and the threat is growing, and ... it will soon pose a danger ... to Americans here at home."⁵ He noted that North Korea, among others were developing longer-range missiles and credited the Rumsfeld Commission with raising awareness of this. He stated that, when the Administration reviewed the NMD program in June 2000 to decide whether to deploy a system, it would probably be able to conclude that the United States faced a threat that required NMD deployment.

ABM Treaty. In his press conference on January 20, Secretary Cohen stated that NMD deployment "might require modifications to the [ABM] Treaty and the Administration is working to determine the nature and scope of these modifications." Although he did not say that the United States would withdraw from the Treaty, he implied that this was possible if Russia did not agree to amend it.⁶ On January 21, the White House emphasized that the Administration continues to view the ABM Treaty as the cornerstone of strategic stability and is committed to "efforts to strengthen the Treaty and enhance its viability and effectiveness." Bob Bell, a Special Assistant to the President, noted that the United States did not plan to withdraw from the Treaty; it would instead seek agreement with the Russians on any necessary amendments.⁷

Bob Bell also said the United States had not decided on specific amendments because it had not yet settled on an NMD architecture. However, many observers believe that the United States might, at least, seek to move its permitted ABM site from North

⁴Department of Defense News Briefing with Lt. Gen. Lester Lyles. January 20, 1999.

⁵Department of Defense News Briefing. January 20, 1999.

⁶In response to a query about what the U.S. would do "if it couldn't be amended," Secretary Cohen stated "Then we have the option of our national interest indicating we would simply pull out of the Treaty."

⁷News Briefing. Bob Bell, Special Assistant to the President, National Security Council, January 21, 1999.

Dakota to Alaska,⁸ which would require an amendment of the provision limiting the site to an ICBM field or the nation's capital. Alternatively, it might seek to allow two (or more) ABM sites and more than 100 interceptors, or to allow space-based or sea-based components. The Administration plans to begin discussions with the Russians on the general idea of modifying the ABM Treaty in mid-February 1999.

Congressional Reaction

Some Members of Congress who support early deployment of an NMD system expressed cautious optimism about the recent changes to the program. Senator Jon Kyl stated, "I'm delighted. I think reality finally caught up with them."⁹ Representative Curt Weldon also praised the changes, but he said that he remained skeptical because the program still lacked a firm commitment to proceed with deployment.¹⁰ Senator Robert Smith tempered his support for the Administration's new threat assessment and his support for the added funding for NMD programs with similar skepticism, stating that he did not see a commitment to deployment that matched the rhetoric.¹¹

Others have expressed stronger concerns. Representative Tom DeLay called the Administration's plan "a hollow egg" and noted that it remained under-funded, behind schedule, and more than 6 years away from providing any protection.¹² Some Members have criticized the Administration's new plans to negotiate amendments to the ABM Treaty because they do not believe the United States should be bound by this agreement. For example, Senator Helms stated that the ABM Treaty "died when our Treaty partner, the Soviet Union, ceased to exist." He believes the Administration's intention to negotiate with Russia indicates that the United States will not deploy an effective NMD unless Russia gives its permission for the United States to do so.¹³

Some Members of Congress who support the ABM Treaty have repeated concerns expressed in the past about the effect that U.S. plans might have on the broader arms control process. They note that many Russians have stated that Russia will no longer reduce its offensive forces if the United States withdraws from the Treaty or deploys an NMD that can threaten Russian missiles. As a result, they believe that the Administration's new intention to negotiate ABM amendments could undermine the offensive arms control process — they argue that the remaining Russian missiles pose a greater threat to the United States than potential missiles from rogue nations. For

⁸For details see, NMD: The Alaska Option, CRS Report RS20052, by Steven A. Hildreth, February 8, 1999.

⁹Priest, Dana. Cohen Says U.S. Will Build Missile Defense; Weapon to be Pursued Despite '72 ABM Treaty. Washington Post, January 21, 1999. p. 1.

¹⁰Cohen Says U.S. Will Build Missile Defense; Weapon to be Pursued Despite '72 ABM Treaty. Washington Post, January 21, 1999. p. 1.

¹¹Foote, Sheila. Cohen Hopes for Agreement with GOP on NMD Legislation. Defense Daily, February 4, 1999. P. 1.

¹²DeLay, Tom. A Shield Against Weapons of Mass Destruction. Washington Times, February 4, 1999.

¹³Helms, Jesse. Amend the ABM Treaty? No, Scrap It. Wall Street Journal, January 22, 1999.

example, during a Senate Armed Services Committee Hearing with Secretary Cohen, Senator Robb noted that the new U.S. policy could impede START II ratification in Russia, yet that treaty would eliminate some 180 SS-18 missiles with 1,800 warheads.¹⁴

In March 1999, both the House and Senate, passed legislation that would press the Administration to deploy NMD. The Senate approved the National Missile Defense Act of 1999 (S.257), which states it will be the policy of the United States to deploy an NMD system that can protect the entire U.S. territory against a limited attack as soon as it is technologically possible (it does not define this phrase). The White House had threatened to veto this bill because it bases the deployment decision solely on technology, ignoring considerations, such as the threat, costs, the system's effectiveness, and the status of negotiations with the Russians.¹⁵ However, the White House dropped its veto threat and Democrats agreed to support the bill after an amendment supporting continued negotiations on offensive force reductions was added. The Senate approved S. 257, by a vote of 97-3, on March 17, 1999. The House approved legislation (H.R. 4) that simply states it is "the policy of the United States to deploy a National Missile Defense." Representative Weldon has stated that this bill sends a message to countries like Iraq and North Korea that their missile programs will not go unchallenged.¹⁶ This legislation passed by a vote of 317-105 on March 18, 1999.

Interest Group Reaction

Several analysts outside government have also expressed concerns about the new NMD strategy. Some who support early deployment of NMD have praised the added deployment funds in the DOD budget and have welcomed the new assessment of the emerging ballistic missile threat. But, they question the Administration's commitment to NMD deployment and note that the United States will be without defenses until 2005. Former DOD official Frank Gaffney has also argued the Administration's policy will leave NMD deployment dependent on the outcome of negotiations with Russia, which will provide Russia with a veto over U.S. defenses.¹⁷

Some who support continued U.S. adherence to the ABM Treaty criticized the Administration's decision to negotiate changes with the Russians. In a press conference on January 27, officials from the Arms Control Association argued that this would further undermine Russia's support for START II and interfere with further reductions in the Russian nuclear arsenal, which was characterized as "the only threat existing to the

¹⁴Federal Document Clearing House, Transcript. Senate Armed Services Committee Hearing on Defense Spending. February 3, 1999.

¹⁵In a letter to Senator Levin, Sandy Berger, the President's National Security Advisor reportedly stated that Russia would not have a veto over U.S. NMD deployment, but that a lack of consideration for Russia's concerns could undermine efforts to amend the Treaty and could interfere with offensive force reductions. See Foote, Sheila, White House Threatens Veto of Cochran's NMD Bill. Defense Daily, February 5, 1999. P. 1.

¹⁶Foote, Sheila. House Members Introduce Bipartisan NMD Bill. Defense Daily, February 5, 1999. P. 2.

¹⁷Center For Security Policy. The Clinton-Cohen Missile Defense Initiative: Two Steps Forward, Three Steps Back? January 20, 1999.

survival of the United States.”¹⁸ John Pike of the Federation of American Scientists stated that this would undermine arms control even though “the United States is no closer to a workable NMD system now than it was when it signed the ABM Treaty in 1972.”¹⁹

Russian Reaction

President Clinton reportedly informed Russia’s President Yeltsin of the U.S. interest in amending the ABM Treaty before Secretary Cohen announced the funding and program changes for NMD. In response, a Defense Ministry official reportedly stated that changes to the treaty would not be in Russia’s interest and any U.S. attempt to break out of the treaty would upset strategic stability.²⁰ Officials in both the Yeltsin government and the Russian parliament (the Duma) have stated that Russia will not approve START II or reduce its offensive forces if the United States does not comply with the current terms of the ABM Treaty.²¹ Russian officials repeated their objections after the U.S. House and Senate approved legislation supporting NMD deployment in mid-March 1999.

These reactions reflect Russia’s view that the ABM Treaty is essential to the viability of Russia’s nuclear deterrent.²² U.S. officials have assured Russia that the current NMD plans would not include enough interceptor missiles to threaten Russian forces. Yet, many in Russia do not believe that the United States will stop with the deployment of a limited NMD system. Furthermore, some Russians are concerned that China might develop multiple-warhead missiles and expand its offensive nuclear forces to overcome a U.S. NMD system. These new Chinese weapons could then pose a threat to Russia.²³

Some officials in Russia continue to argue that START II is in Russia’s interests because Russia cannot afford to maintain its forces at START I levels. Hence, if U.S. negotiators can convince Russia that the changes to the ABM Treaty would not undermine Russia’s security, then the arms control process may move forward. Alternatively, the two sides could continue to reduce their forces without formal agreements and treaty limits. Regardless, many believe that Russia will probably continue to link offensive force reductions to U.S. compliance with the ABM Treaty.

¹⁸Transcript. NMD, the ABM Treaty, and the Future of START II, an Arms Control Association Press Conference. January 27, 1999.

¹⁹Pike, John. Anti-Missile System Won’t Work. USA Today. January 27, 1999. P. 12.

²⁰Clinton Sends Yeltsin Letter on ABM Review. Reuters. January 21, 1999.

²¹Khalip, Andrei. Russian Papers Attack U.S. Anti-Missile Proposal. Reuters, January 22, 1999. See, also, Hoffman, David. Russia Says START II Is Imperiled. U.S. Missile System Plan Could End Hopes for Ratification. Washington Post, January 22, 1999. P. 16.

²²Many Russians believe that they would not be able to compete with the United States in developing and deploying advanced NMD systems. In addition, the current economic crisis will make it difficult for Russia to maintain or expand its offensive nuclear weapons. Yet Russia might believe that it needs additional offensive weapons to overcome U.S. ballistic missile defenses. For details, see START II Debate in the Russian Duma: Issues and Prospects. CRS Report 97-359F. Updated August 27, 1998.

²³Pikayev, Alexander. A New Low in U.S. Russian Relations. Proliferation Brief. Carnegie Endowment for International Peace, February 3, 1999.