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THE HOUSE-SENATE CONFERENCE SHOULD AGREE TO RAPID DEPLOYMENT OF MISSILE DEFENSES

INTRODUCTION

On June 15, 1995, the House of Representatives passed its version of the Defense authorization bill for fiscal 1996 (H.R. 1530). The Senate passed its version (S. 1026) on September 6. The two bills contain important provisions for deploying defenses against short- and long-range ballistic missiles. They differ, however, in significant ways. These differences will have to be reconciled in a conference between representatives of the House and Senate military oversight committees. The conferees should not settle for a weak bill that postpones deployment or takes the U.S. ballistic missile defense program down a dead-end road. They should demand a strong bill that advances the goal of deploying, as rapidly as possible, effective defenses against ballistic missiles.

Statements of Policy. Both missile defense bills state that it is necessary to develop and deploy theater missile defense systems. The Senate bill calls for the "development for deployment" of a national missile defense system by 2003, while the House bill mandates deployment of national missile defenses but gives no target date. The conference should establish fixed dates for the deployment of both theater and national missile defense systems. Both the House and Senate bills call for building more capable defenses against cruise missiles. However, the House bill's cruise missile defense section is separate from its ballistic missile defense section. The Senate bill's policy statement on improved cruise missile defense is included in its ballistic missile defense (BMD) section, and therefore addresses the missile threat more comprehensively. The conference report should accept the Senate's position on defenses against cruise missiles so that it addresses the entire range of missile threats, including ballistic and cruise missiles.

Theater Missile Defense (TMD). The House bill provides no detailed requirements for a theater missile defense deployment plan. The Senate bill, by contrast, defines the upgraded *Patriot* missile, the Navy Lower Tier system, the Theater High Altitude Area Defense (THAAD) system, and the Navy Upper Tier system as "core" programs and estab-

lishes interim and initial deployment dates for them. (Interim deployment refers to the fielding of systems still in development; initial deployment refers to the fielding of the first completed systems.) Further, the Senate bill would insure that TMD systems are capable of working together so that several systems could be used against the same missile attack. The Senate bill also ensures that TMD systems can use external sensor data, such as targeting information collected by sensor satellites, to make the systems more capable. Finally, the Senate bill would terminate the Boost-Phase Intercept program, which is designed to destroy ballistic missiles shortly after launch by intercepting them with air-to-air missiles mounted on fighter aircraft.

The more detailed deployment plans found in the Senate bill are preferable. Further, the conference should consider the Senate recommendation to terminate the Boost-Phase Intercept program because the current concept is not likely to be effective. There is, however, a need to develop another system capable of destroying theater-range missiles shortly after they are launched (that is, in the "boost phase"). Missiles in a future conflict may carry multiple nuclear warheads, or chemical or biological warheads. Intercepting them in the boost phase will destroy the entire payload before individual weapons can be released from the missile booster. In terminating the existing Boost-Phase Intercept program, Congress should be careful not to suggest there is no need for an effective boost phase intercept capability in the future.

National Missile Defense (NMD). Both bills envision a first-phase national missile defense system consisting of ground-based interceptors, fixed ground-based radars, space-based sensors, and a battle management system. As with TMD systems, the Senate bill provides more detailed program guidance. This includes deploying the interceptors at more than one site, establishing both interim and initial deployment dates, and setting forth specific options for upgrading existing radars and streamlining acquisition procedures to achieve the earlier interim deployment date.

The House bill provides no such guidance, other than to prohibit directed energy weapons and space-based interceptors in the first-stage deployment plan. The more detailed guidance provided in the Senate bill is the better approach. Without a specific deployment date and deployment plan, nothing will ever be deployed. The Clinton Administration, which opposes deployment of a capable national missile defense system, will use the lack of a specific timetable to put off deployment indefinitely.

The Future of the ABM Treaty. The Senate bill calls for a study of the ABM Treaty's compatibility with the nation's security requirements. The House bill merely observes that the ABM Treaty may have to be changed to allow for deployment of more than one ground-based ABM site and unrestricted use of data collected by space-based sensors. The Senate version is preferable. The most critical question to be addressed is whether the U.S. will move beyond the ABM Treaty in establishing a post-Cold War strategic policy. Such a move is certainly needed. Therefore, the entire ABM Treaty, not just some provision of it, needs to be reexamined.

Interpreting the ABM Treaty. On a related issue, both bills express support for excluding TMD systems from the restrictions of the ABM Treaty. They do this by establishing a demarcation line between theater missile defense systems and defenses against strategic ballistic missiles. The ABM Treaty was never intended to restrict theater missile defense systems in any way, but it is ambiguous about which systems are defined as theater missile defenses and which are strategic.

Both bills would establish the following demarcation line: If a missile defense system has been tested against a ballistic missile with a speed greater than 5 kilometers per second or a range greater than 3,500 kilometers, it is a strategic missile defense. If it is tested against a target below that threshold, then it is a TMD system and not covered by the ABM Treaty. The Senate bill would prohibit the use of any fiscal 1996 money to enforce a stricter demarcation standard adopted by the Administration in negotiations with Russia and other countries. The House would enforce the demarcation standard by establishing it in law. The House approach is better. Establishing the demarcation line in law will free a number of TMD systems from ABM Treaty restrictions, including THAAD and Navy Upper Tier. The Senate approach would allow the Administration to continue to impose these restrictions unilaterally, at least until an agreement with Russia and other countries of the former Soviet Union is reached on what TMD systems are allowed under the Treaty.

Reporting Requirements. Both bills require the Secretary of Defense to submit deployment plans for theater and national missile defense early next year. Detailed information is required in both reports, but the Senate would mandate that the Secretary of Defense examine options for augmenting the national missile defense system of ground-based interceptors with additional ground-based interceptors, sea-based defenses, and space-based defenses, or for substituting sea-based and space-based systems for ground-based systems. This critical provision is not found in the House bill, which merely requires annual follow-up reports on major missile defense programs. The reporting requirements established by the Senate bill are preferable. The additional annual reports required by the House bill should not be needed. The Senate reporting requirement will force the Pentagon to examine the advantages of sea-based and space-based NMD systems over more expensive ground-based systems.

Funding for Missile Defense. The House bill provides a higher level of funding for missile defense than does the Senate bill. The Senate version, however, gives more detailed instructions to the Administration on how the money should be spent. The conference report should draw upon the House funding levels and the spending instructions adopted by the Senate. The higher overall spending level in the House bill will move the nation toward deployment of missile defenses more rapidly. The more detailed spending instructions in the Senate bill will limit the ability of the Clinton Administration to waste the money and foreclose options for deploying specific missile defense systems.

CONCLUSION

Both the House and Senate bills move the nation toward deploying missile defenses. However, as with most bills, they differ in their approaches. The job for the House-Senate conferees is to preserve the best provisions in each bill. Since the Clinton Administration does not agree with this goal, Congress cannot afford to give the Administration much leeway in managing the nation's vital missile defense program. In the final version of the bill, the conferees must spell out the requirements for the Administration clearly, concisely, and in detail. As they do so, the conferees should be mindful of the need to

move as quickly and as efficiently as possible toward the goal of building a national missile defense system. Otherwise, the nation will continue to remain needlessly vulnerable to the growing threat of ballistic missiles.

Baker Spring
Senior Policy Analyst

Michelle L. Spencer, an intern at The Heritage Foundation from Southwest Missouri State University, contributed to this study.

APPENDIX

Missile Defense Recommendations for the House-Senate Conference

I. Statements of Policy

Senate:

- ① Deploy affordable and operationally effective theater missile defense systems as soon as possible.
- ② Develop an affordable and operationally effective multiple-site national missile defense system that is effective against limited ballistic missile strikes on U.S. territory and can be augmented to provide a layered defense.
- ③ Improve existing cruise missile defense capabilities.

House:

- ① Deploy highly effective theater missile defense systems at the earliest practical date.
- ② Deploy at the earliest practical date a national missile defense system that is highly effective against limited ballistic missile attacks on the U.S.

Recommended Conference Outcome:

- ① Deploy affordable and highly effective theater missile defense systems as soon as possible.
- ② Deploy at the earliest practical date an affordable and highly effective national missile defense system that can be augmented to provide a layered defense.
- ③ Improve existing cruise missile defense capabilities.

II. Theater Missile Defense

Senate:

- ① Establish the following as "core" theater missile defense programs, with the associated developmental and operational deployment dates: 1) the upgraded Patriot "PAC 3" missile, 1998 (first unit equipped); 2) the Navy Lower Tier system, 1997 and 1999; 3) the Theater High Altitude Area Defense (THAAD) system, 1997 and 2002; and 4) the Navy Upper Tier system, 1999 and 2001.
- ② Require that all core theater missile defense programs are interoperable and fully capable of using external sensor data.
- ③ Terminate the Boost Phase Intercept (BPI) program.

House:

- ① No specific provisions related to requirements for a theater missile defense deployment plan or deployment time tables.

Recommended Conference Outcome:

- ① Establish the following as core theater missile defense programs, along with the respective developmental and operational deployment dates: 1) the upgraded Patriot "PAC 3" missile, 1998 (first unit equipped); 2) the Navy Lower Tier system, 1997 and 1999; 3) the Theater High Altitude Area Defense (THAAD) system, 1997 and 2002; and 4) the Navy Upper Tier system, 1998 and 2001.
- ② Require that all core theater missile defense programs are interoperable and fully capable of using external sensor data.
- ③ Terminate the Boost Phase Intercept (BPI) program.

III. National Missile Defense

Senate:

- ① The first-stage national missile defense system for development includes the following elements: 1) ground-based interceptors capable of being deployed at multiple sites and providing protection of U.S. territory, including Alaska and Hawaii, against limited missile attacks; 2) fixed ground-based radars and space-based sensors; and 3) a battle management system.
- ② The national missile defense system shall be capable of attaining an interim operational capability by 1997 by taking steps including but not limited to using developmental hardware, upgraded radars, space-based sensors, and streamlined acquisition procedures. The national missile defense system under development should be capable of attaining an initial operating capability by 2003.
- ③ The Secretary of Defense is to examine the following cost-saving measures in developing the national missile defense system: 1) use of existing facilities and infrastructure; 2) the use of existing or upgraded systems and technologies (but not including Minuteman missiles boosters); and 3) the use of systems and components that are easily transported.

House:

- ① The national missile defense system for deployment shall include the following elements: 1) up to 100 interceptors at a single site or a greater number of interceptors at a number of sites; 2) fixed, ground-based radars; 3) space-based sensors; and 4) a battle management system.
- ② The first-phase national missile defense system shall not include ground-based or space-based directed energy weapons or space-based interceptors.

Recommended Conference Outcome:¹

- ① The first-phase national missile defense system for deployment shall include the following: 1) ground-based interceptors capable of being deployed at multiple sites and providing protection of U.S. territory, including Alaska and Hawaii, against limited missile attacks; 2) fixed ground-based radars and space-based sensors; and 3) a battle management system.
- ② The national missile defense system shall be capable of attaining an interim operational capability by 1997 by taking steps including but not limited to using developmental hardware, upgraded radars, space-based sensors, and streamlined acquisition procedures. The national missile defense system under development should be capable of attaining an initial operating capability by 2003.
- ③ The Secretary of Defense will examine the following cost-saving measures in developing the national missile defense system: 1) use of existing facilities and infrastructure; 2) the use of existing or upgraded systems and technologies (but not including Minuteman missiles); and, 3) the use of systems and components that are easily transported.

IV. The Future of the ABM Treaty

Senate:

Determines that the Senate should undertake a comprehensive review of the ABM Treaty to determine its "continuing value and validity," which should be conducted in 1996.

House:

Expresses support for negotiations with Russia to expand the number of ground-based interceptors and allow the full exploitation of space-based sensors, which otherwise are restricted by the ABM Treaty.

Recommended Conference Outcome:

Direct that the Senate and House undertake a joint review of the ABM Treaty to determine its "continuing value and validity," which should be conducted in 1996.

1 The Navy Upper Tier system would provide a more cost-effective defense for the territory of the United States than ground-based options. Both the House and Senate bills, however, opt for ground-based systems to serve as the first-stage national missile defense. This effectively bars the conferees from proposing the Navy Upper Tier system for deployment as the first-stage national missile defense. Congress should revisit this decision next year.

V. Interpreting the ABM Treaty

Senate:

- ① Expresses support for an interpretation of the ABM Treaty that would distinguish between restricted national missile defense systems and unrestricted theater missile defense systems, based on whether the missile defense system has been tested against a ballistic missile with a maximum velocity exceeding 5 kilometers per second or a range exceeding 3,500 kilometers.
- ② Expresses the view that any agreement that would impose stricter standards should be subject to the advice and consent of the Senate.
- ③ Prohibits the use of funds in fiscal 1996 for the purpose of implementing an agreement that imposes a stricter standard.

House:

- ① Establishes by law an interpretation of the ABM Treaty that distinguishes between restricted national missile defense systems and unrestricted theater missile defense systems, based on whether the missile defense system has been tested against a ballistic missile with a maximum velocity exceeding 5 kilometers per second or a range exceeding 3,500 kilometers.
- ② Prohibits funds being used for the purpose of enforcing ABM Treaty restrictions against theater missile defense systems, as defined above.

Recommended Conference Outcome:

- ① Establish by law an interpretation of the ABM Treaty that delineates between restricted national missile defense systems and unrestricted theater missile defense systems, based on whether the missile defense system has been tested against a ballistic missile with a maximum velocity exceeding 5 kilometers per second or a range exceeding 3,500 kilometers.
- ② Prohibit funds being used for the purpose of enforcing ABM Treaty restrictions against theater missile defense systems, as defined above.

VI. Reporting Requirements

Senate:

- ① Requires the Secretary of Defense to submit a report on a plan for deploying theater missile defense systems prior to the submission of the budget request in 1996, which shall provide annual funding levels for core theater missile defense systems.
- ② Requires the Secretary of Defense to submit a report on a plan for developing a national missile defense system which shall provide: 1) annual funding levels for each element of the system; 2) an assessment of whether deployment is affordable and operationally effective; 3) an examination of the options for modifying the national missile defense architecture to include additional ground-based interceptors, sea-

based missile defense systems, space-based interceptors, and space-based directed energy systems.

House:

- ① Requires the Secretary of Defense to submit a plan for the deployment of both theater national defense systems and a national missile defense system, not later than 90 days following the date of enactment.
- ② Requires the Secretary of Defense to submit an annual report providing the technical milestones, program schedule milestones, and estimated cost for each of the following programs: 1) the THAAD system; 2) the Patriot PAC 3 missile; 3) the Navy Lower Tier system; 4) the Navy Upper Tier system; 5) the Corps Surface-to-Air Missile (CorpsSAM) system; 6) the Hawk system; 7) the Boost Phase Interceptor (BPI) program; 8) the national missile defense system; 9) the Arrow system; 10) the Medium Extended Air Defense (MEAD) system; and 11) any new missile defense program established after the date of enactment.

Recommended Conference Outcome:

- ① Require the Secretary of Defense to submit a report on a plan for deploying theater missile defense systems prior to the submission of the budget request in 1996, which shall provide technical milestones, program schedule milestones, and annual funding levels for the following theater missile defense systems: 1) the THAAD system; 2) the Patriot PAC 3 missile; 3) the Navy Lower Tier system; 4) the Navy Upper Tier system; 5) the Corps Surface-to-Air Missile (CorpsSAM) system; 6) the Hawk system; and 7) the Arrow system.
- ② Require the Secretary of Defense to submit a report on a plan for deploying a national missile defense system. This report should provide technical milestones, program schedule milestones, and annual funding levels for each of the following program elements: 1) ground-based interceptors; 2) fixed, ground-based radars; 3) space-based sensors; 4) the Navy Upper Tier program; 5) the Space-Based Laser program; 6) the Space-Based Interceptor program; and 7) the battle management system. In this report should also be included an assessment of whether deployment is affordable and operationally effective and an examination of the options for modifying the national missile defense architecture to include additional ground-based interceptors, sea-based missile defense systems, space-based interceptors, and space-based directed energy systems.

VII. Funding for Missile Defense

Senate:

- ① Allocates a total of \$3.403 billion for the Ballistic Missile Defense Organization (BMDO), of which the following is directed to specific programs:

Patriot	\$667 million
THAAD	\$590 million
Navy Lower Tier	\$300 million

Navy Upper Tier	\$200 million
Hawk	\$28 million
CorpsSAM	\$35 million
Boost-Phase Intercept	\$0
National Missile Defense	\$671 million
Follow-On Technology	\$243 million
Space-Based Laser ²	\$100 million
Management	\$156 million

- ② Allocates the following amounts for programs related to missile defense in the Air Force budget:

Space Missile and Tracking System	\$250 million
Miniature Sensor Technology Integration program	\$9 million
Advanced Spacecraft Technology (Clementine)	\$20 million

House:

- ① Allocates a total of \$3.541 billion for BMDO, of which the following is directed to specific programs:

Patriot	\$667 million
THAAD	\$640 million
Navy Lower Tier	\$300 million
Navy Upper Tier	\$200 million
Hawk	\$28 million
CorpsSAM	\$20 million
Boost Phase Intercept	\$29 million
National Missile Defense	\$821 million

- ② Allocates the following amounts for programs related to missile defense in the Air Force budget:

Space Missile and Tracking System	\$250 million
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2 Space-Based Laser funding comes from the Follow-On Technology account.

Advanced Spacecraft Technology
(reusable launch systems) \$100 million

Recommended Conference Outcome:

- ① Allocate \$3.451 billion to BMDO, of which the following should be directed to specific programs:

Patriot	\$667 million
THAAD	\$590 million
Navy Lower Tier	\$300 million
Navy Upper Tier	\$200 million
Hawk	\$28 million
CorpsSAM	\$20 million
Boost-Phase Intercept	\$0
National Missile Defense	\$821 million
Follow-On Technology	\$243 million
Space-Based Laser ³	\$100 million
Management	\$156 million

- ② Allocate the following amounts for specific programs related to missile defense in the Air Force budget:

Space Missile and Tracking System	\$250 million
Miniature Sensor Technology Integration program	\$9 million
Advanced Spacecraft Technology (reusable launch systems)	\$50 million
Advanced Spacecraft Technology (Clementine)	\$20 million

3 Space-Based Laser funding should come from the Follow-On Technology account, the National Missile Defense account, or both.