

**SENATE FOREIGN RELATIONS COMMITTEE  
REQUEST FOR INFORMATION**

**May 17, 2010**

**REQUEST:** Provide background information on the New START Treaty and its implications for the Ballistic Missile Defense System (BMDS), specifically that the New START Treaty does not hinder U.S. missile defense.

**RESPONSE: The New START Treaty does not constrain the United States from deploying the most effective missile defenses possible, nor does it add any additional cost or inconvenience.**

The United States is developing and fielding missile defenses to defend the United States, our forces abroad, and our allies and partners against the threat of ballistic missile attack. The New START Treaty does not constrain the testing, development, or deployment of current or planned U.S. missile defense programs. There are, however, references to missile defense in the New START Treaty Preamble and Article V, and unilateral statements made by both Parties.

*Preamble:* The Preamble of the Treaty contains a statement acknowledging the interrelationship of strategic offensive and strategic defensive arms, as President Obama and President Medvedev stated in their Joint Statement of July 2009, and recognizes that this relationship will become more important as strategic offensive arms are reduced. The Preamble also affirms that currently deployed strategic defensive arms do not undermine the viability and effectiveness of either Party's strategic offensive arms. In general, preambular language is not legally binding. Even if this language were legally binding, it only reflects some of the Treaty's object and purpose and does not contain any actual legal objections.

*Silo conversion:* Article V, Section 3 of the Treaty prohibits the conversion of Inter Continental Ballistic Missile (ICBM) or Submarine Launched Ballistic Missile (SLBM) launchers to missile defense launchers and vice versa, that is, the conversion of missile defense launchers to launch ICBMs or SLBMs. The Article also "grandfathers" the five former ICBM silos at Vandenberg Air Force Base (AFB), which were converted for Ground Based Interceptors (GBI) several years ago, as highlighted in the Seventh Agreed Statement.

The Seventh Agreed Statement to the New START Treaty also requires a total of two exhibitions of the converted silos at Vandenberg AFB over the ten-year period of the Treaty. These two exhibitions are intended to demonstrate that the converted silos are no longer capable of launching ICBMs. The exhibitions would not adversely affect missile defense operations and testing, because unlike the requirements for challenge inspections, the United States will have the opportunity to manage the timing and intrusiveness of the Vandenberg AFB exhibitions.

This is not a new concept; the United States has repeatedly invited Russian Federation Officials to visit U.S. missile defense fields in the past.

In testimony before the Senate Armed Services Committee on April 20, 2010, Lieutenant General Patrick O'Reilly, Director, Missile Defense Agency, commented on these provisions and other New START matters, stating:

“The New START Treaty has no constraints on current and future components of the Ballistic Missile Defense System (BMDS)...MDA never had a plan to convert additional ICBM silos at Vandenberg and intends to hedge against increased BMDS requirements by completing construction of Missile Field 2 at Fort Greely. Moreover, we determined that if more interceptors were to be added at Vandenberg AFB, it would be less expensive to build a new GBI missile field (which is not prohibited by the treaty). Regarding SLBM launchers, some time ago we examined the concept of launching missile defense interceptors from submarines and found it an unattractive and extremely expensive option. As the committee knows, we have a very good and significantly growing capability for sea-based missile defense on Aegis-capable ships.”

***Missile Defense Testing:*** Lieutenant General O'Reilly also noted other advantages for development of the U.S. BMDS under the New START Treaty: “Relative to the recently expired START Treaty, the New START Treaty actually reduces constraints on the development of the missile defense program. Unless they have New-START accountable first stages (which we do not plan to use), our targets will no longer be subject to START constraints, which limited our use of air-to-surface and waterborne launches of targets which are essential for the cost-effective testing of missile defense interceptors against [Medium Range Ballistic Missile] and [Intermediate Range Ballistic Missile] targets in the Pacific area. In addition, under New START, we will no longer be limited to five space launch facilities for target launches.”

MDA's intermediate-range LV-2 target booster system, used in key tests to demonstrate homeland defense capabilities and the first phase of the new European Phased Adaptive Approach to missile defense, was accountable under the previous START Treaty because it employs the first stage of the now-retired Trident I SLBM. Due to the LV-2's accountability under START, it was subject to START movement reporting, launch location restrictions, telemetry collection, and data-sharing requirements. These constraints limited the value of the LV-2 target system in BMDS testing by, among other things, restricting the number of locations from which the LV-2 could be launched.

However, Trident I is not included in the New START Treaty, so the LV-2 is no longer subject to these constraints. This will allow MDA to examine alternative LV-2 target launch sites for more efficient test architectures and geometries. The result is that MDA will be able to improve

BMDS performance for defense of the homeland and examine efficiencies and enhancements to the BMDS testing program by taking advantage of this new flexibility, as well as opportunities to reduce cost.

**Missile Defense Interceptor Exception: Article III, paragraph 7 of the Treaty excludes from coverage missiles of a type developed and tested solely to intercept and counter objects not located on the surface of the Earth, thereby confirming that current U.S. missile defense interceptors are not constrained by the New START Treaty.**

***Unilateral statements:*** On April 7, 2010, just prior to the signing of the New START Treaty, both the United States and the Russian Federation released unilateral statements concerning ballistic missile defense. These statements are not part of the Treaty and are not endorsed by both sides.

Russia asserted in its unilateral statement that any build-up in U.S. missile defenses that would “give rise to a threat to the strategic nuclear force potential of the Russian Federation” would justify Russia’s withdrawal from the Treaty. This statement is not legally binding and therefore does not constrain U.S. missile defense programs. In fact, both sides have the right to withdraw from the Treaty, if they deem it necessary for their supreme national interests. Such withdrawal clauses are common to treaties, especially in the case of arms control agreements.

The Soviet Union made a similar unilateral statement asserting its prerogative to withdraw when the START treaty was signed in 1991. At that time, the Soviet Government said it would be justified in withdrawing from the START Treaty if the United States withdrew from the Anti-Ballistic Missile Treaty (ABM Treaty). As it happened, the United States did withdraw from the ABM Treaty in 2002, but the Russian government did not withdraw from START.

The United States also issued a unilateral statement concerning missile defense in connection with the New START Treaty, stating that “the United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.” The statement takes note of Russia’s views expressed in its unilateral statement and makes clear that U.S. missile defenses “are not intended to affect the strategic balance with Russia,” but instead are intended to defend the United States, our allies and partners against “limited missile launches, and... regional threats.”

***Conclusion:*** As the U.S. unilateral statement, the Ballistic Missile Defense Review, and our budgetary plans all make clear, the Administration is committed to improving our missile defenses, as needed to defend the U.S. homeland, our deployed forces, and our allies and partners. Nothing in the New START Treaty limits our ability to do this.