

WebMemo



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Another Limit Imposed by the New START Treaty

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During his April 15 testimony to Members of the House Armed Services Committee's Subcommittee on Strategic Forces, Lieutenant General Patrick O'Reilly, the director of the Missile Defense Agency, attempted to reassure Congress that the new arms control treaty with Russia (known as New START) will not interfere with the U.S. missile defense program. Specifically, General O'Reilly insisted that

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.¹

By alluding to the New START accountable first stages, General O'Reilly's statement inadvertently implies that the treaty imposes additional specific limitations on the U.S. missile defense program—restrictions that so far have not received adequate attention by some U.S. Senators. This specific collection of restrictions pertains to test target missiles and their associated launchers and comes in addition to a general restriction imposed by language in New START's preamble and a specific restriction in Article V that prohibits the conversion of intercontinental ballistic missile (ICBM) and submarine-launched ballistic missile (SLBM) launchers into missile defense launchers.

Explanations and Excuses. The Obama Administration initially asserted that New START would

impose no limitations on the U.S. missile defense program. After receiving sharp questions about the language in the treaty's preamble, the Administration resorted to the explanation that this language imposes no *specific* limitation on the program. When this admission in turn raised concerns about the limitation to be imposed by Article V, the Administration acknowledged that New START does indeed impose a specific restriction but asserted that its own missile defense plans would not be affected.

It is not completely clear what combination of explanations and excuses the Obama Administration will resort to in response to questions about the specific limitations on missile defense test target missiles and launchers. What is clear, however, is that a pattern is emerging regarding New START and missile defense: the slow surfacing of specific provisions within New START that limit U.S. missile defense options, followed by explanations and excuses from the Administration.

The Senate should now consider how many additional missile defense restrictions exist within New START and whether it will be given the opportunity to account for all such restrictions before voting on whether to permit ratification of the treaty.

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The New START Limitation on Ballistic Missile Defense Test Target Missiles. New START's limits on test target missiles are buried in a combination of several provisions within the treaty. First, Article III, Section 4, describes in general terms both the existing and new ICBMs and SLBMs that will be subject to the various restrictions imposed by the treaty. This description extends to the first stages of the relevant missiles. It also includes a specific listing of the existing ICBMs and SLBMs and their launchers that are subject to the restrictions. For the U.S., this list includes the Minuteman II, Minuteman III, and Peacekeeper ICBMs and Trident II SLBM and their associated launchers but not the Trident I SLBM and its associated launcher.

Part I of New START's protocol provides specific definitions of ICBMs, SLBMs, ICBM launchers, and SLBM launchers, both deployed and non-deployed. According to General O'Reilly's testimony, any missile defense target that includes the first stages of the specifically identified existing ICBMs and SLBMs or new ICBMs and SLBMs will be subject to restrictions—including the first stages of the Minuteman II and Peacekeeper ICBMs, despite the fact that they are retired.

These restrictions will cover, but are not limited to, location in specified geographic areas (not outside U.S. territory), the types of facilities where they can be located (such as space launch facilities), and the time in transit (no more than 30 days). These specific restrictions are found in Article IV of the treaty. Finally, there are a variety of provisions in New START that, while not constituting direct limitations, could still impact the missile defense program. These provisions include the application of elimination or conversion procedures, notification requirements, and the sharing of telemetry.

What General O'Reilly did not speak to in his testimony was the application of restrictions in New START on test target missile launchers beyond the restriction found in Article V regarding conversions. Missile defense test target launchers are defined as

non-deployed launchers in Part I of the protocol. As non-deployed launchers, these test target launchers are counted against the 800-unit limit on deployed and non-deployed launchers in Article II of the treaty. Similar to the missiles themselves, Article IV of New START restricts what kinds of facilities may host non-deployed launchers, where they may be located geographically, and transit time. Like non-deployed ICBMs and SLBMs, application of elimination or conversion procedures (leaving aside those addressed in Article V) and notification requirements could apply.

The Irrelevance of the Expired START. Obama Administration officials, including General O'Reilly, will be quick to point out that the restrictions on test target missiles and launchers in New START are less onerous than those that were applicable under the earlier arms control treaty (called START) with Russia and other states of the former Soviet Union. START, however, expired last December and is no longer relevant. The Senate debate over the ratification of New START, regardless of its outcome, will not bring the earlier START back into force.

The question before the Senate, therefore, is whether ratification and entry into force of New START will impose more or fewer restrictions on the U.S. missile defense program than is currently the case. Clearly, New START would impose more restrictions on the missile defense program—including those related to missile defense test targets—than what is applicable today.

The Administration is also likely to make the same excuse that it made in response to questions regarding the restrictions imposed on the missile defense program by Article V: that the Administration's current missile defense program will not be impinged by these restrictions. Indeed, General O'Reilly already made essentially this argument in his April 15 testimony.

This argument implies that the Obama Administration is certain what target missiles and associ-

1. Lieutenant General Patrick J. O'Reilly, Director, Missile Defense Agency, testimony before the Subcommittee on Strategic Forces Regarding the Fiscal Year 2011 Missile Defense Programs, Committee on Armed Services, U.S. House of Representatives, April 15, 2010, pp. 18–19, at http://armedservices.house.gov/pdfs/SF041510/OReilly_Testimony041510.pdf (May 26, 2010). Emphasis added.

ated launchers will be needed to defend against emerging missile threats for the entire 10-year life of this treaty—and that there will be no surprising developments in the evolution of the missile threat. Such an assertion—that the current list of test targets will be exactly representative of the threats that may emerge over the next years—stretches credulity.

Restrictions Will Apply. When considering New START, the Senate must recognize the following:

- New START will impose restrictions on the U.S. missile defense program;
- Comparisons with the earlier START are no longer relevant; and

- Undiscovered restrictions may surface during the life of the treaty, thereby handicapping U.S. defenses against emerging missile threats.

Given that missile defenses, along with other defensive measures, are critical to maintaining strategic stability in a proliferated world, the Senate must be prepared to account for these restrictions appropriately prior to voting on ratification of New START.

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