

## **Congress and Missile Defense**

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Congress has been more involved in missile defense than it usually is on national security, but its motivations and impact are often misunderstood. One common misconception is that missile defense was intensely controversial during the 20<sup>th</sup> century, but now represents a rare area of stable consensus across party lines and between the Executive Branch and Congress. Another is that Congress has been unusually active on missile defense because the public strongly supports it and would punish politicians who did not.

A deeper look shows that there is not, and never has been, a consensus about the feasibility and desirability of comprehensive missile defense, nor on related questions, such as how nuclear deterrence works and what, if any, role arms control should play in security policy. Since the end of the Cold War, advocates for both comprehensive and very limited missile defense have claimed that a consensus has been reached on their preferred approach, but such claims are often political tactics used to silence opposition. Public opinion has been consistently mixed over the decades, with majority support for the abstract idea of protection that declines sharply if cost, effectiveness, or impact on arms control are considered.

Lack of true consensus and low public attention let members of Congress influence the shape, size, and speed of missile defense programs for reasons related as much to ideology and partisan politics as to national security. A brief review of Congressional actions prior to 2001 shows a pattern in which Congress repeatedly pulled the Executive Branch closer to the middle from its preferred position of a more minimalist or maximalist approach. Political calculations, more than true consensus, also explain why Congress has acquiesced to the President's budget

requests and supported consistency in budgets and programs after September 11, 2001, choosing to debate implementation details rather than the overall desirability and feasibility of missile defense. The relative calm in Congress represents more of a truce than a true consensus. That quiescence could end again for technological, economic, strategic or political reasons.

### **Congress as a Moderating Force in Divisive Debates over Missile Defense Policy**

As John Isaacs, a long-time observer of Congressional debates on security policy remarked, missile defense is “inherently and fundamentally political.”<sup>1</sup> Over the decades, some members have tried to change missile defense policy because they disagreed with the President about the nature of the threat, the requirements for deterrence, the cost and feasibility of defensive technologies, and the utility of arms control. Others have been motivated more by domestic political considerations, attacking the opposing side’s approach as irresponsibly lax or belligerent, or altering their own side’s stance to insulate it from attacks by the other side. Despite all this drama, though, before 2001, Congress mainly promoted incremental moderation in missile defense policy, pressuring reluctant administrations to do more, and restraining ambitious ones from doing all they wished.<sup>2</sup>

Congress played both roles during the Johnson and Nixon administrations. By the mid-1960s, the Soviets were deploying nuclear-tipped interceptors around Moscow, but Johnson officials thought that anti-ballistic missile (ABM) defense would be difficult, expensive, and destabilizing. After Congressional Democrats warned that an “ABM gap” could become an issue in the 1968 election, Johnson requested funds for long-lead work on a “thin” ABM system to protect a few cities against a small strike from an unsophisticated proliferator (e.g. China). It also

tried, unsuccessfully, to start ABM negotiations. The funding request energized opposition. Scientists, academics, and arms control activists sought to educate Congress about technical and strategic challenges with missile defense. Residents near prospective Sentinel sites protested that U.S. nuclear-tipped interceptors were more likely to damage than to protect their homes.

Congress reacted negatively when the Nixon administration tried to circumvent public opposition by announcing that the first ABM sites would be located to protect nuclear missiles based far from population centers. Nixon and his top advisers thought that having some ability to limit the damage that the Soviets could do by attacking first would make deterrence more stable than relying solely on threats of mutual assured destruction, but many in Congress disagreed. Traditionally, only administration witnesses testified on defense policy, but Congressional committees began to invite testimony from independent scientists opposed to missile defense. Congress also used its power of the purse to reduce the number of planned sites, but allowed some work on missile defense as a bargaining chip in arms control negotiations. Fear of losing all funds for missile defense explains why Nixon let the 1972 Anti-Ballistic Missile Treaty allow only two (later one) ground-based sites, although he wanted a higher limit. After the ABM Treaty entered into force and the first U.S. site became operational, Congress decided that Safeguard was too expensive, vulnerable, and ineffective, so it eliminated funds for operation.

Missile defense was not highly contentious in Congress for a decade, until President Reagan announced plans for a multi-layered defense against tens of thousands of Soviet weapons. The Strategic Defense Initiative (SDI) involved quadrupling annual spending on research and development (R&D) in hopes of developing a comprehensive ground- and space-based system that could render nuclear weapons “impotent and obsolete.” A small group of missile defense advocates among military officers and weapons scientists had promised Reagan

that American scientific ingenuity could end vulnerability to Soviet nuclear aggression. Most of Reagan's security and political advisers did not believe that the United States could build a comprehensive space shield, but supported SDI for whatever limited defense it could provide and to deflect popular pressure for arms control before the 1984 election. Thus, for a mix of ideological, political, and strategic reasons, professed support for overcoming all obstacles to comprehensive missile defense became a litmus test of Republican identity.

The American public liked the abstract concept of a defensive shield and believed that U.S. scientists could eventually build one, but knew few details about SDI. When asked whether it would facilitate or impede arms control, poll respondents were divided. Given an either/or choice, 53 percent of respondents preferred arms control over missile defense.<sup>3</sup>

During the Reagan and George H.W. Bush administrations, Democrats in Congress fought to keep SDI within ABM Treaty limits. Rather than continue to question the desirability in principle of missile defense, they began proposing practical requirements for moving beyond R&D. Invoking criteria set by Paul Nitze, Reagan's Special Advisor on Arms Control, Democrats warned that they would not approve funding for full-scale development and initial deployment until testing showed that the system would work under real-world conditions; that its components could survive a Soviet attack; and that it would be "cost-effective at the margins" (i.e. defenses could be deployed for less money than whatever counter-measures the adversary might attempt to overcome them).

Members also reduced funds that the Strategic Defense Initiative Organization (SDIO) had to provide research contracts, and thereby buy support or silence from scientists who might otherwise publicly question SDI's feasibility, affordability, and impact on strategic stability. From FY 1986 (the first budget request reflecting SDI) through FY 1993 (the last request

prepared by the first Bush administration), annual funding appropriated for strategic defense averaged 26 percent below the President's request.<sup>4</sup> For Congress to approve even that much, administration officials had to pursue substantial nuclear reductions, hence the 1987 Intermediate-Range Nuclear Forces (INF) Treaty and the Strategic Arms Reduction Treaties (START) in 1991 and 1992. They also had to convince Congress (incorrectly, it turned out) that U.S. advances in missile defense were necessary to get major Soviet concessions on their offensive weapons most feared by the West.<sup>5</sup>

Reagan officials initially rejected Nitze's criteria and re-interpreted the ABM Treaty to exclude space-based lasers and other "exotic" technologies developed after the accord was signed. Only when Congress threatened to cut all SDI funding from the FY 1988 budget did the Reagan administration reluctantly accept the traditional interpretation of the ABM treaty's scope, the Nitze criteria, and Congressional control over a future deployment decision. It did not, however, heed Senator Sam Nunn's call to build bipartisan support by re-orienting SDI from comprehensive national defense against a pre-meditated Soviet first strike to cooperative nuclear risk reduction through development of an Accidental Launch Protection System (ALPS) with only enough ground-based interceptors to handle "several" errant missiles.<sup>6</sup>

George H.W. Bush tried to win over missile defense critics by renaming the program GPALS (for Global Protection against Limited Strikes), and offering to develop it cooperatively with the Soviets if they agreed to change the ABM treaty. But he still sought a far more expensive, larger force than Congress was willing to support: 1,000 space-based "Brilliant Pebble" interceptors, 750–1,000 long-range ground-based interceptors at six sites, and transportable shorter-range missile defenses, estimated to cost \$46 billion over 14 years.<sup>7</sup> In response, Congress passed, the Missile Defense Act of 1991, which called for development of an

ABM-treaty compliant national missile defense (NMD) with 100 interceptors to protect against small accidental, unauthorized, or proliferator attacks without upsetting strategic stability, plus theater missile defense (TMD) and negotiations with the USSR.

When President Clinton tried to scale back missile defense efforts even further, Congress pressed for more, especially after Republicans prevailed in the 1994 election. Their “Contract with America” focused mainly on domestic issues, but also promised to defend the entire country against ballistic missiles. Starting in 1995, proponents began appropriating more money for NMD than Clinton had requested. Each year, they also tried to legislate accelerated deployment.

To defeat these proposals without looking “weak on defense,” Clinton and Congressional Democrats supported partial measures that they might not have otherwise favored. They increased funding for TMD, which seemed more achievable than NMD due to initial, highly exaggerated, claims that the Patriot missile defense system had been 80–100 percent effective during the 1991 Gulf War.<sup>8</sup> They also approved more funds for R&D and committed to an initial NMD deployment decision in 2000. They did so not because the threat had increased or the technology had improved significantly, but rather to blunt Senator Dole’s efforts to use missile defense in the 1996 presidential election as one of the few foreign policy issues where he differed from Clinton.<sup>9</sup>

The Clinton administration tried to reconcile missile defense and arms control by negotiating agreements that designated Russia and three other former Soviet states as successors for the ABM Treaty and that demarcated permitted TMD from prohibited NMD systems. A few Republicans who were ideologically opposed to negotiated constraints on U.S. military capabilities used these minor missile defense agreements to block further progress on arms control by including a condition in the resolution of ratification for the Conventional Forces in

Europe (CFE) Treaty requiring that they be submitted for Senate advice and consent.<sup>10</sup> Senator Helms, then chair of the Senate Foreign Relations Committee (SFRC), wanted to raise broader questions about “that dangerous [ABM] treaty,” in hopes that a Senate vote against ratification of the subsidiary agreements would “defeat the ABM Treaty, toss it into the dustbin of history, and thereby clear the way to build a national missile defense.”<sup>11</sup> Rather than risk losing the ABM Treaty, the Clinton administration never submitted them to the SFRC. The cost of Helm’s maneuver was high because their entry into force was a Russian condition for entry into force of START II, which would have banned intercontinental ballistic missiles (ICBMs) with multiple independently targetable reentry vehicles (MIRVs) and eliminated all Russian heavy missiles.

Congressional missile defense advocates also tried to pressure Clinton by heightening fears of proliferation. In 1998, a panel led by former Republican Defense Secretary Donald Rumsfeld asserted that North Korea and Iran could have missiles able to reach the United States with nuclear or biological warheads within five years of an acquisition decision. At the same time, supporters toned down the language of their NMD deployment mandate to get enough votes for passage. Their failed 1995 legislation had required deployment in 2003 of an established system architecture, and ABM Treaty withdrawal. The 1999 version simply said that it was U.S. policy both to deploy “as soon as is technologically possible an effective NMD system capable of defending the territory of the United States against limited ballistic missile attack” and to “seek continued negotiated reductions in Russian nuclear forces.”<sup>12</sup>

Some Democrats who had opposed previous NMD mandates decided to support the 1999 compromise version so that President Clinton would not have to veto a more ambitious missile defense bill before the 2000 election. They thought that the arms control language made the legislation “meaningless” because that objective would be impeded if the United States

abrogated the ABM treaty.<sup>13</sup> They also knew that Congress would retain control over funding for missile defense and future tests might never demonstrate that the technology could provide a reliable defense against even a small attack.

This may have been a tactical miscalculation. Even if the National Missile Defense Act of 1999 did not require the President to do anything, the lopsided vote (97–3 in the Senate and 317–105 in the House) proved politically significant. Ever since, missile defense supporters have depicted it as evidence that large numbers of Democrats favor the “urgent and unqualified pursuit of strategic missile defenses.”<sup>14</sup> Advocates used that claim to shift Congressional debate from the net effect of missile defense on national security to the timing and characteristics of deployment. They did not, however, accept the corollary claim that by voting for the Act, even more Republicans had shown strong support for arms control.

When the deadline came, Clinton decided against deployment because two of his four criteria had not been met. He considered the threat to be real, and \$25 billion for a 100-interceptor NMD system to be affordable, given federal budget surpluses. But, feasibility remained unproven. Two of the first three NMD tests were failures, while countermeasures and critical component vulnerability still posed major challenges. Moreover, deploying a few interceptors of unknown capability against a threat that had not materialized would damage arms control, so Clinton judged that the net impact on national security would be negative.

Clinton’s decision is unlikely to have hurt his party’s nominee in the 2000 Presidential election. Candidate George W. Bush promised to “defend the American people,” rather than rely on “outdated treaties,” and to deploy missile defense “at the earliest possible date.”<sup>15</sup> As before, the public still favored protection against ballistic missiles as an abstract policy objective, but few were paying attention to the issue or considered it an electoral priority. When asked more

detailed questions, most respondents (including a majority of Republicans) only wanted to spend money on missile defense if there was clear evidence that it would work and if it did not detract from higher priorities, like military training and defense against terrorist attack. Fifty six percent considered arms control a more reliable way to reduce nuclear risks than missile defense; only 27 percent preferred missile defense. They overwhelmingly supported Clinton's decision not to begin deployment before resolving concerns about technical feasibility, arms control, and net impact on security (58 percent to 30 percent).<sup>16</sup>

### **No Congressional Consensus on Bush's Comprehensive Missile Defense Efforts**

Before September 11, 2001 Congressional Democrats tried to constrain Bush administration efforts to merge NMD research and TMD development into an ambitious, open-ended, integrated BMD program. Rather than specifying a system architecture to be evaluated before making a deployment decision, Bush began rapidly developing technologies for ground-, sea-, air-, and space-based platforms that could be combined into a global system of "layered defenses, capable of intercepting missiles of any range at every stage of flight."<sup>17</sup> His FY 2002 budget request raised spending for the renamed Missile Defense Agency (MDA) by 57 percent to \$8.3 billion. Defense Secretary Rumsfeld also said planned tests would hit ABM Treaty limits "in months, not years," although former officials testified that the treaty did not constrain the types of tests that would be more logical next steps.<sup>18</sup> In response, House and Senate Democrats proposed major reallocations from MDA to other military programs. Moreover, the Senate Armed Services Committee voted to prohibit spending money on tests that violated the ABM Treaty without Congressional approval, regardless of whether Bush withdrew from it.

In response to the terrorist attacks, Democrats removed these missile defense restrictions to show bipartisan solidarity and speed appropriation of more funding for defense. Proponents used September 11<sup>th</sup> to underscore U.S. vulnerability and demand more missile defense. Critics countered that preventing global terrorism required close international cooperation. If the United States tried to develop extensive and expensive NMD, it would alienate other countries, but not stop the most likely forms of terrorist attack. Democrats planned to raise these objections in Congress when the context was more appropriate for partisan debate.<sup>19</sup> Before the political environment returned to normal, though, the Bush administration announced it would leave the ABM Treaty, Congress passed a FY 2003 Defense appropriations bill that gave MDA more money than the President had requested, and Republicans regained control of the Senate.

Arms control supporters in Congress disliked Bush's December 2001 decision to leave the ABM Treaty, but did not mount a major effort to block it. Bush framed the move as part of a strategy developed in close consultation with "my friend, Vladimir Putin" to leave behind "one of the last vestiges" of the Cold War and move from "mutual assured destruction" to "mutual cooperation." The President promised to link progress on missile defense with unilateral reductions in U.S. strategic offense. He also said that Putin had agreed that U.S. withdrawal from the ABM Treaty "will not, in any way, undermine our new relationship or Russian security,"<sup>20</sup> even though Putin had also called Bush's decision "mistaken."

U.S. and allied arms control experts knew their Russian counterparts saw the ABM announcement as showing gratuitous disregard for Russia's security concerns after Putin had offered Bush unprecedented cooperation. But it was hard for them or allied leaders to object vociferously when Putin did not do so. Democratic Senators were "infuriated" that Bush had not asked for their advice and consent, or even consulted them. But they deemed it "politically

difficult” to challenge Bush while stressing national unity, especially when the early success of military operations in Afghanistan had boosted the President’s popularity. Therefore, Democrats changed tactics from emphasizing ABM Treaty compliance issues to arguing that BMD funding requests should be evaluated by the same criteria used for other military programs.<sup>21</sup>

Rumsfeld issued new planning, budgeting, and reporting guidelines which ended Congressional access to the types of data needed for meaningful evaluation. MDA had already shifted from standard “fly before you buy” acquisition rules to a “spiral development” model, in which systems are deployed while still being tested and modified. Under the new guidelines, MDA would no longer set performance objectives, timetables, or budget projections for missile defense projects, so Congress had no baseline to judge progress. MDA no longer needed approval to reallocate funds within its overall budget and was exempted from some reporting requirements normally used for major defense acquisitions. Rumsfeld also let MDA start classifying certain information about planned tests, such as whether decoys were included.

The official rationale for these changes was to increase flexibility, speed innovation, and protect sensitive information. They also enabled Bush to claim that he had made good on his pledge to deploy missile defense for the United States before the 2004 election, without first demonstrating that it worked. Democrats objected that the new rules impeded Congressional oversight; precluded independent review; stifled public debate; and hurt the prospects for effective, affordable missile defense.<sup>22</sup> The committees that authorize defense spending tried to re-impose tighter reporting and review requirements. But Bush’s signing statement reserved the right to withhold required information to protect national security and its own decision-making processes. Thus, neither Congress nor voters knew whether the country was safer after MDA officials said in mid-October that they had “delivered the infrastructure for an initial

capability.”<sup>23</sup> Some top DOD officials were extremely optimistic; one had previously put the projected system’s effectiveness “in the ninety percent range.”<sup>24</sup> In December 2004, though, the first test in two years failed, components needed to track in-coming missiles still were not ready, and service members assigned to do operational testing told Congress that they lacked confidence the system would work if the United States was attacked.<sup>25</sup>

A year after initial deployment, the system had still not been declared operational. By that point, the MDA Director would only say that the probability of intercepting an incoming ballistic missile was “better-than-zero”, and that any further information about effectiveness was classified.<sup>26</sup> The GAO criticized MDA for prioritizing rapid deployment “at the expense of cost, quality, and performance goals.”<sup>27</sup> But, Rumsfeld brushed aside such concerns; in his view, simply announcing that the United States had a NMD system would “force U.S. adversaries to think twice before attacking.”<sup>28</sup>

Democrats regained control of Congress in 2007, but members who cared about foreign policy were mainly focused on the war in Iraq, and other issues with more media and public resonance than missile defense had. Actions already taken by the Bush administration left missile defense skeptics with less leverage than they had last time the Democrats held the majority. Therefore, they no longer questioned whether rapid deployment of comprehensive BMD was an affordable, effective response to a near-term threat of ballistic missile attack, with a net positive effect on national security. Rather, they tried to make marginal changes to reduce damage caused by the program to their security priorities.

With the overall defense budget rising, Democrats did not seek major cuts to Bush’s \$9 billion MDA annual request, particularly because much of it was for limited GMD and two TMD systems that Clinton had also supported: the ship-based Aegis BMD, and the ground-mobile

Terminal High Altitude Area Defense (THAAD). They did cut or constrain small amounts for futuristic technologies, like the Airborne Laser, and for activities most likely to stir up negative international reactions, such as testing for space-based defenses.

After China demonstrated a rudimentary anti-satellite (ASAT) capability by destroying its own defunct weather satellites in 2007, few in Congress objected when the Bush administration used the Aegis system to destroy the failed USA-193 spy satellite. The official objective was to protect public health, but a “side benefit” was to show that money spent for missile defense “had resulted in a very real capability.”<sup>29</sup> Because it is easier to intercept a satellite than a missile, though, the only capability conclusively demonstrated was that of adapting missile defense for ASAT use.<sup>30</sup>

Congressional Democrats were able to use budget leverage to slow plans for a third GMD site in Europe. The Russians objected strenuously to Bush plans for interceptors in Poland and a radar in the Czech Republic. They disliked the symbolism of U.S. missile defense on the territory of former Warsaw Pact allies; worried about whether interceptors could be used for offensive purposes; feared the foothold could be expanded and upgraded to have utility against their own deterrent; and saw domestic political benefits to opposing deployment. The third site plan was also highly controversial in Europe. Polish and Czech leaders wanted stronger ties to the United States, but their publics largely opposed deployments. Western European leaders thought that Bush administration was exaggerating the missile threat from Iran. They also worried that the planned third site would reduce Russian willingness to help control whatever nuclear and missile capabilities Iran had through multilateral diplomacy, without protecting all Europeans against the short- and medium-range missiles that Iran already had.<sup>31</sup> Even Robert Gates (who had replaced

Rumsfeld as Defense Secretary), questioned whether the value of activating the third site outweighed the likely damage to U.S.-Russian security relations.<sup>32</sup>

This international controversy, plus the 2008 financial crisis, created political space for Congress to reduce FY 2008 and FY 2009 appropriations for the third site. It also prohibited spending funds for construction until basing agreements had been secured, and the interceptors passed “operationally realistic flight testing.” Some members still worried about the negative impact on U.S.-Russian relations. Putin rejected minor confidence-building measures (CBMs) that the Bush administration proposed, such as promising not to activate the third site until Iran had missiles capable of striking the United States or deep into Europe. Bush was similarly unimpressed by Russian suggestions for CBMs, such as using the Gabala radar in Azerbaijan instead of building one in the Czech Republic, or stationing Russian observers at the European BMD locations. Russia’s August 2008 military incursion into Georgia increased Czech and Polish enthusiasm for close ties to the United States, but not enough for the basing accords to be ratified before Bush left office.

By the end of the Bush administration, a wide range of members objected to its handling of missile defense. They mandated broad reviews from the Secretary of Defense, the Pentagon’s weapons testing agency, and the National Research Council (NRC). But consensus in Congress on the need for a new approach masked disagreements about what type of change was needed. One group wanted management reforms so MDA could provide a comprehensive, layered defense faster, cheaper, and better. Another favored an equally vigorous, but more narrowly focused, effort to deploy limited, proven defenses against near-term ballistic threats. A few members hoped the next President would ask fundamental questions about whether funds for missile defense could be better spent on cooperative nuclear risk reduction, or non-nuclear

security priorities. On missile defense, as on most other nuclear-related issues, though, a growing number of Congress members and staff lacked strong opinions one way or another. One reason why missile defense became less controversial after the Cold War is that fewer people have enough knowledge and interest to evaluate whether current and proposed programs are technically, economically, politically, and strategically sound.

### **Quiescence, Not Stable Consensus on Obama Plans for Limited Missile Defense**

Missile defense was rarely discussed during the 2008 campaign. Candidate Obama's willingness to "support missile defense efforts if they are effective and not too costly" let each group hope he favored their preferred type of change. His first term actions could also be read as moving in very different directions. Andrew Futter maintains that Obama made cosmetic and tactical changes, but kept Bush's objective of deploying a global, layered defense as quickly as possible.<sup>33</sup> After Ellen Tauscher became Obama's Undersecretary of State for Arms Control and International Security, she claimed that a bipartisan consensus had formed in Congress on a limited defense against near-term missile threats.<sup>34</sup> Missile defense skeptics in Congress and the NGO community applauded Obama's initial 16 percent reduction in funds requested for MDA; his cancellation of the third site; and his ability to keep missile defense disputes from blocking U.S.-Russian agreement on offensive cuts in the 2009 New Strategic Arms Reduction Treaty (New START).

Obama's decision to retain Gates as Secretary of Defense ensured that the top-level DOD review mandated by Congress would affirm the need for missile defense and the value of the GMD capabilities that he had help deploy during the Bush administration. Gates and other

Obama officials continued to say what they believed Congress and the public wanted to hear: that the homeland already had an effective defense against any long-range missile that North Korea might be able to launch in the foreseeable future.<sup>35</sup> This claim was accepted at face value by different groups for different reasons. Democrats were willing to call the current GMD system satisfactory to help Obama shift emphasis from NMD back to theater missile defense. Republicans initially complained that they, and possibly the Europeans, were not consulted before the third site was cancelled. But, Gates reassured them that the European Phased Adaptive Approach (EPAA) was his recommendation to facilitate earlier deployment of more mature capabilities that matched near-term threats, while evolving towards a global layered defense as soon as possible.

Obama's second missile defense restructuring caused little controversy for the same reason. In March 2013, Chuck Hagel (a former Republican Senator who had replaced Gates) announced plans to increase the number of GMD interceptors from 30 to 44, to deploy a second X-band radar in Japan, to conduct an environmental impact study for a possible East Coast missile defense site, and to cancel Phase Four plans for high speed interceptors in Europe. Hagel presented this as a way to keep U.S. missile defense ahead of the North Korean threat, whose recent "irresponsible and reckless provocations" included a third nuclear test and work on road-mobile ICBMs.

The reorientation pleased missile defense advocates who wanted to fix serious problems caused by the initial rush to activate GMD, although Hagel promised skeptics that no more interceptors would be deployed until MDA conducted a successful intercept test using the CE-II kill vehicle. Arms control advocates hoped that cancelling the fourth phase of EPAA, the part that was most objectionable to the Russians, would facilitate further arms reductions. Few

missile defense supporters decried cancellation because the 2008 NRC missile defense study had concluded that the fourth phase “is not necessary for theater defense and is at best less than optimal for homeland defense.”<sup>36</sup> Finally, the environmental study split the difference between Democrats, who preferred not to think about a third site before fixing existing problems with GMD, and those Republicans who wanted interceptors at an East Coast site as soon as possible.<sup>37</sup>

The budget for missile defense during Obama’s first term has also been broadly accepted for different reasons. The average annual request for MDA was only slightly less in his first five budgets (\$8.1 billion) than in those prepared by his Republican predecessor (\$8.3 billion) despite the Great Recession and opposition to deficit spending.<sup>38</sup> The appropriated amount was also very close to the requested amount. But Obama’s \$8.5 billion request for FY 2015 was only about half as much as CBO had predicted would be needed by then to fulfill Bush’s plans for global layered defense against missiles of all ranges.<sup>39</sup> Budget stability was not maintained by shifting funds from GMD to Aegis, THAAD, and Patriot as the PAA announcement might have implied. Relative allocations changed little from 2002 through 2015.<sup>40</sup> Instead, the budget has stayed stable despite cost growth in core programs due to deep cuts or cancellation of longer lead-time, less promising technology development efforts.

Congress and its support agencies have still had difficulty assessing the current and future costs of missile defense, the rate of progress, and the capabilities achieved. The Obama administration has improved transparency and accountability somewhat. Yet, GAO and Congressional committees complain that the information they get is still incomplete, unreliable, and difficult to understand.<sup>41</sup>

The biggest missile defense controversy of Obama’s first term occurred during the 2010 debate on New START ratification. The Treaty’s preamble noted “an interrelationship between

strategic offensive arms and strategic defensive arms ... [that] will become more important as strategic nuclear arms are reduced,” but did not define that relationship. U.S. administrations since Reagan (Republicans more enthusiastically than Democrats) have maintained that missile defense can preserve strategic stability with fewer deployed strategic offensive weapons on either side. But, the Russian signing statement said that New START would only be “viable and effective” if the United States refrained from qualitative or quantitative improvements to missile defense that could undermine Russia’s nuclear deterrent. Therefore, treaty opponents asserted that the Obama administration might hold back on missile defense for fear the Russians would use advances as an excuse to withdraw from New START.

Democrats tried repeatedly to trade commitments on missile defense for Republican support on arms control. During the ratification debate, Obama requested, and Democrats in Congress approved, substantially more for money for missile defense than they had the previous year. They let Richard Lugar, the ranking member of the SFRC, draft the resolution of ratification because he had told President Obama that including the right language on missile defense was essential for Republican support.<sup>42</sup> It included numerous conditions, understandings, and declarations related to missile defense, most of which simply made explicit what Democrats believed to be already true. The twelfth condition, though, created a new impediment to future arms control. It required the President to initiate negotiations on a verifiable agreement to reduce Russia’s advantage in non-strategic nuclear arms, but prohibited those talks from including defensive missiles, the offsetting asymmetry most likely to interest the Russians in asymmetrical reductions.<sup>43</sup>

Senator James DeMint (R-SC), another Republican on the SFRC, wanted two additional provisions that would have gone well beyond existing policy. One averred that “mutual assured

destruction’ or intentional vulnerability ... [was] unacceptable over the long term.” The other committed the United States to construct a “layered missile defense capable of countering missiles of all ranges.” Democrats accepted a version of the DeMint amendment after it was changed from an understanding to a declaration. The revised version added language about the U.S-Russian common interest in “moving cooperatively... away from a strategic relationship based on mutual assured destruction. While reiterating that the United States “is and will remain free” to construct a layered missile defense system, it did not commit to anything more than the limited capability currently planned.<sup>44</sup> Even with that amendment, though, DeMint did not support ratification.

Missile defense proponents may get more future mileage out of a declaration in the resolution that received less attention. It said that “defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and further limitations on the missile defense capabilities of the United States are not in the [country’s] national security interest.”<sup>45</sup> This does not impose a legal requirement to keep missile defense as a major component of U.S. security policy, nor a binding prohibition on negotiated limits. But as with the National Missile Defense Act of 1999, advocates will try to use unanimous Democratic support for the New START resolution as evidence of a firm bipartisan consensus that unlimited missile defense is, and will forever be, an integral part of U.S. security policy.

## **Policy Implications**

Such claims would go well beyond what the evidence presented would support. Some long-time observers of Congress on missile defense do say that stable consensus has formed, but

what they mean is that trench warfare has been replaced by a negotiated agreement built around a much more limited approach to missile defense. These terms entail spending around \$9 billion per year on theater missile defense and enough GMD to intercept a small number of unsophisticated ballistic missiles launched by a potential proliferator such as North Korea or Iran, but not an effective defense against Russian or Chinese ballistic missiles, with no BMD interceptors in space.<sup>46</sup>

If a deep and enduring political consensus had actually formed around such limited missile defense, then Russia and China would not need to worry about the United States building a more capable system that could eventually decrease confidence in their deterrent. It would be more accurate to say, though, that practical constraints provide more reliable reassurance than whatever degree of political consensus currently exists among the Executive Branch and members of Congress. The 2012 NRC report, a Defense Science Board study released the previous year, and a 2004 study by the American Physical Society concur that immutable scientific laws create fundamental problems at each stage of flight for which there are no known solutions.<sup>47</sup> If a comparable assessment were done of the strategic effects of missile defense, it would likely find little evidence that uncertainty about U.S. missile defense capabilities has had a dissuasive effect compared with indications that it has motivated potential adversaries to build more missiles, pursue countermeasures, and do less regarding arms control and nonproliferation than they otherwise would have if the United States had placed less emphasis on missile defense in its security policies.

Even if Republicans controlled both Congress and the White House again, they would be unlikely to substantially increase missile defense spending in search of technological or strategic breakthroughs because spending constraints are much tighter now than during the Bush years. In

a 2012 public budgeting exercise conducted by the Program for Public Consultation, three quarters of participants wanted to cut defense spending by an average of 23 percent for 2013, and a majority (including 47 percent of Republicans) wanted to reduce missile defense spending by an average of 14 percent.

In short, despite spending over \$165 billion dollars on missile defense since Reagan's SDI speech, proponents have not been able to resolve the basic questions about feasibility, vulnerability, cost-effectiveness, and net effect on national security that made missile defense so controversial in Congress during the Cold War. Russian and Chinese experts seem to know this. They cannot understand why American arms control proponents in Congress, the White House, and NGOs rarely raise these concerns anymore, preferring to minimize domestic controversy over missile defense at the expense of security cooperation with other countries.<sup>48</sup>

Democrats in Congress have been quiescent for tactical reasons that were often misguided in the past, and that will likely make even less political sense in the future. As long as the defense budget was growing and they believed that there was strong public support for missile defense, they were willing to spend lavishly on missile defense even if core programs were behind schedule and over cost. Many did so in the mistaken belief that this was what most voters wanted, or the unrealized hope of gaining broad Republican support for arms control.

As pressure to reign in defense spending grows, more intense scrutiny and acrimonious debate is likely to reoccur. Renewed debate in Congress would also raise awareness about what public priorities really are. Even relatively successful and popular programs may become more controversial when the Navy has to pay for BMD-capable Aegis out of its own existing budget rather than receiving additional money from MDA for that purpose. If budget constraints force tough choices, the number of Republicans in Congress (and their lobbyists and constituents) who

support missile defense at any cost would almost certainly be much smaller than those who prefer other military priorities. And, to the extent that U.S. allies become less enthusiastic about regional missile defense cooperation when they are expected to pay more of the bill, burden-sharing will become another controversial question in Congress.

One way for missile defense to become truly non-controversial both in Congress and in future arms control negotiations would be for U.S., Russian, and Chinese policymakers to make a more concerted effort than they have so far to change their strategic relationship from deterrence to cooperative security. Relations have often moved in the opposite direction during the George W. Bush and Obama administrations. Yet, the idea that Russia, China, North Korea, or any other nuclear-armed state would launch a deliberate attack still seems more far-fetched than it did when Reagan promised to build a defensive shield against Soviet aggression. His relationship with his Soviet counterpart changed unexpectedly for the better in a short time.

The United States could do more than it has so far to reassure Russia and China about the current capabilities and future evolution of its missile defense programs without risking negative public opinion. A useful first step would be to start providing Congress and the public with much more complete and realistic information about what current capabilities actually are, and what would need to be done before military commanders could have high confidence in their ability to intercept even a few long-range nuclear missiles under wartime conditions.<sup>49</sup>

When DOD officials testify that the United States already has such a capability, they are expressing optimism based on assumptions, extrapolations, and simulations, not empirical evidence from reliably successful tests under real operational conditions. Political and military leaders would not consider this to be an acceptable basis for high confidence regarding arms control verification or the reliability of weapons in the U.S. nuclear stockpile. Multiplying the

number of interceptors fired against each in-coming missile would still not provide high confidence because some of the most likely failure modes could affect all interceptors of a given design, or all parts of the system relying on the same sensors, communication nodes or analytical techniques. Pre-emption might seem like the safest option in an emergency, but it would also be risky and is not a viable strategy for dealing with numerous missile threats over time.

The more members of Congress think about these problems, the more interested they are likely to become in cooperative prevention – i.e. protecting their constituents by using diplomacy, arms control and non-proliferation agreements, security guarantees, systematic transparency arrangements, and other measures to minimize both the number and capability of ballistic missiles being stockpiled by other countries, as well as the reasons why they might ever be used against the United States, its allies, or anyone else.

There are no historical or empirical reasons to believe that cooperative prevention could be 100 percent effective, any more than there are for similar guarantees under missile defense or deterrence. But it is not hard to imagine that a well-informed Congress which cared as much about national security as it did about domestic politics might conclude that moderating U.S. missile defense policy enough to no longer impede other forms of nuclear risk reduction would be both more effective, and more popular with the public, than keeping all options open for the future evolution of missile defense.

This could take the form of renewed willingness to consider incorporating some limits that are already informally accepted by most members of Congress (such as foregoing space-based interceptors) into a future comprehensive strategic arms control agreement, rather than categorically declaring that any limits on U.S. missile defense capabilities would not enhance national security.<sup>50</sup> In the near term, though, even renewed Congressional willingness to ask

tough questions, insist on greater transparency and accountability, and debate fundamental issues would reassure the public, U.S. allies, and other countries that future U.S. missile defense decisions will be made according to technical, economic, strategic, and political criteria that they can understand.

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<sup>1</sup> Andrew Futter used Isaac's quote to encapsulate a core argument of *Ballistic Missile Defense and U.S. National Security Policy: Normalization and Acceptance after the Cold War* (London: Routledge, 2013), p. 1.

<sup>2</sup> David P. Auerswald, "The Domestic Politics of Missile Defense under the Bush Administration," *Defense Studies* 1:2 (2001), p. 3.

<sup>3</sup> "U.S. public opinion generally favors 'star wars,'" *Christian Science Monitor* (11-21-85).

<sup>4</sup> "Historical Funding for MDA, FY85-14," at:  
<http://www.mda.mil/global/documents/pdf/histfunds.pdf>.

<sup>5</sup> SDI actually hurt Gorbachev's efforts to get internal support for arms control concessions. See Aleksandr' G. Savel'yev and Nikolay N. Detinov, *The Big Five: Arms Control Decision-Making in the Soviet Union* (Westport, CT: Praeger, 1995).

<sup>6</sup> Senator Sam Nunn, "Arms Control in the Last Year of the Reagan Administration," *Arms Control Today* (March 1988), pp. 3-7.

<sup>7</sup> "The President's New Focus for SDI: Global Protection Against Limited Strikes (GPALS)," Strategic Defense Initiative Organization (June 6, 1991).

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<sup>8</sup> The Government Accountability Office (GAO) later judged that its real success rate was below ten percent. See Victoria Sampson, *American Missile Defense: A Guide to the Issues* (Santa Barbara, CA: Praeger, 2010), p. 98 and Steven A. Hildreth and Amy F. Woolf, “Ballistic Missile Defense and Offensive Arms Reductions: A Review of the Historical Record,” CRS report R41251 (May 25, 2010), p. 18.

<sup>9</sup> Futter, *Ballistic Missile Defense and U.S. National Security*, pp. 60–9

<sup>10</sup> Amy F. Woolf, “Anti-ballistic Missile Treaty Demarcation and Succession Agreements: Background and Issues,” (updated April 27, 2000).

<sup>11</sup> Quoted in “Helms Sets June Deadline for ABM Agreements,” *Arms Control Today* (January/February 1999), p. 28.

<sup>12</sup> National Missile Defense Act of 1999, Public Law 106-38, July 22, 1999.

<sup>13</sup> Quoted in Auerswald, “The Domestic Politics of National Missile Defense,” p. 62.

<sup>14</sup> Greg Thielmann, “The National Missile Defense Act of 1999,” *Arms Control Today* (July/August 1999).

<sup>15</sup> George W. Bush, “Acceptance Speech at Republican Convention,” Philadelphia, PA, August 3, 2000.

<sup>16</sup> Mark S. Mellman with Adam Burns and Sam Munger, “No Pressure from the People,” *Arms Control Today* (October 2000), pp. 19–20 and 23.

<sup>17</sup> MDA Director General Kadish, quoted in Steven A. Hildreth, “Missile Defense: the Current Debate,” CRS report RL3111 (updated July 19, 2005).

<sup>18</sup> Wade Boese, “Bush Administration Aims to Get Rid of ABM Treaty,” *Arms Control Today* (September 2001).

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<sup>19</sup> Senator Carl Levin, “A Debate Deferred: Missile Defense after the September 11 Attacks,” *Arms Control Today* (November 2001), pp. 3-5.

<sup>20</sup> President Bush’s Remarks Regarding U.S. Withdrawal from the ABM Treaty, December 13, 2001, reprinted in *Arms Control Today* (January/February 2002), p. 21.

<sup>21</sup> “Bush’s Move to Void ABM Pact Has Democrats Looking for Options,” *CQ Weekly* (December 15, 2001, pp. 2986–8.

<sup>22</sup> Gary J. Pagliano in Hildreth, “Missile Defense: The Current Debate,” pp. CRS-13–17.

<sup>23</sup> MDA Official quoted in Wade Boese, “Missile Defense Still on Hold,” *Arms Control Today* (December 2004).

<sup>24</sup> Undersecretary of Defense Edward Aldrich, in testimony to Senate Armed Services Committee, March 18, 2003.

<sup>25</sup> “Actions are Needed to Enhance Testing and Accountability,” highlights of GAO-04-409 (April 2004) and Wade Boese, “Missile Defense Still on Hold.”

<sup>26</sup> Wade Boese and Miles A. Pomper, “Defending Missile Defense: An Interview with Missile Defense Agency Director Lt. Gen. Henry Obering,” *Arms Control Today* (November 2005).

<sup>27</sup> “Missile Defense Agency Fields Initial Capability but Falls Short of Original Goals,” GAO-06-327 (March 2006).

<sup>28</sup> Jonathan S. Landay, “Rumsfeld makes his case for building missile defense,” Knight Ridder Newspapers, (January 12, 2001).

<sup>29</sup> Fred W. Baker III, “Missile Defense Works, Gate Says,” American Forces Press Service (February 21, 2008).

<sup>30</sup> Brian Weeden, “The Space Security Implications of Missile Defense,” *The Space Review* (September 28, 2009).

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- <sup>31</sup> Philip Coyle and Victoria Samson, “Missile Defense Malfunction: Why the Proposed U.S. Missile Defense in Europe will not Work,” *Ethics and International Affairs* 22:1 (Spring 2008).
- <sup>32</sup> Michael Abromowitz and Walter Pincus, “Administration Diverges on Missile Defense,” *The Washington Post* (October 24, 2007).
- <sup>33</sup> Andrew Futter, “The elephant in the room: US ballistic missile defence under Barack Obama,” *Defense & Security Analysis* 28:1 (March 2012), pp. 3–16.
- <sup>34</sup> Ellen Tauscher, remarks at the 2013 Atlantic Council Missile Defense Conference (March 12, 2013).
- <sup>35</sup> George Lewis, “Updated List of Claims about GMD Effectiveness (July 10, 2013), at [Mostlymissiledefense.com](http://Mostlymissiledefense.com).
- <sup>36</sup> NRC, *Making Sense of Ballistic Missile Defense: An Assessment of Concepts and Systems for U.S. Boost-Phase Missile Defense in Comparison to Other Alternatives* (Washington, DC: The National Academies Press, 2012).
- <sup>37</sup> Tom Z. Collina, “Hill to Fix, Not Expand, Missile Defense,” *Arms Control Today* (January/February 2014).
- <sup>38</sup> “Historical Funding for MDA, FY85–14.” These figures are in then-year dollars, which makes Obama’s requests appear closer to Bush’s than they actually have been. Comparing funding levels for SDIO, BMDO, and MDA also undercounts total missile defense spending because some activities are in other parts of the defense budget.
- <sup>39</sup> “Long Term Implications of Current Defense Plans: Summary Update for Fiscal Year 2008,” CBO (December 2007), pp. 23-4.
- <sup>40</sup> Interview with Steven A. Hildreth, Congressional Research Service, May 7, 2014.

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<sup>41</sup> “Missile Defense: Mixed Progress Achieving Acquisition Goals and Improving Accountability,” (April 2014), GAO-14-351.

<sup>42</sup> David P. Auerswald, “Arms Control,” in Auerswald and Colton C. Campbell, eds., *Congress and the Politics of National Security* (Cambridge: Cambridge University Press, 2012), pp. 199–200.

<sup>43</sup> United States Senate, Resolution of Ratification for the New START Treaty, December 22, 2010.

<sup>44</sup> Elaine M. Grossman, “As ‘New START’ goes to Senate Floor, Panel Strikes Compromise on Missile Defense,” *Global Security Newswire* (September 17, 2010).

<sup>45</sup> “New START Treaty: Resolution of Advice and Consent to Ratification,” State Department, December 22, 2010, <http://www.state.gov/t/avc/rls/153910.htm>.

<sup>46</sup> Hildreth and Woolf, “Ballistic Missile Defense and Offensive Arms Reductions,” pp. 19–20.

<sup>47</sup> Philip E. Coyle, “Back to the Drawing Board: The Need for Sound Science in U.S. Missile Defense,” *Arms Control Today* (January/February 2013).

<sup>48</sup> For examples of these views, see Alexei Arbatov, Vladimir Dvorkin, and Natalia Bubnova, eds., *Missile Defense: Confrontation and Cooperation* (Carnegie Moscow Center, 2013).

<sup>49</sup> Coyle, “Back to the Drawing Board,” lists of recommendations from the NRC report and Defense Science Board task force that “would add large but unknown costs to U.S. missile defense programs” without resolving the fundamental technical problems those reports identify.

<sup>50</sup> For innovative early thinking about how missile defense could be integrated into post-Cold War arms control, see Charles Glaser and Steve Fetter, “National Missile Defense and the Future of U.S. Nuclear Weapons Policy,” *International Security* 26:1 (Summer 2001), pp. 40-92.