

# **FURTHER DISMANTLING DETERRENCE**

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## **THE REMAINING MONTHS OF THE OBAMA NUCLEAR AGENDA**

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In 2009, shortly after being sworn into office, President Obama delivered a speech in Prague in which he declared his intent to seek a “world without nuclear weapons,” misguidedly assuming that adversarial nuclear nations, and those aspiring to have such a capability, would share that goal. In the years that followed, Obama took several steps to weaken our own nuclear deterrent, including signing the deeply flawed New START treaty with Russia – which significantly cut our own number of deployed strategic nuclear weapons, while having the [opposite](#) effect on Russia’s arsenal<sup>1</sup> – steadily [defunding](#) and otherwise undermining missile defense<sup>2</sup>, declining to [undertake](#) the design or production of new nuclear weapons during the past eight years while foot-dragging on modernizing what remains of our deterrent<sup>3</sup>, and letting our existing weapons atrophy by continuing a 1992 self-imposed freeze on nuclear testing.

Now, in the waning months of his presidency, Obama is signaling interest in continuing down this path, as he considers declaring a “[no-first-use](#)” policy for the United States on nuclear weapons<sup>4</sup>, and by possibly [circumventing](#) the Senate by seeking some form of United Nations Security Council action to give legal effect to the Comprehensive Test Ban Treaty’s (CTBT) ban on nuclear testing<sup>5</sup> – even though the Senate voted against ratification of the CTBT by a majority vote seventeen years ago. These maneuvers would have serious implications for international security, and in the case of the CTBT, for American rule of law as well.

Consider first that the president is leaning towards these policies at a time when global nuclear proliferation is already poised to *increase*, not decrease, in no small measure due to perceptions from adversaries and allies alike that we are fundamentally unserious about the nuclear programs of others, and no longer serious about our own.

The Iran nuclear deal has put Iran on a more solid path than ever before towards achieving the development of a nuclear weapon. Several Middle Eastern nations, in anticipation of and in response to this deal, are now or will soon be looking at developing their own nuclear weapons capabilities, in order to offset what will likely be a nuclear Iran in the not-too-distant future.

It has arguably already begun. Saudi Arabia has [signed](#)<sup>6</sup> an agreement with Russia (on top of agreements previously signed with China and others, including the United States) to further develop the Saudi nuclear energy, while [Egypt](#) has signed an agreement with Russia to build four nuclear reactors<sup>7</sup>. These deals are being reported on as having been conceived to develop civilian nuclear energy programs, but as one retired Saudi colonel [remarked](#) to the *Wall Street Journal* last year: “Our leaders will never allow Iran to have a nuclear weapon while we don’t...If Iran declares

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<sup>1</sup> Payne, Keith B. "New START: From Russia with Glee." National Review. June 13, 2011. <http://www.nationalreview.com/article/269264/new-start-russia-gee-keith-b-payne>.

<sup>2</sup> Carafano, James Jay, and Michaela Dodge. "We Must Revive Our Moribund Nuclear Force: Heritage." Breaking Defense. July 20, 2015. <http://breakingdefense.com/2015/07/we-must-revive-our-moribund-nuclear-force-heritage/>

<sup>3</sup> Monroe, Robert R. "The Fading U.S. Nuclear Deterrent." Wall Street Journal. July 12, 2015. <http://www.wsj.com/articles/the-fading-u-s-nuclear-deterrent-1436739871>.

<sup>4</sup> Rogin, Josh. "U.S. Allies Unite to Block Obama's Nuclear 'legacy'" Washington Post. August 14, 2016. [https://www.washingtonpost.com/opinions/global-opinions/allies-unite-to-block-an-obama-legacy/2016/08/14/cdb8d8e4-60b9-11e6-8e45-477372e89d78\\_story.html?utm\\_term=.80c7367bef66](https://www.washingtonpost.com/opinions/global-opinions/allies-unite-to-block-an-obama-legacy/2016/08/14/cdb8d8e4-60b9-11e6-8e45-477372e89d78_story.html?utm_term=.80c7367bef66)

<sup>5</sup> Rogin, Josh. "Obama Will Bypass Congress, Seek U.N. Resolution on Nuclear Testing." Washington Post. August 07, 2016. <https://www.washingtonpost.com/news/josh-rogin/wp/2016/08/04/obama-will-bypass-congress-look-u-n-resolution-on-nuclear-testing/>.

<sup>6</sup> "Saudi Arabia, Russia Sign Nuclear Power Cooperation Deal." Reuters. June 19, 2015. <http://www.reuters.com/article/saudi-russia-nuclear-idUSL5N0Z516320150619>.

<sup>7</sup> "Egypt, Russia Sign Deal to Build a Nuclear Power Plant." Reuters. November 19, 2015. <http://www.reuters.com/article/us-nuclear-russia-egypt-idUSKCN0T81YY20151119>.

a nuclear weapon, we can't afford to wait 30 years more for our own—we should be able to declare ours within a week.”<sup>8</sup>

If watching Iran chart a more expedited course for a nuclear weapon is cause for concern, so too has been watching an *already*-nuclear-capable Russia adopt a troubling nuclear weapons doctrine, commit or threaten to commit aggression against its neighbors, and steadily develop a range of increasingly sophisticated nuclear weapons platforms, with supporting infrastructure.

In recent years, Russian President Vladimir Putin has sought to make Russia resurgent and to reconstitute, if possible, the USSR's Cold War dominance over substantial portions of Europe by undertaking an agenda to reestablish Russia's hegemony over territory previously under Soviet control – first by invading Georgia in 2008, during which time he put his nuclear forces on [alert](#)<sup>9</sup>, and then by invading the Crimea region of Ukraine in 2014, during which time he apparently contemplated putting his nuclear forces on alert. In March of last year, Russia threatened to [aim](#) nuclear weapons at Danish warships if Denmark joined NATO's missile defense system.<sup>10</sup> And in November of last year, in response to our ongoing missile defense efforts in Europe, Putin stated that he would [respond](#) by developing weapons that would “penetrate any missile defense shield.”<sup>11</sup>

Russia's aggressive behavior has not been limited to its European neighbors. Twice last April, Russian aircraft flew within dangerously close distances of the *USS Donald Cook* during its deployment in the Baltic Sea. In early April, a Russian fighter jet [flew](#) within one thousand yards of the ship, at an altitude of just 100 feet, for a total of twenty passes.<sup>12</sup> That same week, a Russian helicopter made several [passes](#) over the ship, taking photos – after the helicopter finished, a Russian fighter jet made several close passes of the ship, with Navy officials describing the flight pattern as a “simulated attack profile.”<sup>13</sup>

Our reconnaissance aircraft have been similarly harassed by the Russians. On April 29<sup>th</sup>, a Russian Su-27 fighter aircraft did a [barrel-roll](#) over one of our RC-135s over the Baltic Sea at a distance of just 25 feet.<sup>14</sup> Roughly two weeks earlier, again over the Baltic Sea, [another](#) Russian Su-27 approached another RC-135 aggressively, and executed a barrel-roll over that aircraft after closing to within 50 feet from the RC-135's wingtip, a move which our military described as “unsafe and unprofessional.”<sup>15</sup>

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<sup>8</sup> Trofimov, Yaroslav. "Saudi Arabia Considers Nuclear Weapons to Offset Iran." WSJ. May 07, 2015. <http://www.wsj.com/articles/saudi-arabia-considers-nuclear-weapons-to-offset-iran-1430999409>.

<sup>9</sup> Payne, Keith B. "Russia's Provocative Nuclear Strategy." Washington Times. January 27, 2016. <http://www.washingtontimes.com/news/2016/jan/27/keith-payne-russias-provocative-nuclear-strategy/>.

<sup>10</sup> Withnall, Adam. "Russia Threatens Denmark with Nuclear Weapons If It Tries to Join Nato Defence Shield." The Independent. March 22, 2015. <http://www.independent.co.uk/news/world/europe/russia-threatens-denmark-with-nuclear-weapons-if-it-tries-to-join-nato-defence-shield-10125529.html>.

<sup>11</sup> "Putin: US Missile Defense Aimed at Neutralizing Russia Nukes, N. Korea & Iran Just a Cover." RT International. November 10, 2015. <https://www.rt.com/news/321434-us-missile-shield-putin/>.

<sup>12</sup> Tilghman, Andrew. "Russian-su-24-attack-aircraft-us-navy-destroyer-donald-co | MilitaryTimes." MilitaryTimes. April 13, 2016. <http://www.militarytimes.com/story/military/2016/04/13/russian-su-24-attack-aircraft-us-navy-destroyer-donald-cook-baltic-sea/82979184/>

<sup>13</sup> Ibid.

<sup>14</sup> Schindler, John R. "Kremlin Provocations and War Games Risk Real War." Observer. May 02, 2016. <http://observer.com/2016/05/kremlin-provocations-and-war-games-risk-real-war/>.

<sup>15</sup> Ibid.

During each of these incidents, our ships and vessels were operating in international waters or airspace.

If these are the behaviors that will guide Russian policy for the foreseeable future, then Russia's ongoing development and modernization of nuclear weapons systems needs to be viewed through that lens, and with deep concern.

Adm. Cecil Haney, Commander of U.S. Strategic Command, stated in [testimony](#) before Congress this past March:

"Russia's modernization program and their nuclear deterrent force is of concern...When you look at what they've been modernizing, it didn't just start...They've been doing this quite frankly for some time with a lot of crescendo of activity over the last decade and a half."<sup>16</sup>

Dr. Mark Schneider of the National Institute for Public Policy also has [noted](#) that every year since 1997, Russia has deployed new nuclear delivery systems, with "new" defined as anything that did not exist or had not been tested prior to the end of the Cold War.<sup>17</sup> That trend continues and is accelerating.

Media reports indicated last year that Russia is developing a nuclear-armed, nuclear powered ultra-high speed, ultra-deep diving unmanned underwater vehicle, or [drone submarine](#), a weapon that can carry a nuclear warhead that would produce *tens* of megatons in yield (with one megaton equaling 1 million tons of TNT).<sup>18</sup> The goal of such a weapon, according to the Pentagon, would be to take out entire harbors and coastal regions, including possibly those areas that house parts of our own nuclear deterrent capability, like our nuclear submarines in Kings Bay, Georgia. Such a weapon would also carry serious implications for our Navy forces tasked with underwater warfare operations. Depending on how many megatons are fitted onto the drone's warhead or warheads, we could be looking at what some have referred to as a "[genocidal](#)" weapon, designed to kill civilians by the millions by massive blast and fallout.<sup>19</sup>

When news of this drone first broke to the public, it was initially thought that the disclosure was the result of an inadvertent leak by Russian military officials during a Russian TV broadcast – a Russian general was holding documents discussing the drone, and Russian TV broadcast the image. A couple of months later, the CIA disclosed that the Russian leak of the underwater nuclear drone was actually [intentional](#), designed as a "saber-rattling" maneuver to protest and discourage U.S. missile defenses in Europe.<sup>20</sup>

Russia is also building a new Inter-Continental Ballistic Missile (ICBM), which Russia is calling *Sarmat*. Reports [indicate](#) that once it goes operational, the *Sarmat* will be capable of

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<sup>16</sup> Gertz, Bill. "Russia Doubling Nuclear Warheads." Washington Free Beacon. April 01, 2016. <http://freebeacon.com/national-security/russia-doubling-nuclear-warheads/>.

<sup>17</sup> Schneider, Mark. "Russia's Nuclear Superiority." Interview on Secure Freedom Radio. May 05, 2016. <http://www.centerforsecuritypolicy.org/2016/05/05/russias-nuclear-superiority/>.

<sup>18</sup> Gertz, Bill. "Russia Building Nuclear-Armed Drone Submarine." Washington Free Beacon. September 08, 2015. <http://freebeacon.com/national-security/russia-building-nuclear-armed-drone-submarine/>.

<sup>19</sup> Schneider, Mark. Op. cit.

<sup>20</sup> Gertz, Bill. "CIA: Leak of Nuclear-Armed Drone Sub Was Intentional." Washington Free Beacon. November 19, 2015. <http://freebeacon.com/national-security/cia-leak-of-nuclear-armed-drone-sub-was-intentional/>.

carrying up to 15 independently targeted thermonuclear warheads, and have a range of 6,000 miles.<sup>21</sup> It will be the largest ICBM ever built.

Additionally, Russia is endeavoring to develop a [hypersonic](#) glide vehicle, a weapons delivery vehicle that can travel at extremely high hypersonic speeds.<sup>22</sup> These vehicles can carry mainly nuclear warheads, and have appeal for Russia because the extraordinarily high speeds of which such weapons are capable make it possible to penetrate American missile defense systems. Russia conducted its most recent test of such a weapon this past April, with the most recent test before that taking place back in [February](#) of 2015.<sup>23</sup>

Importantly, Russia is not only developing entirely new weapons with new *qualitative* capabilities like the drone submarine, *Sarmat* heavy ICBM, and hypersonic glide vehicle. Russia is also focusing on effectively [increasing](#) the *quantity* of existing nuclear delivery vehicles by deploying today, and developing for the future, MIRVed (“multiple independently targetable re-entry vehicles”) systems, meaning that a single delivery vehicle could contain between six to a dozen strategic nuclear warheads, rather than just one.<sup>24</sup> The Department of Defense has described this as exceeding the limits of the New START treaty, under which the number of deployed Russian warheads has [increased](#) by almost two hundred since the treaty’s entry into force, while the number of deployed U.S. warheads has gone down by roughly four hundred.<sup>25</sup> The U.S. State Department has downplayed this trend, asserting that by February 2018, it fully expects that Russia will have complied with the limits set out in New START, interim developments notwithstanding.

This is the environment – Iran on the brink of a nuclear weapon (assuming it has not already covertly acquired one from [North Korea](#)<sup>26</sup>), with other Middle Eastern nations likely to respond with their own pursuit of such a weapon, and a bellicose and expansionist Russia substantially growing and modernizing its arsenal, to say nothing of China and North Korea – in which President Obama is now considering exacerbating the decline of our nuclear deterrent, and by extension the global nuclear proliferation outlook, should he follow through with his latest contemplated policy shifts.

For decades, the United States has retained the option to use nuclear weapons in response to a devastating non-nuclear attack, in what has been the actualization of the concept of “deterrence”. While it has not stopped all wars, our nuclear deterrence has been instrumental in preventing another outbreak of large-scale global conflict since World War II. It also just makes sense in today’s threat environment, in which the threats of a non-nuclear weapons-of-mass-destruction attack on the United States, or of a massive debilitating cyberattack on our critical infrastructure, are substantial. Put another way, bad guys have thus far calculated that it’s better

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<sup>21</sup> Majumdar, Dave, TNI Staff, and Robert Hale. “Russia Is Building the Largest ICBM Ever (and America Should Be Worried).” *The National Interest*. May 09, 2016. <http://nationalinterest.org/blog/the-buzz/russia-building-the-largest-icbm-ever-america-should-be-16122>.

<sup>22</sup> Gertz, Bill. “Russia Tests Hypersonic Glide Vehicle on Missile.” *Washington Free Beacon*. April 22, 2016. <http://freebeacon.com/national-security/russia-tests-hypersonic-glide-vehicle/>.

<sup>23</sup> Shapiro, Jeffrey Scott. “Russia Launching New Hypersonic Missile to Carry Nuclear Warheads.” *Washington Times*. June 26, 2015. <http://www.washingtontimes.com/news/2015/jun/26/russia-launching-new-hypersonic-missile-carry-nucl/>.

<sup>24</sup> Gertz, Bill. “Russia Doubling Nuclear Warheads.” *Op. cit.*

<sup>25</sup> Schneider, Mark. “Russia’s Nuclear Superiority.” *Op. cit.*

<sup>26</sup> Taylor, Guy. “U.S. urged to block any North Korean support for Iran nukes.” *Washington Times*. Jan. 26, 2016. <http://www.washingtontimes.com/news/2016/jan/28/n-korea-iran-nuclear-ties-probably-deep-report/>

not to launch such attacks on us or our allies, since we are willing to answer them with the most devastating weapon on earth.

Declaration of a “no-first-use” policy, whereby the United States commits to using nuclear weapons only if attacked first with nuclear weapons, would stand this calculus on its head, to the detriment of international stability. If our adversaries believe that we will not retaliate with nuclear weapons for catastrophic non-nuclear attacks on us or our allies, the risk associated with carrying out such attacks goes down significantly. Meanwhile, the risk will increase that our non-nuclear allies – who have long abstained from developing their own nuclear weapons because they were told they could rely on our own extended deterrent to guarantee their security – will develop their own nuclear weapons. The idea of announcing a “no-first-use” policy is so misbegotten that not only are allies such as the United Kingdom, Japan, and South Korea expressing concern, but even members of Obama’s own *cabinet* (including Secretary of State Kerry, Secretary of Defense Carter, and Secretary of Energy Moniz) are [advising](#) strongly against it.<sup>27</sup>

As damaging as a “no-first-use” declaration would be, as a statement of White House policy, it is at least something that could be reversed, relatively painlessly, by a new administration. The same cannot be said for going through the United Nations Security Council to try to commit the United States to something that the Senate, exercising its constitutional authority, has already turned down.

The United States signed the CTBT in 1996, but has yet to ratify it. In 1999, proponents of the CTBT failed to get even a simple majority in the Senate to vote in favor of ratification (let alone the 2/3 majority that the constitution requires for ratification of treaties). The substantial [flaws](#)<sup>28</sup> surrounding the treaty that doomed it before the Senate in 1999 are still present: The treaty fails to define a nuclear test, leaving room for signatories like Russia and China to interpret their obligations more loosely than has the United States; and the treaty is unverifiable, so there is no way to know whether those who have committed to the testing prohibition on paper are actually holding themselves to it.

Given these defects and recent history, President Obama can see as well as anyone that the outlook for Senate ratification of the CTBT is dim. That reality, and the fact that the window is closing for Obama to further his “Prague agenda” as president, has prompted him to go around the Senate and seek the assistance of the United Nations Security Council to bind the United States, in some form, to a moratorium on nuclear testing.

It remains unclear what exactly Obama will try to do on this score when he visits the United Nations in New York in September. [Initial](#) reports indicated that he would seek a Security Council resolution “calling” for an end to nuclear testing<sup>29</sup> – according to subsequent reporting, the National Security Council has [stated](#) that the “administration is not proposing a U.N. Security Council resolution that would impose any legally binding prohibition on nuclear testing.”<sup>30</sup>

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<sup>27</sup> Sonne, Paul, Gordon Lubold, and Carol E. Lee. “‘No First Use’ Nuclear Policy Proposal Assailed by U.S. Cabinet Officials, Allies.” Wall Street Journal. August 12, 2016. <http://www.wsj.com/articles/no-first-use-nuclear-policy-proposal-assailed-by-u-s-cabinet-officials-allies-1471042014>.

<sup>28</sup> Monroe, Robert R. “Peace Through Nuclear Strength.” Washington Times. March 23, 2012. <http://www.washingtontimes.com/news/2012/mar/23/peace-through-nuclear-strength/>.

<sup>29</sup> Rogin, Josh. “Obama Will Bypass Congress, Seek U.N. Resolution on Nuclear Testing.” Op. cit.

<sup>30</sup> Sonne, Paul, Gordon Lubold, and Carol E. Lee. “‘No First Use’ Nuclear Policy Proposal Assailed by U.S. Cabinet Officials, Allies.” Op. cit.

Critically, an August 12<sup>th</sup> letter to the president from Sen. Bob Corker, Chairman of the Senate Foreign Relations Committee, seems to shed light on the administration's actual intentions, and appropriately raises concerns about them. Corker's letter [states](#) in part:

"A recent State Department letter explains that the administration will support ratification of the CTBT through a resolution in the U.N. Security Council and a 'political statement expressing the view that a nuclear test would defeat the object and purpose of the CTBT' that will be referenced in the U.N. resolution. A political statement invoking the 'object and purpose' language could trigger a limitation on the ability of future administrations to conduct nuclear weapons tests. 'Object and purpose' obligations for countries that have signed and not ratified a treaty are specifically articulated in Article 18 of the Vienna Convention on the Law of Treaties, which the United States also has not ratified; but they have been recognized by successive U.S. administrations as customary international law that present a binding restriction on the United States."<sup>31</sup>

Senator Corker is correct in his assessment as to the legal effect of the Security Council issuing a resolution containing an "object-and-purpose" statement on the CTBT, which is what would make this course of action so damaging. Even in the conduct of foreign policy, for which the Constitution generally tips the balance in favor of the presidency, Obama remains obligated to respect the constitutional prerogatives of the co-equal branches of the United States government. In the case of the CTBT, the Senate exercised such a prerogative when it voted against ratification in 1999. Ignoring that outcome in order to bind the United States to the obligations of an international treaty by other means would represent a serious affront to the Senate's constitutional role in undertaking international legal obligations, and create a worrisome precedent. If presidents in years to come are free to sign treaties and simply bypass the Senate by going straight to the Security Council to actuate them, then the Senate's role in the treaty process will be rendered meaningless.

Given what is at stake – both in terms of the effect that the CTBT would have on our ability to maintain a credible nuclear deterrent in today's threat environment, and in terms of the lasting constitutional repercussions of Obama's Security Council maneuvering – the Senate needs to act. Specifically, the Senate should 1) Publicly declare that by going to the Security Council on the CTBT, the president is acting in defiance of the Senate's will and in contravention of the constitution, and that such a move could result in domestic legal action; 2) Publicly declare that it is advising this president, and the next president, to un-sign the CTBT; and 3) Withhold funding for any departments or international organizations with responsibility for enforcing the CTBT.

We are entering a period in which the world is getting more dangerous, not less. Dismantling our nuclear deterrent in the face of that reality – whether directly through our own actions, or by enabling others to do it for us, at the expense of our own democratic process – would be a major strategic error.

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<sup>31</sup> Corker, Bob. "Corker Strongly Opposes Obama Promoting Ratification of Nuclear Test Ban Treaty at UN." United States Senator Bob Corker. April 15, 2016. <http://www.corker.senate.gov/public/index.cfm/news-list?ID=8F56CDD8-AE5F-418D-8106-C9D9DBAF28CD>.

## About the Author

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