



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, SECOND SESSION

Vol. 160

WASHINGTON, FRIDAY, JANUARY 2, 2015

No. 156

Senate

NOMINATION OF FRANK ROSE AND OFFICIAL CORRESPONDENCE FROM THE DEPARTMENT OF STATE ON PROPOSED EUROPEAN UNION CODE OF CONDUCT FOR OUTER SPACE ACTIVITIES

• Mr. VITTER. Mr. President, I am deeply concerned by proposals for arms control plans related to missile defense and outer space arms, including the EU Code of Conduct for Outer Space activities, which the Obama administration has embraced. These plans were confirmed by Rose Gottemoeller, Undersecretary of State for Arms Control and International Security, during a House subcommittee hearing last week. I firmly believe any international agreement on a code of conduct for space should be submitted for Senate advice and consent as part of its treaty powers, and not be an "executive agreement" that sidesteps that process.

I have engaged with the State Department to ensure that this agreement will not be a unilateral act and that it will be fully presented to Congress before moving forward. I strongly believe, given the importance of this issue, that the U.S. Senate should be consulted as part of their advice and consent role in any decision to move forward.

I ask to have printed in the RECORD at the end of my remarks official letters and correspondence with the nominee, Deputy Assistant Secretary of State, Frank Rose that demonstrate three important points. First, due to serious ongoing concerns related to national security, the administration has not pursued plans to propose the negotiation of a debris-generating ASAT testing moratorium at this time; second, that any decision to subscribe to a code in the future will not in any way constrain our national security-related activities in space or ability to protect the U.S. or allies; third, and most importantly, that the Senate will be given access to the details surrounding

any plan once and if any format is determined, and again before any agreement is entered.

Space is vital to our national security, and we must maintain the ability to use satellites and various missile capabilities. In particular, space is of critical importance to our national intelligence and warfighting capabilities. The development of anti-satellite capabilities by countries such as China and Russia is well documented, as in the example of China successfully testing a direct-ascent, anti-satellite SC-19 missile against one of its own satellites.

It is vital that the United States ensure we are not restricting activity in ways that put our security at risk. Members of Congress have been clear in their view that they see ample disadvantage to such a code for the United States; according to assessments by the uniformed military, implementation of this code would result in real world operational impacts. Congress has previously voted to limit international agreements concerning outer space activities. Section 913 of the fiscal year 2013 National Defense Authorization Act, H.R. 4310, states that any agreement will have no legally binding effect or basis for limiting the activities of the United States in outer space, and it requires certification that any such agreement will be equitable, enhance national security, and have no militarily significant impact on the ability of the United States to conduct military or intelligence activities in space.

There are several key areas that the administration must resolve before moving forward on pursuing any decision. Pentagon officials have long expressed concern that the arms initiative will be exploited by states such as China and Russia to constrain U.S. missile defenses, while both states continue to develop their own advanced missile defenses. In 2007, the Department of Defense concluded that the progress in addressing the vulner-

ability of U.S. space assets has not kept pace with growing threat capabilities; consequently, the vulnerability of our space assets continues to grow. Additionally, a previous U.S. Commission to Assess United States National Security Space Management and Organization released a report that predicted that future warfare in space was a "virtual certainty" and urged the United States to begin to develop the means both to deter and defend against attacks on its space assets, and to mount offensive operations to deny the use of space to potential adversaries. To do otherwise, the commission warned, would invite a "space Pearl Harbor."

Further troubling, a 2014 Department of Defense report noted that China is "developing a multi-dimensional program to improve its capabilities to limit or prevent the use of space-based assets by adversaries during times of crisis or conflict," including "destroying or capturing satellites and other sensors." To protect against these types of attacks, the Department of Defense's ongoing policy is aimed at retaining the capabilities to respond at the time and place of our choosing. Any effort to move forward must address our national security needs and Congressional concerns.

Therefore, any State Department effort to move forward with a code or a debris-generating ASAT testing moratorium should fully overcome existing concerns and ensure the plan does not undermine current Department of Defense policy, U.S. capabilities, or congressional concerns. Our growing dependence on space makes it fundamental to U.S. national security interests. I remain extremely concerned by what appears to be previous endeavors by the administration to avoid addressing space policy concerns and potential administration efforts to bypass Congress.

While I am pleased at the assurances that Mr. Rose has provided and that relevant offices will engage with Congress if a path forward is agreed upon,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S6935

I remain extremely concerned about the decision to negotiate a measure using past measures such as the European Union's Code of Conduct as a starting point. Russia has demonstrated its willingness to break its agreements, as seen with the ongoing violation of the 1987 Intermediate-range Nuclear Forces Treaty. We need to improve our capacity to understand what is going on in space, and we need to ensure we are adequately capable of deterring the growing number of countries that are pursuing weapons capable of targeting U.S. satellites.

While necessary, the development of transparency and confidence-building measures and behavioral norms promoting responsible space operations should not come at the expense of America's national security. The President's own Space Policy released in 2010 states: "The United States will employ a variety of measures to help assure the use of space for all responsible parties, and, consistent with the inherent right of self-defense, deter others from interference and attack, defend our space systems and contribute to the defense of allied space systems, and, if deterrence fails, defeat efforts to attack them." With a growing number of states acquiring the ability to degrade or destroy U.S. space capabilities, the probability that space systems will come under attack in a future crisis or conflict is ever increasing. The State Department cannot have the attitude that they are going to go it alone. The United States cannot afford it.

The material is as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 12, 2014.

Mr. FRANK ROSE,
Deputy Assistant Secretary of State for Space
and Defense Policy,
U.S. Department of State, Washington, DC.

DEAR DEPUTY ASSISTANT SECRETARY OF STATE ROSE: We write to ask for your clarification regarding the Administration's space arms control posture. Like you, we are deeply concerned by the rising threats of anti-satellite weapons in the hands of states like the People's Republic of China. That said, we believe the Administration would do better to focus on real solutions to these threats, as opposed to more feel good measures like the European Union's (EU) Code of Conduct for Outer Space activities or other similar measures.

We are concerned by proposals for outer space arms control, including the EU Code of Conduct for Outer Space activities, which the Administration has embraced. We see no advantage to such a Code for the United States; according to assessments by the uniformed military, implementation of this code would result in real world operational impacts. The product of this equation demands the opposition of the entire United States government.

With the languishing of that Code, we fear a new threat to our ability to protect U.S. outer space capabilities, and, perhaps even to develop our missile defenses. We seek your understanding of the Administration's position on space arms control, specifically, the "debris generating kinetic energy ASAT testing moratorium" which, as we have been informed, you proposed to U.S. allies. We are unfamiliar with any such proposal having

been coordinated with the Department of Defense or the uniformed military, and therefore we ask for your answers to the following questions:

1) Please indicate the date, and by which Department official, the State Department Circular 175 request was signed. What was the scope of this Circ-175 and has the Department determined if this moratorium would be submitted to the Senate for its advice and consent?

2) If this Circ-175 will not be submitted to the Senate, on what basis would such an international agreement be negotiated and to what end?

3) Please detail the potential implications for United States space and missile defense activities. How would such an agreement protect our ability to fully develop our missile defenses, including our test and targets program?

4) Please further detail how such agreement will ensure full freedom of action for the United States to take needed defensive and other action in space.

5) Please provide the Joint Staff assessment of impacts to military operations you obtained before discussing this moratorium with our allies.

6) Please detail the specific allies with which you have discussed this moratorium and the respective dates of discussion. Please further detail which State Department official authorized these discussions.

We appreciate your prompt responses to these questions.

Sincerely,

DAVID VITTER,
United States Senator.
DOUG LAMBORN,
Member of Congress.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 17, 2014.

DEAR SENATOR VITTER: Thank you for your letter of November 12 regarding the Administration's efforts to enhance the security and sustainability of the outer space environment.

The Administration is deeply concerned about the development of anti-satellite (ASAT) capabilities by countries like China and Russia. In response to this increasing threat, the Department of State is pursuing a comprehensive approach to space security, including the development of bilateral and multilateral transparency and confidence building measures (TCBMs) such as the International Code of Conduct, development of international long-term sustainability guidelines by the UN Committee on the Peaceful Uses of Outer Space, and other measures. The Administration believes that pragmatic TCBMs like the Code are a much more effective way to ensure the long-term security of the space environment as compared to fundamentally flawed space arms control proposals like the Russian-Chinese sponsored Prevention of Placement of Weapons in Outer Space Treaty.

The United States has made clear to our partners that we will not enter into a code of conduct, or other agreement, that in any way constrains our national security-related activities in space or our ability to protect the United States and our allies. We have worked closely with our colleagues in the Defense Department and Intelligence Community to ensure that the Code does not have any adverse impact on U.S. operations, including the development and testing of missile defenses. The Department, in coordination with the interagency, provided a series of briefings to Congress on the Administration's decision-making process regarding our willingness to work with our European allies to help craft a Code that would benefit U.S. national security. We are available to provide updates at any time.

The Administration has been clear that we are open to space arms control proposals. However, any such proposal would need to meet the criteria as outlined in the President's 2010 National Space Policy (NSP)—that it be effectively verifiable, equitable, and in the interests of the United States and its allies. At this time, the Administration has made no decision to propose the negotiation of a debris-generating ASAT testing moratorium, and therefore, no C-175 request has been signed. If a decision were made to move forward with a proposal in the future, we would work closely with the Department of Defense and Intelligence Community to ensure there were no adverse operational impacts from our efforts, especially on our missile defense and space systems. Furthermore, while we discuss a wide variety of space security issues with allies—including the potential for a Code of Conduct and ways to address the development of ASAT systems—we have not made a specific proposal to allies for negotiation of a debris-generating ASAT testing moratorium.

The Department is fully committed to closely coordinating all diplomatic space security proposals within the U.S. interagency. We would not table a proposal that had not received full U.S. Government approval and took into account all agencies' perspectives.

Should you wish to have further discussions on this issue, the Administration would be happy to assemble an interagency team to meet with you to provide further background on our efforts, and answer any additional questions you may have.

We hope this information is useful. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,
JULIA FRIFIELD,
Assistant Secretary, Legislative Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, December 10, 2014.

DEAR SENATOR VITTER, In response to follow-up questions from your staff, we would like to provide the following clarifications about our efforts to promote the security and long-term sustainability of the outer space environment.

As I noted in my letter of November 12, 2014, the Administration is seriously concerned about the development of anti-satellite capabilities by countries like China. We believe that effective diplomatic efforts are a critical tool in the United States' comprehensive response to countering this threat. At the same time, we recognize your concerns and want to assure you that we share them. We have made every effort to ensure that our diplomatic efforts to promote the security and sustainability of outer space do not have an adverse impact on our national security activities, especially on our missile defense and space systems.

The administration has no plans to propose the negotiation of a debris-generating ASAT testing moratorium at this time. Moreover, there has been no consideration as to what format we would seek for any proposed debris-generating ASAT testing moratorium. As a result, no C-175 package has been prepared.

Currently, our diplomatic focus is on the development of an International Code of Conduct on Outer Space Activities. At this time, the European Union is considering its next steps on the Code. As we stated in 2012, the United States has decided to work with the European Union and other nations to help develop a code which can help maintain the long-term sustainability, safety, stability and security of outer space by establishing guidelines for the responsible use of outer space. Since the text of the Code has not been finalized, the Administration has

made no decision on whether to subscribe to the code. Only after the text is finalized and open for subscription will the Administration consider whether to subscribe to the Code. Such a decision will be made only after it received full U.S. Government approval that takes into account perspectives from all departments and agencies.

As former Secretary of State Hillary Clinton stated in January 2012, the United States will not sign-up to a Code of Conduct that any way constrains our national security-related activities in space or our ability to protect the United States or our allies. If the United States were to make a decision to subscribe to a Code in the future, it would be implemented in a way that is fully consistent with this statement.

Let me also assure you that we are in close contact with our Department of Defense and Intelligence Community colleagues on the development of the Code to ensure the Code does not have any adverse impacts on U.S. operations, including the development and testing of missile defenses.

Should you wish to have further discussions on this issue, we would be prepared to assemble an interagency team to meet with you or your staff. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

JULIA FRIFIELD,
Assistant Secretary, Legislative Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, December 11, 2014.

DEAR SENATOR VITTER: I wanted to follow-up with regarding the conversation I had with your staff regarding a potential debris generating anti-satellite (ASAT) testing moratorium and the European Union's proposed International Code of Conduct for Outer Space Activities.

As Assistant Secretary of State Julia Frifield noted in her December 10, 2014, letter to you, the Administration has no plans to propose the negotiation of a debris-generating ASAT testing moratorium at this time. Should we determine to pursue such an agreement in the future, I pledge to keep you and your staff informed, including on the form of which a potential agreement might take.

With regard to the Code of Conduct, it is my understanding that there are no implementation issues for the Department of Defense related to the current draft of the Code. That said, only after the text of the Code is finalized will we have a full understanding of any potential implementation issues. Therefore, we continue to be in close contact with our colleagues at the Department of Defense and the Intelligence Community to ensure that our efforts to promote the security and sustainability of outer space do not have an adverse impact on our national security activities, especially on our missile defense and national security space systems.

Before a final decision is made to subscribe to the Code, the Department, along with our interagency colleagues, will make sure to provide a briefing, including relevant materials such as the text of the Code and other materials, to you and the relevant committees on the terms of the agreement, its implementation, and any other issues of interest.

I appreciate your interest in these issues. Please do not hesitate to reach out to me or my staff in the future with any questions you may have.

Regards,

FRANK A. ROSE,
*Deputy Assistant Secretary of State
Space and Defense Policy.*●

TRIBUTES TO DEPARTING SENATORS

TIM JOHNSON

● Ms. STABENOW. Mr. President, I also wish to pay tribute to a man I have admired throughout my career in this Chamber, Senator TIM JOHNSON of South Dakota. I am proud to call TIM my friend.

Long before Senator JOHNSON and I crossed paths in the Senate, we were both studying at Michigan State University—I was an undergrad while Senator JOHNSON was doing postgraduate studies. In fact, his parents retired in the East Lansing area. I know that Senator JOHNSON considers the University of South Dakota to be his alma mater, but I will always think of him as a fellow Spartan.

All of us here are committed to public service, to defending the Constitution and to protecting our Nation against foreign threats, but few of us have had our commitment tested as Senator JOHNSON has.

In 2004 Senator JOHNSON learned that he had prostate cancer, but he was determined to beat it and to continue representing the people of South Dakota. “I wish this was something that wasn't happening to me,” he said. “But I will deal with it head on,” and he did. He had surgery, then he made a full recovery, and was soon back to work.

In 2006 we were all shocked to learn that Senator JOHNSON suffered a brain hemorrhage—and for weeks we hoped and prayed for him and his family. Incredibly, he again made a full recovery—and he again came back to work.

That is commitment. That is a Senator with a deep appreciation for the privilege of serving the people of South Dakota. That is TIM JOHNSON.

Despite the personal health issues Senator JOHNSON experienced, he succeeded in leading passage of the Safe and Fair Deposit Insurance Act of 2005, a law that 3 years later was critical to keeping America's deposits safe during a time of great economic turmoil. As chair of the Senate banking committee we have relied on his leadership and judgment in reducing risk in the financial sector and in ensuring that Dodd-Frank reforms were implemented effectively.

I will miss our work together to improve the health care of American veterans, and I will miss the opportunity I have had through the years to work with Senator JOHNSON on empowering small family farms to compete in the modern marketplace and to help ethanol producers expand their place in our Nation's renewable energy future.

Knowing how important it was for ranchers to be able to tell consumers their meat products came from the U.S.A., Senator JOHNSON has been a champion of country of origin labeling since going back to the 2002 farm bill, and since then he has helped to strengthen and fully implement the law, a mission that carried over to the 2014 farm bill that I authored as chair of the agriculture committee.

In addition, Senator JOHNSON has been a forceful advocate for the Grain Inspection, Packers and Stockyards Administration rules that ensure that family farmers and ranchers are able to compete on a level playing field.

I know how much Senator JOHNSON has loved policymaking, so I know he must have agonized over this decision. But I also know that the love and devotion he has for his family comes first, and now he will be able to spend more time with his wife Barbara, his two sons, his daughter, and all his grandchildren.

TIM, thank you for being such a strong, resilient, and resourceful partner and friend through the years. I wish you a happy and successful retirement with your family.

MARY LANDRIEU

Mr. President, at the end of this session of Congress, the Senate will be bidding farewell to my colleague and dear friend, Senator MARY LANDRIEU, who has served the people of Louisiana with such devotion over the last 18 years.

I don't think it is possible to overstate the magnitude of the challenges that she has faced on behalf of her constituents. Hurricane Katrina may have been the most horrible natural disaster our country has ever experienced—and Senator LANDRIEU's native city of New Orleans was ground zero.

No one was more engaged in the recovery effort that followed that calamity. Senator LANDRIEU fought tenaciously to secure the funds it would take to repair and revitalize the gulf coast with infrastructure improvements that would protect the coast against another major event.

In the 10 years since Katrina, Senator LANDRIEU has been a champion for homeowners who were struggling to afford flood insurance, most recently by winning passage of the Homeowner Flood Insurance Affordability Act, this past March.

Of course, just as the gulf coast appeared close to making a full recovery, it was struck by another disaster—the Deepwater Horizon oilspill. Again, Senator LANDRIEU was on the vanguard of that recovery, winning passage of the RESTORE Act so that the vast majority of the fines collected by the U.S. Government would go back to the gulf coast to help pay for the cleanup. It is the single biggest investment in environmental restoration in American history.

These were the moments when the people of Louisiana needed MARY LANDRIEU most—and she delivered as only she can.

At the same time, Senator LANDRIEU has always understood that the oil and gas industry is vital to her State's economy, and so it was a major milestone when she became the first woman to chair the Senate energy committee.

She fights so hard for Louisiana, but over the years of working with her, I have learned how much she is driven by a deep feeling of compassion, not just