



ML Strategies Legislative Update

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ML Strategies 2017 Outlook: Defense

Over the course of the next year, we are likely to see a new approach to the U.S. national security decision-making apparatus. While the Obama Administration often relied on an inner circle of key advisors to inform defense policy, President-Elect Trump has sketched out a cabinet that is heavy on military brass. It also remains to be seen how President-elect Trump will work with the new, Republican-controlled Congress to make good on his campaign promises to increase federal defense spending and grow the size of U.S. Armed Forces, and how President-elect Trump's trade policies may impact the competitive edge of the U.S. defense industrial base in foreign military sales

Executive Branch Agenda

While it may not be a comprehensive listing of all of President-elect Trump's national security priorities, according to a December memo sent from the Trump Transition Team to the Office of the Secretary of Defense (OSD), President-elect Trump's leading defense priorities include:

- 1) Developing a strategy to defeat/destroy the Islamic State of Iraq and the Levant (ISIL);
- 2) Building a strong defense (with an emphasis on eliminating Budget Control Act spending caps and improving force strength, size, and readiness);
- 3) Developing a comprehensive U.S. Government cyber security strategy; and
- 4) Finding greater efficiencies that will build on the progress made by the Office of the Deputy Secretary of Defense (DSD) under the Obama Administration.

Beyond these general themes, current Department of Defense (DOD) officials overseeing the political transition have indicated a high level of interest in briefings on current U.S. policies towards China and North Korea. President-elect Trump has also signaled a desire to maintain the Guantanamo Bay (GTMO) detention facility.

Key Trump Administration Political Appointees

As of this writing, President-elect Trump was still in the process of identifying nominees to serve in key appointed positions for each of the military services. However, as discussed above, it appears that President-elect Trump may rely on cabinet officials with backgrounds in military service to compensate for his own lack of military experience. Additionally, President-elect Trump's designation of Vice President Mike Pence to receive routine intelligence briefings traditionally prepared for the President could indicate a relatively larger role for the Vice President in defense policy during the Trump Administration. National Security Advisor Lt. Gen. Michael Flynn is also expected to play a large role in advising President-elect Trump on defense.

It has received considerable attention that President-elect Trump's nominee for Secretary of Defense, Gen. James Mattis, requires a waiver to a provision in federal law stating Defense Secretaries must not have been on active duty in the previous seven years. Such an exemption has only been granted once before for Gen. George Marshall, who was appointed by President Harry Truman in 1950. Following Gen. Mattis' confirmation hearing before the Senate Armed Services Committee on January 12th, the Committee, the full Senate, and the House Armed Services Committee passed legislation granting Gen. Mattis a waiver. The full House also passed waiver legislation later in the week, clearing the way for Gen. Mattis to be confirmed shortly after President-elect Trump is sworn in.

President-elect Trump has also nominated Vincent Viola, a former Army infantry officer and current Virtu Financial Founder and Executive Chairman to serve as Secretary of the Army. Viola's private sector background serves as evidence that President-elect Trump is likely to prioritize business and management, as well as to military experience, in additional picks for key roles at DOD. Throughout the transition, President-elect Trump has been critical of the costs of large defense acquisition programs. While defense contractors and program managers have sought to increase President-elect Trump's understanding of procurement costs, expect President-elect Trump to continue to fill key roles at the DOD with candidates he feels will assist with streamlining and cost-cutting in defense acquisition.

Finally, a key appointment to the Trump national security team will be the individual who is ultimately selected to lead U.S. Cyber Command (CYBERCOM) and serve as Director of the National Security Agency (NSA). The FY17 National Defense Authorization Act (NDAA) included a provision to prohibit the Secretary of Defense from ending the "dual-hat arrangement" in which the CYBERCOM Commander also serves as Director of the National Security Agency (NSA) until the Secretary and the Chairman of the Joint Chiefs of Staff jointly. The Trump Administration will be tasked with carrying out these provisions.

Notable Congressional Committee Changes

The Armed Services Committees have traditionally been viewed as among the most bipartisan in Congress. This should likely continue in the 115th Congress, as it appears the ratios between the Republicans and the Democrats who will serve on the Armed Services Committees will remain fairly balanced. Further, the leadership of both the House and Senate authorizing committees will remain the same as in the 114th Congress, with Reps. Mac Thornberry (R-TX) and Adam Smith (D-WA) and Sens. John McCain (R-AZ) and Jack Reed (D-RI) at the helms.

Where there will be change, however, is at the top of the Defense Appropriations Subcommittee in the House. Rep. Kay Granger (R-TX), who most recently chaired the Subcommittee on State, Foreign Operations, and Related Programs, will assume the gavel for the Defense Subcommittee. Rep. Pete Visclosky (D-IN) will continue to serve as the top Defense Subcommittee Democrat. In the Senate, the Defense Appropriations Subcommittee will likely see Sen. Thad Cochran (R-MS) returning as chairman, while it has been announced that Sen. Richard Durbin (D-IL) will continue as ranking member.

Additionally, and in the most recent election cycles, the Congressional committees with jurisdiction over defense have also come to be viewed as a breeding ground for future presidential contenders in both parties looking to beef up their national security credentials. This phenomenon has already been evidenced by Sen. Elizabeth Warren's (D-MA) appointment to the Senate Armed Services Committee. Sens. Ben Sasse (R-NE) and David Perdue (R-GA) will also serve as new members on the Senate Armed Services Committee. Additionally, the House Armed Services Committee will welcome a total of 16 new members – including eight Republicans and eight Democrats.

Potential Legislative Activity

While there is likely to be a shift in the executive branch's approach to defense policy, this is unlikely to have an impact on Congress' ability to pass the annual NDAA, which has been signed into law the past 55 consecutive years. Because the NDAA is comprehensive in nature, it tends to become a vehicle for the bulk of legislative defense reforms – as well as additional, and sometimes non-defense-related policy aspects.

There are a number of issues that are already primed for high visibility as part of the FY18 NDAA process. Throughout the year, the Armed Services Committees are likely to pursue collaboration with the Trump Administration to end defense sequestration. It remains to be seen, however, how such efforts might be tied to sequestration relief for non-defense programs. Additionally, expect close scrutiny over funding authorized for the Overseas Contingency Operations (OCO) account – especially given President-elect Trump's nominee for Director of the Office of Management and Budget (OMB) Rep. Mick Mulvaney's (R-SC) criticism of the use of OCO to fund programs that should be financed as part of the base defense budget. The Armed Services Committees are also likely to focus on overseeing the new Administration's counterterrorism strategy, furthering defense acquisition reforms, and enhancing DOD cybersecurity posture.

Aside from the routine NDAA process, Congress is also likely to take up a supplemental defense budget request early in 2017. In fact, House Armed Services Committee Chairman Mac Thornberry has said he expects the Trump Administration to file a supplemental defense spending bill "as soon as they get their feet on the ground." The Pentagon's supplemental request is expected to help fund procurement of additional ships and fighter aircraft – U.S. Navy combatants, F-18s, and F-35s – that were not authorized by the final compromise version of the FY17 NDAA.

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