

November 15, 1991

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## REMOVING THE ABM TREATY OBSTACLE TO U.S. AND SOVIET DEFENSES AGAINST MISSILES

### INTRODUCTION

After years of effort by Ronald Reagan and George Bush, the United States and the Soviet Union finally are within sight of an agreement to replace or modify the 1972 Anti-Ballistic Missile (ABM) Treaty to permit deployment of effective defenses against missile attacks. This may be the most important geostrategic development of the post-Cold War period.

What is responsible for this? First, in a dramatic reversal of Soviet policy, Mikhail Gorbachev on October 5 announced Moscow's willingness for the first time to consider U.S. proposals to deploy missile defense systems. Second, the House and Senate are expected within days to recommend deployment of a limited missile defense system, and to direct Bush to negotiate changes in the ABM Treaty to permit these deployments.

With these developments, suddenly the way is open to push aside the antiquated ABM Treaty and reach a new agreement with Moscow on the mutual and cooperative deployment of missile defenses. Bush should seize this opportunity by tabling a detailed proposal at the ongoing U.S.-Soviet Defense and Space Talks (DST) in Geneva to replace the ABM Treaty.

**Real Threats.** Changes of heart in Moscow and the U.S. Congress on the missile defense issue are motivated by the same developments. The Persian Gulf War brought home to missile defense opponents in both countries that ballistic missile proliferation poses a growing threat to their territories. Ringed as it is by such nuclear powers as China, India, and almost surely Pakistan, and such potential nuclear powers as Iran, the threat of missile attack is even more immediate for Russia and the other Soviet republics than it is for America. The coming breakup of the Soviet Union, moreover, has increased the risk of proliferation and of accidental or unauthorized launches of parts

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of the Soviet arsenal. This threat, too, is even more real for Moscow than for Washington.

As it stands, the ABM Treaty is too restrictive to allow either America or the Soviet Union to deploy effective defenses against even limited missile strikes. It also restricts the development and testing of missile defense systems in ways that prevent America from fielding the most modern and efficient defenses. The DST negotiations in Geneva are the best forum for Bush to present his plans for replacing or modifying the treaty to overcome these prohibitions and allow for the timely deployment of modern and effective defenses. Bush's objectives at DST should include:

- ◆◆ **An agreement to allow eight sites of up to 100 ground-based interceptors and up to 1,000 interceptors in space.** The single site of 100 interceptors allowed by the ABM Treaty, as amended in 1974, cannot provide even a limited nationwide defense. For this, at least eight sites of 100 interceptors each are required, along with space-based interceptors. This system offers "layered" protection by destroying missiles shortly after launch. Space-based interceptors, because of their global coverage, also can protect America's allies.
- ◆◆ **An expiration date.** As now written, the ABM Treaty remains in force in perpetuity unless one side or the other withdraws. The lack of provision for regular renegotiation is one reason the treaty has become an anachronism in the face of a changing strategic environment. Whether the ABM Treaty is amended or superseded by a new agreement, a termination date of December 31, 1999, should be imposed, after which all restrictions on anti-missile defenses would be removed unless the two sides agreed otherwise.
- ◆◆ **Relaxed restrictions on the development and testing of non-nuclear ABM launcher and interceptor systems and components.** Soviet and U.S. negotiators at DST have disagreed for years over what restrictions the ABM treaty imposes on the development and testing of ABM systems and components, including launchers and interceptors. Moscow has interpreted the treaty to prevent the U.S. from testing SDI systems in space. Moscow's position has been backed by ABM opponents in the U.S. Congress and elsewhere. The Reagan and Bush Administrations have interpreted the Treaty's limitations more broadly as permitting various space-based tests. The debate can be ended by simply easing restrictions to allow most tests, enabling both sides to develop the systems needed for a nationwide limited defense.
- ◆◆ **An agreement to remove all restrictions on the development, testing, and deployment of ABM sensors.** The ABM Treaty severely restricts the development, testing, and deployment of ABM radars, and perhaps other sensors, that detect missiles as they fly toward their targets and communicate information to interceptor systems. These restrictions are designed to prevent the deployment of just the type of effective nationwide defenses now contemplated. They also are ambiguous and in some cases virtually impossible to verify. Freeing each side to develop, test, and deploy sensors will eliminate all ambiguity and allow both sides to build nationwide defenses against limited attacks.

Accession Number: 3659 MISSING

Publication Date: Nov 15, 1991

Title: Removing the ABM Treaty Obstacle to U.S. and Soviet Defenses Against Missiles

Personal Author: Spring, B.

Corporate Author Or Publisher: The Heritage Foundation, 214 Mass. Ave., NE, Washington, DC 20002-4999 Report Number: Heritage Backgrounder 867

Comments on Document: Heritage Backgrounder 867. Appendix: ABM Treaty, 1972. Updated by See Also Accession Number U3661, Heritage Backgrounder 173. Updated by Accession Number U6060, Heritage Backgrounder 266.

Descriptors, Keywords: ABM Treaty Obstacle US Soviet Defense Missile Threat Modify Deployment LMD Proliferation Ground-based Interceptor Space-based SDI Strategic START GPALS Brilliant Eyes

Pages: 00020

Cataloged Date: Aug 04, 1992

Copyrighted or Not: N

Document Type: HC

Number of Copies In Library: 000001

Record ID: 24414

- ◆ ◆ **An agreement that clarifies and updates the distinction between “theater” and “strategic” defenses.** The ABM Treaty limits only defenses against “strategic” missiles. This long has meant intercontinental ballistic missiles — known as ICBMs — or long-range missiles fired from submarines. But as other countries have been acquiring new missiles of their own, some of which have flight characteristics similar to some U.S. and Soviet “strategic” missiles, the ABM treaty’s distinction between “strategic” and shorter-range or “tactical” missiles has become blurred. As a result, for example, the ban on defenses against strategic missiles could interfere with America’s program to build and deploy anti-tactical ballistic missile systems, such as the Theater High Altitude Area Defense System (THAADs), to defend U.S. forces in the field and allies against advanced tactical missiles. The distinction between “strategic” and “tactical” defenses should be redefined and clarified in a way that permits the U.S. and the Soviet Union to develop and deploy effective theater defenses.
- ◆ ◆ **An agreement to ease prohibitions on the transfer of non-nuclear ABM technology to allies.** Such allies as Britain, Germany, and Israel all have participated in the U.S. SDI program. Yet the ABM Treaty now bans the U.S. from transferring ABM components and technologies to these countries or to other friends and allies. It is in America’s interests, as well as theirs, that these restrictions be eased substantially.
- ◆ ◆ **Participation of Russian Republic representatives in the negotiations.** As things now stand, it is likely that the Soviet central government will not survive for the months and perhaps years it will take to forge an agreement at the DST negotiations. Representatives of the Russian Republic therefore should be invited to join the negotiations. A provision should be made for Russia—and whatever coalition of republics it may patch together—to take over Soviet treaty obligations and its place at the negotiating table in the event the Soviet government falls.

## **NEGOTIATIONS TO CHANGE THE ABM TREATY: A TORTURED HISTORY**

While Gorbachev’s October 5 announcement is a startling breakthrough in U.S.-Soviet cooperation on strategic defense, the two sides in fact have been negotiating in Geneva over the future of the ABM Treaty since March 1985. There, at the Defense and Space Talks (DST), progress has been frustrated by Soviet attempts to use the talks to kill the U.S. Strategic Defense Initiative (SDI) program,<sup>1</sup> first unveiled in March 1983 by Ronald Reagan. From the beginning of the talks, the U.S. sought an agreement that would allow both sides to develop, test, and deploy ABM systems and components outside the confines of the ABM Treaty. This position is close to what Gorbachev now

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<sup>1</sup> The terms “ABM,” for Anti-Ballistic Missile, and “SDI,” for Strategic Defense Initiative, often are used interchangeably to refer in general to strategic defenses against ballistic missile attack.

seems to be proposing. The U.S., therefore, can draw on its experience in the DST negotiations in formulating a response to Gorbachev's most recent proposal.<sup>2</sup>

**Talks Languish.** DST initially was grouped together under the rubric of the Nuclear and Space Talks, along with Intermediate-range Nuclear Forces (INF) negotiations and Strategic Arms Reduction Talks (START). INF reached fruition in 1987 with a treaty to abolish an entire class of intermediate-range nuclear missiles on both sides. START was signed by Bush and Gorbachev in Moscow this July 31. DST, meanwhile, languishes.

At the outset of DST, the U.S. sought an agreement that would allow both sides to deploy strategic defenses, outside the confines of the ABM Treaty. The U.S. also sought to increase U.S.-Soviet cooperation on strategic defense by sharing information on research, testing, and deployments. The Soviets, by contrast, sought a commitment from the U.S. that it would not abrogate the ABM Treaty for a specified period of time. Moscow's negotiators also tried to restrict severely U.S. SDI testing.

The Soviet position at times seemed adamant. Example: Moscow indicated that it would not agree to any reductions in offensive weapons in either the INF or START negotiations, unless the U.S. agreed to abide by the ABM Treaty. Insisting on such strong "linkage" was the Soviet position until after the superpower summit at Reykjavik in October 1986. There Reagan refused to budge on his commitment to proceed with SDI even when Gorbachev offered, as an inducement for the U.S. to abandon SDI, deep cuts in Soviet nuclear weapons.

Reagan's firm resolve apparently surprised and shook Gorbachev. Several months later, therefore, on February 27, 1987, Gorbachev "de-linked" the DST negotiations from the INF talks, thus allowing the INF Treaty to go ahead even if America continued to work on SDI. At the December 1987 Reagan-Gorbachev INF Treaty summit in Washington, the two sides struck a new compromise on SDI. Essentially, the U.S. agreed that it would observe the ABM Treaty for a limited—but undefined—period of time, and participate in discussions on strategic stability. Moscow agreed that no restrictions would be imposed on strategic defenses after the limited period ended unless both sides agreed otherwise in the interim. Moscow also agreed to allow the U.S. to test some ABM systems in space.<sup>3</sup>

**Soviets Disappointed.** For the eighteen months following the summit, the two sides debated the meaning of their SDI compromise. Moscow attempted to withdraw commitments made in Washington on testing and on linkage, seeking again to link a DST agreement on SDI with the START negotiations then in progress. The two sides pretty much were back where they had begun in 1985. Moscow clearly had decided to wait out the remainder of the Reagan Administration, hoping to get a better deal from

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2 For an analysis of the Defense and Space Talks, see: Ambassador Henry F. Cooper, "SDI and Arms Control" in Kim R. Holmes and Baker Spring, eds., *SDI At The Turning Point: Readyng Strategic Defenses for the 1990s and Beyond* (Washington, D.C.: The Heritage Foundation, 1990), pp. 77-99.

3 The White House, *The Weekly Compilation of Presidential Documents*, Vol. 23, No. 49, December 14, 1987, pp. 1495-1496.

Reagan's successor. They were disappointed. Bush adopted the Reagan negotiating position at the DST talks.

## THE GENESIS OF MOSCOW'S TURNAROUND

By the time Bush took office in 1989, global events were underway that ultimately would influence Moscow's approach to SDI. The overthrow of communism in Eastern Europe, and the weakening of the monolithic Soviet Communist Party and the Soviet state led to a more open debate in the Soviet Union on SDI, and to a fundamental questioning of the precepts of Soviet security as defined by the Communist Party throughout the Cold War.

By early last year, articles started appearing in Soviet military publications and civilian journals urging a genuine compromise with the U.S. on SDI.<sup>4</sup> After years of resolve by the Reagan and Bush Administrations, the Soviet ice had begun to melt.

In January 1991, with the Soviet threat on the wane, Bush shifted America's SDI program away from defense against an all-out Soviet attack and toward protecting America against accidental, unauthorized, or limited strikes from a collapsing Soviet Union or from the Third World. Some in Moscow suggested that the Soviet Union, perhaps even more than the U.S., should be concerned about missile proliferation in the Middle East and elsewhere around the Soviet periphery.<sup>5</sup>

Then the Persian Gulf War brought home to both Washington and Moscow the dangers of proliferation, and the idea that traditional notions of deterrence, based on the threat of retaliation, simply would not deter an irrational dictator armed with ballistic missiles and nuclear weapons. A consensus began building in both Washington and Moscow that strategic defenses are essential if either country is to remain secure in the 1990s and beyond.

**Gorbachev's Shocker.** At the July 16, 1991, industrial nations' economic summit in London, Gorbachev signalled a change in Moscow's position on fielding defenses against ballistic missiles, pledging to cooperate with Western countries on questions related to early warning of missile strikes. The signing of the START Treaty in Moscow on July 31 demonstrated that Moscow had backed away from its threats to withdraw from START if the U.S. failed to observe the ABM Treaty, although an ambiguous, face-saving statement was inserted into the negotiating record. The accelerating shift in Moscow's position culminated on October 5. In a televised address, Gorbachev said "We [the Soviet Union] are prepared to consider proposals from the United States of America on non-nuclear anti-missile defense systems." This signaled Moscow's recognition that it could not force Washington to kill the SDI program.

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4 For a catalogue of these Soviet statements, see: Keith B. Payne, *Soviet Statements Sympathetic to Mutual BMD Deployment*, Information Series No. 182, The National Institute for Public Policy, June 1990.

5 The hardline *Soyuz* (Union) faction leader in the Soviet Congress of People's Deputies, Colonel Viktor I. Alksnis made this point in a speech before the Congress on October 15, 1990.

The Soviet history of ambiguity and policy reversals on the strategic defense issue indicates that hard negotiating likely lies ahead, despite Gorbachev's apparent acceptance of some level of strategic defense. Coming as it did along with sweeping proposals for offensive weapons cuts, the Gorbachev proposal clearly repudiates the former Soviet position that defenses are incompatible with offensive reductions. Still to be resolved, however, are the specific terms for allowing the deployment of defenses outside the confines of the ABM Treaty and what sort of testing may take place prior to deployments.

The record of the DST negotiations reveals that the ABM Treaty in many respects is an ambiguous document, and that several important technical issues, including questions about restrictions on ABM sensors, exporting defense technologies, and distinguishing between strategic and tactical missile defenses, also remain to be resolved in the course of negotiations.

## GOING BEYOND THE 1972 ABM TREATY

When the two sides get down to serious negotiating over strategic defenses, they quickly will discover that at least seven flaws in the ABM Treaty will have to be remedied.<sup>6</sup>

**FLAW #1: ABM Treaty restrictions do not permit deployment of even a limited nationwide defense against ballistic missiles.**

Article III of the ABM Treaty, as amended by a July 3, 1974, protocol, limits America and the Soviet Union each to one site of no more than 100 stationary launchers and interceptors. Article V of the Treaty bans, or severely restricts, the deployment of space-based or other interceptors that are not stationary land-based systems. Because of these restrictions, America cannot deploy enough interceptors of the types required to defend its entire territory against limited missile strikes.

The Soviet Union has deployed its single permitted ABM site around Moscow, providing some coverage for the capital and its environs. America, by contrast, does not have even a lone ABM site. And even were the U.S. to activate its single permitted site, at Grand Forks, North Dakota, and install the most sophisticated ground-based interceptors now under development, it could not protect coastal areas, southern states, or Alaska and Hawaii.

**THE REMEDY: An agreement to allow eight sites of up to 100 ground-based interceptors and up to 1,000 interceptors in space.**

This agreement would allow the U.S. to deploy the anti-missile defense system known as G-PALS, for Global Protection Against Limited Strikes. With its 750 ground-based interceptors and space-based interceptors known as *Brilliant Pebbles*, G-

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6 For the text of the ABM Treaty and the 1974 Protocol amending the Treaty, see the Appendix.

PALS will protect the entire country against strikes of up to 200 warheads. To remove any uncertainty about the scope of deployments on each side, a separate memorandum of understanding should be drafted to outline broad verification and "confidence-building" measures, which would include exchanges of information on the location of ground-based deployments, provisions for mutual inspections, and shared information on the numbers and essential characteristics of deployed space-based interceptors.

**FLAW #2:           The ABM Treaty has no expiration date.**

Article XV of the ABM Treaty declares: "This Treaty shall be of unlimited duration." But the politics and technology of missile defense have changed dramatically in the nearly two decades since the ABM Treaty was signed on May 26, 1972. Nobody then could have predicted, for example, that the treaty-designated Soviet ABM test site at Sary Shagan might become part of an independent Kazakhstan, or that U.S. negotiators would have to be thinking about with whom to negotiate if the Soviet central government collapses. Similarly, ABM Treaty negotiators in 1972 could not have taken into account the increased dangers of accidental launch posed by the proliferation of ballistic missile and nuclear weapon technology. And the ABM Treaty, written at a time when the only missile interceptors under development were armed with nuclear weapons, could not adequately take into account modern technologies, such as hit-to-kill kinetic energy weapons and advanced sensor systems, that make effective non-nuclear nationwide defenses feasible and affordable.

Most other important arms control agreements include expiration dates, recognizing that the politics and technology evolve, and that agreements made in one decade may not hold up in the next. The Strategic Arms Limitation Talks (SALT) II Treaty, would have expired at the end of 1985 even if it had been approved by the U.S. Senate. The Strategic Arms Reduction Treaty (START), signed by Bush and Gorbachev on July 31, reportedly will expire fifteen years after ratification. Even the multilateral Nuclear Non-Proliferation Treaty will expire in 1995, unless an agreement is reached to extend it.

**THE REMEDY:   An expiration date.**

Given the rapidly changing technology of strategic defense, and such political developments as ballistic missile proliferation and the breakup of the Soviet Union, it is unlikely that any agreement on strategic defenses signed today will remain relevant much past the turn of the century, if that long. Whether the ABM Treaty is amended or superseded by a new pact, an expiration date should be set. December 31, 1999, is a reasonable date given the pace of political and technological developments. This date also makes sense because the U.S. will be completing its G-PALS deployments and will be ready to reevaluate its defensive requirements. After December 31, 1999, either side would be unrestricted in testing and deploying new strategic defense systems, unless a new agreement is reached.

**FLAW #3: ABM Treaty limits on the development and testing of ABM launchers and interceptors are too strict and in some cases unclear.**

Article V of the ABM Treaty bars either side from developing and testing "ABM systems or components which are sea-based, air-based, space-based or mobile land-based." This article, however, does not ban the development and testing of advanced technologies based on "other physical principles," unknown in 1972. These technologies, in fact, are subject to discussion between the U.S. and Soviet Union, as set forth in Agreed Statement D that accompanies the Treaty.

Beginning in the 1980s, it became clear that the U.S. and Soviet Union—and experts within the U.S.—differed substantially over what kind of tests are permitted by the treaty. Particularly in dispute were tests in space. The crux of the debate was over what constitutes "research" and what constitutes "development" and "testing." The ABM treaty permits all research, but places some restrictions on development and testing. Although the Soviet position has varied, its basic assertion had been that space-based tests, even in the course of research, are not permitted because they would provide the base for a territorial defense, which is prohibited by Article I of the ABM Treaty.

Meanwhile, proponents in America of what came to be known as the "narrow" interpretation of the ABM Treaty also sought to prevent SDI tests in space, narrowly defining development and testing, such that they are banned by the treaty. The Reagan Administration by contrast made the case for a "broad" interpretation of the ABM Treaty. It also made the case that systems based on "other physical principles" not known in 1972, could be tested after discussion with Moscow and unless agreed otherwise; SDI opponents argued the contrary, that such tests were barred unless otherwise agreed.

**THE REMEDY: An agreement to allow development and testing of most non-nuclear ABM launcher and interceptor systems and components.**

By eliminating most restrictions on the development and testing of missile defense launchers and interceptors, the hair-splitting treaty interpretation debates of the 1980s can be relegated to history. An agreement should be reached that allows both sides to develop and test any new non-nuclear strategic defense interceptors or launchers, whether mobile, land-, sea-, air-, or space-based.<sup>7</sup> So that each side can be confident that tests are not being used as a cover to breach the limits on deployment set by the new agreement, each side would agree to confidence-building measures, including open exchanges of information, and verification procedures, including on-site inspections.

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<sup>7</sup> If the Treaty is amended, one easy way to exempt these systems from limits would be to agree that they all constitute systems based on "other physical principles" under Agreed Statement D, and that all development and testing of such systems henceforth will be allowed.

If the treaty is amended, a ban can remain on developing and testing interceptors with multiple warheads and launchers that can be rapidly reloaded, since the U.S. has no plans to deploy such systems over the next decade—assuming of course that a termination date is set for the treaty. The U.S. also can continue to accept the treaty's testing limits on stationary, ground-based interceptors of the type deployed in 1972, and still deployed around Moscow—namely nuclear-armed interceptors. Exempting most non-nuclear launchers and interceptors from any restrictions on development and testing imposed by Article V of the ABM Treaty will serve several purposes. First, it will allow the U.S. adequately to test all systems needed to deploy an effective nationwide defense, including ground- and space-based systems, against a limited nuclear strike. Second it will allow Moscow to continue to test its currently deployed ABM interceptors under the more strict standards imposed by Article V, while providing incentives for the Soviet Union to move away from dangerous nuclear-armed interceptors. Finally, it will put to rest the debate over the broad versus narrow interpretations of the ABM Treaty.

**FLAW #4:           The Treaty imposes restrictions on the development, testing and deployment of ABM sensors that are too severe and unverifiable.**

ABM sensors are radars or other systems that detect and track ballistic missiles in flight. Article III of the ABM Treaty limits severely the numbers and locations of deployed ABM radars. The Treaty even imposes restrictions on radars that are not specifically ABM radars. Under Article VI, powerful early-warning radars must be located "along the periphery" of each nation's territory and "oriented outward." It is this provision that was violated when Moscow constructed its massive radar site at Krasnoyarsk, in Siberia, in the 1980s. Smaller radars capable of managing and directing a defensive battle are also restricted and limited to allowed ABM sites. Within these limits, neither side can deploy a radar system capable of providing even a limited nationwide defense.

The ABM Treaty also addresses the question of systems capable of "substituting for ABM radars," restricting their development, testing, and deployment. This could include systems like the space-based infrared sensors planned for G-PALS. Debate over the limits on development and testing of these "substitute" systems also is subject to "broad" and "narrow" interpretations.

Further, many of the treaty's restrictions on the development, testing, and deployment of ABM sensors simply are not verifiable. This is because ABM sensors are defined as having what is known as "internalized battle management capabilities," that is the ability to detect and analyze an attack, and pass information directly to ABM interceptors. It is virtually impossible, however, to determine via observation whether a satellite has the ability to communicate directly with interceptors.

**THE REMEDY:   An agreement to remove all restrictions on the development, testing, or deployment of ABM sensors.**

Any new ABM agreement should include a "sensors go free" provision, removing all restrictions on the development, testing, and deployment of ABM radars or sensors. This will allow the U.S. to deploy Brilliant Eyes, a space-based sensor planned for

GPALS. These systems will be able to communicate directly with ABM interceptors. The U.S. also could deploy the mobile Ground Based Radar system, which will help manage defensive battles for ground-based interceptors.

If restrictions on sensors are eliminated, America and the Soviet Union, or its successor, will be able to take the first steps toward deployment of a nationwide ballistic missile defense. By allowing sensors to go free, the two sides also will prevent future squabbling over whether sensors used to support "tactical" ballistic missiles, like DSP, have strategic applications that would subject them to ABM Treaty restrictions.

Gorbachev in his October 5 speech and in a July 16, 1991, letter to the Group of Seven industrial democracies, expressed an interest in sharing information on early warning of missile attacks provided by space-based and other sensors. To the extent national security allows, Bush should accommodate Gorbachev's request in a separate agreement on confidence building measures to accompany the new ABM agreement or amended ABM Treaty. But Bush should make it clear to Moscow that if it wants access to U.S. sensor data to warn of missile attacks on its territory, it will have to eliminate the ABM Treaty's restrictions on the development, testing and deployment of ABM sensors.

**FLAW #5:      The ABM Treaty does not adequately define the distinction between "strategic" ABM systems, which are restricted by the Treaty, and the non-restricted "tactical" anti-missile systems used to defend allies or forces in the field against shorter-range missile attacks.**

Article II of the ABM Treaty defines an ABM system as "...a system to counter strategic ballistic missiles or their elements in flight trajectories." The Treaty imposes no restrictions on systems to counter shorter-range missiles like Iraq's *Scuds*. Such weapons are also known as "tactical" or "theater" missiles. The dividing line between the two, however, is unclear and needs updating.

U.S. and Soviet negotiators last defined this dividing line in 1978. The exact text is classified, but unclassified accounts say that a strategic missile is one whose range and flight characteristics are those of at least the Soviet SS-N-6 *Sawfly* submarine-launched ballistic missile (SLBM).<sup>8</sup> The *Sawfly* can travel about 1,800 miles and is the shortest-range strategic missile deployed on either side.

As Third World countries acquire ever more sophisticated missiles with longer ranges, the standard set in 1978 is becoming obsolete. Example: the 1,350-mile-range Chinese-built CSS-2, currently deployed by Saudi Arabia. Its flight characteristics, such as re-entry speed and angle of attack, closely match those of the SS-N-6 *Sawfly*. As such, an interceptor missile designed to counter "tactical" missiles, such as the CSS-2, could become subject to ABM Treaty restrictions even though the treaty was not intended to restrict these interceptors.

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<sup>8</sup> Sidney N. Graybeal and Patricia A. McFate, "GPALS and the ABM Treaty," April 3, 1991, reprinted in the *Congressional Record*, August 1, 1991, pp. S11625-S11627.

Already the definition of "strategic" is creating problems. According to Pentagon officials familiar with the 1978 secret agreement, existing technical definitions defining a "strategic" ABM system may apply to planned U.S. anti-tactical ballistic missile (ATBM) systems, including the Theater High Altitude Area Defense System (THAADS) and possibly the U.S.-Israeli *Arrow*. If so, Moscow could argue that those systems should be limited under the ABM Treaty. The definition will have to be updated to permit the U.S. to test and deploy these or similar systems unhindered by any ABM agreement.

**THE REMEDY: An agreement that clarifies and updates the distinction between "theater" and "strategic" defenses.**

The distinction between a strategic and tactical anti-missile system should be clarified and updated to permit unrestricted deployment by the U.S. of systems now on the drawing boards that defend U.S. troops in the field against shorter-range missiles. This means changing the accepted technical standards, such as re-entry speed and angle of attack, of offensive weapons that would be considered "strategic" in contrast to "tactical."

Given the increasingly sophisticated missile arsenals in the Third World, the distinction between strategic defenses and tactical defenses will have to be a flexible standard. On providing credible evidence that a change in the standard is warranted—such as the deployment of a new missile of longer range by a country other than the five acknowledged nuclear powers—either Washington or Moscow should be able to announce a change in the standard on six months' notice.<sup>9</sup> An appeal process could allow challenges to the new definition if the other side did not accept the evidence. If the two sides still could not agree, either would be free to declare the other in violation of the ABM Treaty or successor agreement and to withdraw.

**FLAW #6: The Treaty imposes an unwarranted prohibition against exporting defense systems and components.**

Article IX of the ABM Treaty prohibits the "transfer to other States..." of ABM systems or components. As a global power America depends on allies to help defend its interests and security. U.S. policy from the outset of the SDI program was to provide protection against missile attacks not just for the U.S. but also for its allies. The extent to which the U.S. can cooperate with its allies, however, is severely restricted by Article IX.

**THE REMEDY: An agreement to ease prohibitions on the transfer of non-nuclear ABM technology to allies.**

Easing Article IX restrictions will ensure that the U.S. can continue to assist its allies in defending themselves against missile attacks, and that Britain, Germany, Israel, and other countries can continue to participate in the U.S. SDI program. There should be provisions, however, to prevent either America or the Soviet Union from providing de-

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<sup>9</sup> The five acknowledged nuclear powers are the U.S., Britain, China, France, and the Soviet Union.

fenses to other states as a means of improving their own territorial defense. Example: Moscow could not deploy interceptor missiles in Mongolia, and the U.S. could not deploy missiles in Canada, for the purpose of expanding the Soviet or American defensive capabilities beyond those permitted by the new agreement. To assure this, no transfers would be allowed beyond that needed to provide a level of protection to the receiving state similar to that afforded the U.S. or Soviet Union under the terms of the treaty.

**FLAW #7:           The ABM Treaty is an agreement with the Soviet Union, a state that may soon cease to exist.**

The turmoil roiling the Soviet Union may well bring the complete collapse of Soviet central authority. This breakup of the Soviet Union need not mean increased risk for the U.S.; on the contrary, it will reduce enormously the possibility that a resurrected unified Soviet state again could threaten America and its allies. The breakup of the Soviet Union would raise questions, of course, about the status of the ABM Treaty and other treaties signed by the Soviet Union, and about ongoing talks, including the DST negotiations.

**THE REMEDY:   Participation of Russian Republic representatives in the negotiations.**

Representatives of the Russian Republic should be invited to join the negotiations at every step. Arrangement should be made for Russia, and whatever coalition of republics it may patch together, to take over Soviet treaty obligations and to take the Soviet seat at the negotiating table in the event the Soviet center dissolves. Bush should conduct behind-the-scenes negotiations with Russian President Boris Yeltsin and other Russian Republic leaders to ensure a smooth transition of Moscow's international authority from the Soviet Union to Russia or a Russian coalition once the Soviet central government collapses. At the same time, Bush should tell Soviet and Russian authorities that the U.S. will consider the ABM treaty null and void if it determines the Soviet Union, or its Russian successor, incapable of upholding its obligations under the Treaty.

**CONCLUSION: SEIZE THE OPPORTUNITY**

Moscow's October 5 offer to consider American proposals for deploying ABM defenses is the type of opening for which the Reagan and Bush Administrations have worked. This gives Bush the chance to put forward a new set of negotiating objectives for the Defense and Space Talks in Geneva, laying out for Moscow precisely the steps that will allow America and the Soviet Union to begin deploying effective defenses against missile attacks over the next few years.

Bush should seek an agreement to supersede the 1972 ABM Treaty, or if need be that would amend the ABM Treaty. Either way, his objectives should be the same. He should seek to remove existing restrictions on the deployment of ABM launchers and interceptors and replace them with an agreement permitting the deployment of up to 800 ground-based interceptors and 1,000 space-based interceptors. This will be sufficient to protect all of America against limited launches of ballistic missiles from the collapsing Soviet Union or elsewhere.

**Removing Undue Restrictions.** ABM Treaty provisions also will have to be modified to allow for greater development and testing of ABM systems including launchers and interceptors. Unlimited development, testing, and deployment of radars and sensors also should be allowed. Any agreement also will have to define clearly and modify the distinction between "strategic" defenses, which will be limited, and "tactical" ballistic missile defenses, which will not. Undue restrictions on the transfer of ABM systems to allies also should be removed in any new agreement. Finally, Russian Republic representatives will have to be included in all negotiations, and provision made for Russia to take over Soviet treaty obligations and negotiations if the Soviet central government collapses.

If Bush succeeds in these negotiations to deploy strategic defenses, he will enable America to defend itself against the major threat to its survival in the world today: ballistic missiles armed with nuclear weapons. He should move quickly and decisively toward this end.

Baker Spring  
Policy Analyst

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# APPENDIX

## **Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, 1972**

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missile systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament,

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

### **Article I**

1. Each party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other measures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

### **Article II**

1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) operational;

(b) under construction;

(c) undergoing testing;

(d) undergoing overhaul, repair or conversion; or

(e) mothballed

### **Article III**

Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the area of each complex being circular and having a diameter of no more than three kilometers; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-array ABM radars.

### **Article IV**

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or

additionally agreed test ranges. Each Party may have no more than a total of fifteen ABM launchers at test ranges.

#### **Article V**

1. Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.
2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers.

#### **Article VI**

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by the Treaty, each Party undertakes:

(a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode; and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

#### **Article VII**

Subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried out.

#### **Article VIII**

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

#### **Article IX**

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

#### **Article X**

Each party undertakes not to assume any international obligations which would conflict with this Treaty.

#### **Article XI**

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

#### **Article XII**

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

#### **Article XIII**

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(a) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(b) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed;

(c) consider questions involving unintended interference with national technical means of verification;

(d) consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty;

(e) agree upon procedures and dates for destruction or dismantling of ABM systems or their components in cases provided for by the provisions of this Treaty;

(f) consider, as appropriate, possible proposals for further increasing the viability of this Treaty; including proposals for amendments in accordance with the provisions of this Treaty;

(g) consider, as appropriate, proposals for further measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate, Regulations for the Standing Consultative Commission governing procedures, composition and other relevant matters.

#### Article XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force of this Treaty.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

#### Article XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

#### Article XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the United Nations.

**DONE** at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

**For the United States  
of America**

Richard Nixon  
President of the United  
States of America

**For the Union of Soviet  
Socialist Republics**

L. I. Brezhnev  
General Secretary of the  
Central Committee of  
the CPSU



## Agreed Statements and Common Understandings Regarding the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, 1972

### 1. Agreed Statements

The document set forth below was agreed upon and initiated by the Heads of the Delegations on May 26, 1972 (letter designations added);

Agreed statements regarding the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems.

[A]

The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operational on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B]

The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purposes of the Treaty to be three million.

[C]

The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing IBCM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.

[D]

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of the substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

[E]

The Parties understand that Article V of the Treaty includes obligations not to develop, test or deploy ABM interceptor missiles for the delivery by each ABM interceptor missile of more than one independently guided warhead.

[F]

The parties agree not to deploy phased-array radars having a potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Articles III, IV, and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

[G]

The Parties understand that Article IX of the Treaty includes the obligation of the US and the USSR not to provide to other States technical descriptions or blue prints specially worked out for the construction of ABM systems and their components limited by the Treaty.

## 2. Common Understandings

Common understanding of the Parties on the following matters was reached during the negotiations:

### A. Location of ICBM Defenses

The U.S. Delegation made the following statement on May 26, 1972:

Article III of the ABM Treaty provides for each side one ABM system deployment area centered on its national capital and one ABM system deployment area containing ICBM silo launchers. The two sides have registered agreement on the following statement: "The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers." In this connection, the U.S. side notes that its ABM system deployment area for defense of ICBM silo launchers, located west of the Mississippi River, will be centered in the Grand Forks ICBM silo launchers deployment area. See Agreed Statement [C].)

### B. ABM Test Ranges

The U.S. Delegation made the following statement on April 26, 1972:

Article IV of the ABM Treaty provides that "the limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. "We believe it would be useful to assure that there is no misunderstanding as to current ABM test ranges. It is our understanding that ABM test ranges encompass the area within which ABM components are located for test purposes. The current U.S ABM test ranges are at White Sands, New Mexico, and at Kwajalein Atoll, and the current Soviet ABM test range is near Sary Shagan in Kazakhstan. We consider that non-phased array radars of types used for range safety or instrumentation purposes may be located outside of ABM tests ranges. We interpret the reference in Article IV to "additionally agreed test ranges" to mean that ABM components will not be located at any other test ranges without prior agreement between our Governments that there will be such additional ABM test ranges.

On May 5, 1972, the Soviet Delegation stated that there was a common understanding on what ABM test ranges were, that the use of the types of non-ABM radars for range safety or instrumentation was not limited under the Treaty, that the reference in Article IV to "additionally agreed" test ranges was sufficiently clear, and that national means permitted identifying current test ranges.

### C. Mobile ABM Systems

On January 29, 1972, the U.S Delegation made the following statement;

Article V(1) of the Joint Draft Text of the ABM Treaty includes an undertaking not to develop, test, or deploy mobile land-based ABM systems and their components. On May 5, 1971, the U.S. side indicated that, in its view, a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which were not permanent fixed types. At that time, we asked for the Soviet view of this interpretation. Does the Soviet side agree with the U.S. side's interpretation put forward on May 5, 1971?

On April 13, 1972, the Soviet Delegation said there is a general common understanding on this matter.

#### D. Standing Consultative Commission

Ambassador Smith made the following statement on May 22, 1972:

The United States proposes that the sides agree that, with regard to initial implementation of the ABM Treaty's Article XIII on the Standing Consultative Commission (SCC) and of the consultation Articles to the Interim Agreement on offensive arms and the Accidents Agreements agreement establishing the SCC will be worked out early in the follow-on SALT negotiations; until that is completed, the following arrangements will prevail: when SALT is in session, any consultation desired by either side under these Articles can be carried out by the two SALT Delegations; when SALT is not in session, ad hoc arrangements for any desired consultations under these Articles may be made through diplomatic channels.

Minister Semenov replied that, on an *ad referendum* basis, he could agree that the U.S. statement corresponded to the Soviet understanding.

#### E. Standstill

On May 6, 1972, Minister Semenov made the following statement:

In an effort to accommodate the wishes of the U.S. side, the Soviet Delegation is prepared to proceed on the basis that the two sides will in fact observe the obligations of both the Interim agreement and ABM Treaty beginning from the date of signature of these two documents.

In reply, the U.S. Delegation made the following statement on May 20, 1972:

The U.S. agrees in principle with the Soviet statement made on May 6 concerning observance of obligations beginning from date of signature but we would like to make clear our understanding that this means that, pending ratification and acceptance, neither side would take any action prohibited by the agreements after they had entered into force. This understanding would continue to apply in the absence of notifications by either signatory of its intention not to proceed with ratification or approval.

The Soviet Delegation indicated agreement with the U.S. statement.



#### Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, 1974

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the Basic Principles of Relations between the United States of America and Union of Soviet Socialist Republics signed on May 29, 1972,

Desiring to further the objectives of the Treaty between the United States of the America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems signed on May 26, 1972, hereinafter referred to as the Treaty,

Reaffirming their conviction that the adoption of further measures for the limitation of strategic arms would contribute to strengthening international peace and security,

Proceeding from the premise that further limitation of anti-ballistic missile systems will create more favorable conditions for the completion of work on a permanent agreement on more complete measures for the limitation of strategic offensive arms,

Have agreed as follows:

#### Article I

1. Each Party shall be limited at any one time to a single area out of the two provided in Article III of the Treaty for deployment of anti-ballistic missile (ABM) systems or their components and accordingly shall not exercise its right to deploy an ABM system or its components in the second of the two ABM system deployment areas permitted by Article III of the Treaty, except as an exchange of one permitted area for the other in accordance with Article II of this Protocol.

2. Accordingly, except as permitted by Article II of the Protocol: the United States of America shall not deploy an ABM system or its components in the area centered on its capital, as permitted by Article III(a) of the Treaty, and the Soviet Union shall not deploy an ABM system or its components in the deployment area of intercontinental ballistic missile (ICBM) silo launchers as permitted by Article III(b) of the Treaty.

#### Article II

1. Each Party shall have the right to dismantle or destroy its ABM system and the components thereof in

the area where they are presently deployed and to deploy an ABM system or its components in the alternative area permitted by Article III of the Treaty, provided that prior to initiation of construction, notification is given in accord with the procedure agreed to in the Standing Consultative Commission, during the year beginning October 3, 1977 and October 2, 1978, or during any year which commences at five year intervals thereafter, those being the years for periodic review of the Treaty, as provided in Article XIV of the Treaty. This right may be exercised only once.

2. Accordingly, in the event of such notice, the United States would have the right to dismantle or destroy the ABM system and its components in the deployment area of ICBM silo launchers and to deploy an ABM system or its components in an area centered on its capital, as permitted by Article III(a) of the Treaty, and the Soviet Union would have the right to dismantle or destroy the ABM system and its components in the area centered on its capital and to deploy an ABM system or its components in an area containing ICBM silo launchers, as permitted by Article III(b) of the Treaty.

3. Dismantling or destruction and deployment of ABM systems or their components and the notification thereof shall be carried out in accordance with

Article VIII of the ABM Treaty and procedures agreed to in the Standing Consultative Commission.

### Article III

The rights and obligations established by the Treaty remain in force and shall be complied with by the Parties except to the extent modified by this Protocol. In particular, the deployment of an ABM system or its components within the area selected shall remain limited by the levels and other requirements established by the Treaty.

### Article IV

This Protocol shall be subject to ratification in accordance with the constitutional procedures of each Party. It shall enter into force on the day of the exchange of instruments of ratification and shall thereafter be considered an integral part of the Treaty.

**DONE** at Moscow on July 3, 1974, in duplicate, in the English and Russian languages, both texts being equally authentic.

**For the United States  
of America**

Richard Nixon  
President of the United  
States of America

**For the Union of Soviet  
Socialist Republics**

L.I. Brezhnev  
General Secretary of the  
Central Committee of  
the CPSU



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