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THE FUTURE OF THE ABM TREATY

HEARING

BEFORE THE

INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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THE FUTURE OF THE ABM TREATY

WEDNESDAY, APRIL 28, 1999

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:30 p.m. in room 342, Senate Dirksen Building, Hon. Thad Cochran (Chairman of the Subcommittee) presiding.

Present: Senators Cochran, Specter, Levin, and Akaka.

OPENING STATEMENT OF SENATOR COCHRAN

Senator COCHRAN. The Subcommittee will please come to order.

I first want to welcome everyone to today's hearing on the future of the Anti-Ballistic Missile Treaty. Last month, the Senate and House of Representatives passed legislation making it the stated policy of the United States to deploy a national missile defense system. With the passage of these bills, we have overcome the policy roadblock for national missile defense deployment.

But there are other questions that must be answered. One of the most obvious is the compatibility of the Anti-Ballistic Missile Treaty with national missile defense. Called by some the cornerstone of strategic stability, and regarded by others as an obsolete relic of the Cold War, the ABM treaty represents a commitment by the United States not to deploy a defense of its territory against long-range ballistic missiles.

Because the recently passed legislation calls for deployment of just such a system, there appears to be a clear conflict between the terms of the treaty and our new commitment to defend ourselves against ballistic missile attack. Today we will consider whether this 27-year-old treaty is the impediment it appears to be, and if so, what should be done about it.

To help us understand the issues surrounding the treaty ramifications of our new policy, we have invited some very distinguished witnesses to this hearing. The first witness today will be Dr. Jeane Kirkpatrick, who is the Levy Professor of Government at Georgetown University, a Senior Fellow at the American Enterprise Institute and former U.S. Ambassador to the United Nations.

On our second panel are John Rhinelander, Senior Counsel with the law firm of Shaw Pittman here in Washington, and former legal advisor to the SALT I delegation; and Ambassador Robert Joseph, who is Director of the Center for Counter-Proliferation Re-

search at the National Defense University, and former U.S. Commissioner to the ABM treaty's Standing Consultative Commission.

Before proceeding to hear from Dr. Kirkpatrick, I want to yield at this time for any comments or statements from my distinguished friend from Hawaii, the Ranking Democratic Member of this Subcommittee, Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman.

I will only tell you that I am delighted to be serving with you on this Subcommittee and look forward to these hearings and others that will be coming in the future. I want to thank you very much for scheduling today's hearing on this important topic. Both Democrats and Republicans are united in concern that the United States pursue every possible option for developing an adequate defense against missile attack from rogue states.

As an early sponsor of S. 257, the National Missile Defense Act of 1999, I hope that we will make progress soon on effective programs. At the same time, I continue to believe that an essential element of a good defense is maintaining a robust arms control regime. The pattern of treaty obligations which we developed with the Russians in the Cold War was extremely effective at preventing nuclear war. In the post Cold War period, I think we have to be careful about changing the system of mutual obligations and restraining weapons development that has helped prevent mutual destruction.

The administration's position has been that it might deploy a national missile defense, NMD, before the year 2005, if testing of a system goes flawlessly, according to Defense Secretary Cohen. The administration has also indicated that it would consider specific amendments to the ABM treaty once an NMD architecture has been decided upon. These are two important distinctions.

Mr. Chairman, I would just hate to eliminate unilaterally the 1972 Anti-Ballistic Missile Treaty, or ABM, which has made an important contribution to stable military relations between Russia and the United States until we can be certain that first, the ABM treaty no longer serves a useful purpose, and second, we have an effective alternative defense system in place.

Again, I thank you, Mr. Chairman, for scheduling this important hearing. I appreciate the effort your staff has taken to work with my Subcommittee staff and look forward to our continued cooperation. I, too, want to welcome our panels today. We have some excellent witnesses, and we join you in welcoming them.

Thank you very much.

Senator COCHRAN. Thank you, Senator.

I appreciate your kind remarks. I am very pleased that this is our first hearing as a team on this Subcommittee. I look forward to working closely with you and the other Members of the Subcommittee as we explore the subjects under the jurisdiction that's been assigned to us.

Dr. Kirkpatrick is very well qualified, in my opinion, to give us her impressions of the issues that surround national missile defense in relationship with the Anti-Ballistic Missile Treaty. Again,

we welcome you very sincerely, and thank you for making time available to testify before this Subcommittee today.

We appreciate very much the benefit of your statement, which we will make a part of the record in full. We encourage you to make any comments you think would be helpful to our understanding of these issues. You may proceed.

STATEMENT OF JEANE J. KIRKPATRICK,[1] LEVY PROFESSOR OF GOVERNMENT, GEORGETOWN UNIVERSITY; SENIOR FELLOW, AMERICAN ENTERPRISE INSTITUTE, AND FORMER U.S. AMBASSADOR TO THE UNITED NATIONS

Ambassador KIRKPATRICK. Thank you very much, Senator Cochran, for inviting me to testify on this vitally important issue, which we know directly affects the security and well-being of the United States.

Mr. Chairman, as you know, the number of non-democratic, nonconstitutional states which either have or soon will have weapons of mass destruction and intercontinental ballistic missiles capable of delivering nuclear, chemical and biological payloads on American cities has grown and is growing. States such as North Korea, Iran, Iraq, and yes, China, have developed these capacities with a speed that exceeded the expectations and predictions of skilled prognosticators.

So that what George Washington called our blessed location, between two vast oceans, can no longer protect America and Americans from weapons of mass destruction available to the states of violent predilection and intentions. We are wholly, utterly vulnerable to incoming missiles.

I know, Mr. Chairman, that you are as aware as I of this Nation's growing vulnerability to blackmail and destruction. I congratulate you for the leadership that you and Senator Inouye have offered in the effort to develop an effective defense that can end this vulnerability. I also know there remains powerful resistance in this administration against serious action to develop an effective defense against incoming missiles. And there are still too many in the administration and in Congress who are more concerned with preserving the ABM treaty than with preserving American lives. I wish this were not true.

I would like to state briefly reasons I believe the effort to preserve the ABM treaty is mistaken and dangerous. I begin by considering the argument that has been made for many years that the ABM treaty is a cornerstone of strategic stability in the U.S. relationship with Russia, or as is now claimed, in the relationship with China and Russia, or the cornerstone of strategic stability in the world.

But Mr. Chairman, there is no strategic stability in the world. The ABM treaty has no more been able to stabilize strategic relations among nations than the Non-Proliferation Treaty has been able to prevent the spread of nuclear technology, or the missile control regime has been able to control the number of governments capable of producing long-range ballistic missiles. These are hard facts which need to be faced.

[1] The prepared statement of Ambassador Kirkpatrick appears in the Appendix on page 39.

Russia, of course, retains its huge arsenal of weapons of mass destruction and ICBMs. Everyone concerned with these issues knows now that a number of other countries also possess these capabilities, and that the reach and the accuracy of China's missiles in particular have increased and are increasing still. China's weapons and delivery systems reflect or soon will reflect, we also know, the most advanced U.S. technology. So the United States need to be able to defend ourselves grows even more rapidly than we had anticipated.

We also know that Russia's political and economic systems are unstable. We regret this and where our government can help, it works with constructive persons in the government of Russia and Russian society to try to help them to deal with these problems. But it is a fact that Russia confronts various types of instability, and confronts two national elections in the next year, which we need also to be aware of.

At the same time that Russia confronts growing instability, the People's Republic of China has become more assertive, and sometimes even threatening in its dealings with Taiwan, Japan, the Philippines and from time to time, the United States. That makes it especially significant that China has joined Russia in declaring it an egregious offense for the United States to seek an effective defense against deadly weapons through policies which may conflict with the ABM treaty.

The recent warnings in the Russian-Chinese declaration reflect, I believe, the spirit of the French jingle that says, "This is a very bad animal, when it is attacked, it defends itself." Because all that is at issue here and has ever been at issue in the ABM treaty is our capacity to defend ourselves.

Actually, while China speaks for solidarity with Russia's efforts to preserve the ABM treaty and strategic stability, so-called, in the world, its own policies promote the spread of nuclear and missile technology to Pakistan, Iran, North Korea and destabilize strategic stability. China's policies destabilize strategic stability. They also, destabilize strategic stability by their threatening and semi-threatening policies toward Japan, Taiwan, the Philippines, and the United States.

That was observed and clearly stated in the Rumsfeld Commission report, with which I am certain you are fully familiar. And which also makes the point that in addition to the ballistic missile threats posed by Russia and the People's Republic of China, such states as Iran, Iraq and North Korea will probably be able to inflict major damage on the United States within about 5 years of a decision to acquire such a capability. And the Rumsfeld Commission report further notes, the United States may not be aware that such a decision had been made even if U.S. intelligence agencies, such as the CIA, are working at full effort to discern such effort.

What makes the recent spread of nuclear and missile technology especially serious is that it puts weapons of mass destruction in the hands of repressive one-party states—the very governments that are most likely to use such weapons aggressively. This is the issue.

It's widely understood by political scientists that democratic nations do not start wars, in part because democracy gives power to the people who fight the wars, and they're not enthusiastic about

it, but mainly because democracy breeds habits of restraint in the use of power, restraint in dealing with differences and in tolerating opposition. Some consider these attributes to be irrelevant to strategic matters, but they are very relevant to strategic matters because democratic governments got accustomed to submitting their power to law and consent. The unwillingness of rulers to share power or to tolerate criticism in internal affairs warns us that they may not be willing to share power or negotiate differences in external affairs.

The uninhibited use of force against dissidents, for example, warns us that a government may use force to impose its will in external relations as well. The fate of Tibet is not irrelevant to the fate of Hong Kong or Taiwan, or any other distinct community that becomes an object of China's ambition or is absorbed by it.

For all these reasons, the spread of weapons of mass destruction, I believe that developing and deploying an effective defense against incoming missiles is the most important security problem faced by the United States. I further believe that the ABM treaty is the most important obstacle to an adequate defense. I believe therefore that the United States should give notice of an intention to withdraw from the treaty.

As we all know, the ABM treaty was conceived and ratified as a bilateral treaty during a time that only the United States and the Soviet Union had the capacity to reach the other's territory with ballistic missiles. Whether the treaty contributed to America's security even then, is a question for historians with which we need not be concerned today. The question that concerns us now is whether the ABM treaty contributes to the security of the United States today, in a context of proliferating weapons of mass destruction and missiles.

I believe the answer is, "No, the Treaty does not contribute to our security today." I note moreover that when only one country had the capacity to deliver weapons of mass destruction the value of the Treaty was diminished because the Soviets both violated the Treaty and lied about it.

I note also that supporters of the ABM treaty were uninterested in pursuing the question of Soviet violations although the Reagan Administration, in which I served, held the view, that there was a good deal of evidence suggesting violations were taking place.

It was not until the end of the Cold War, when the wall came down, that Soviet Foreign Minister Edouard Schevardnadze confessed that there had indeed been major Soviet treaty violations at Krasnoyarsk.

Today the ABM Treaty hinders the development of an effective national missile defense, and handicaps the development of affecting theater missile defenses. For these reasons, I believe we should give notice of our intention to withdraw from the treaty in order to protect our most vital national interests which includes our survival.

I want to address the issue of whether or not American withdrawal from the ABM treaty would damage American security by diminishing the likelihood of Russia ratifying the START II treaty, which would eliminate several thousand Russian ICBMs. But I desire to make two points.

One is that the Duma has had 6 years to ratify START II, during which time the United States has meticulously honored its Treaty obligations. And the Duma has not ratified START II, because of the vehement opposition, of the Communist party in the Duma, and the Zhirinovsky party as well. Today the Communist party and the Zhirinovsky party constitute a solid majority of the members of that legislative body.

So the prospects of ratification of START II by the Duma are very slim. Moreover, I would also emphasize that even if the Duma were to ratify, which is extremely unlikely, we would be protected only against the several thousand ICBMs which Russia destroyed. It would leave us still utterly defenseless against other Russian ICBMs and defenseless against Chinese and North Korean and all other weapons of mass destruction. START II could not provide us an adequate defense.

Concerning the claim that the ABM treaty has been the cornerstone of strategic stability, it is useful to recall that the purpose of a defense is to defend. Stability is better than instability, but it's not an ultimate value. And it was not the search for stability that led us to conceive and ratify the ABM treaty. And it is certainly not the search for stability that concerns Americans today. It is the search for an adequate defense. Defense is more important to us than stability.

It is the proliferation of missiles creates strategic instability that characterizes the world today. The ABM treaty and its continuation serves the interests of both Russia and China, today. It serves the interest of Russia, because it preserves American vulnerability and the full value of their ICBMs.

And the ABM treaty serves China's long-term ambitions to become the dominant power in East Asia, because in order to do this, they must neutralize U.S. power in the region. It is America's deterrent capacity that has maintained peace in East Asia and protected that area from a nuclear missile race.

I have been disturbed by the predilection China's military leaders have shown in recent years for using the threat of force to blackmail others. We all remember when China's Lieutenant General Xiong Guang Kai threatened the United States at the time of the Taiwan Straits crisis, stating that he didn't think they had to worry much about Americans, because if Americans had to choose between having bombs fall on Los Angeles and Taipei, it would be no choice.

That's the closest thing to an outright threat to American cities, I think, that I have ever heard, more specific than Khruschev's threat, "We will bury you," became more precise.

I have also been shocked, as I'm sure others here have been, by China's theft of American technology through espionage.

I believe, that where Asia is concerned, it is now the ABM Treaty that can keep the peace and maintain stability. It is America's continued capacity to deter by its own strength and its policies.

Mr. Chairman, we all know that the threat to the United States security and interest is real and present. We know Secretary Cohen stated recently, "We are affirming that there is a threat and that the threat is growing. We expect it will pose a danger not only to our troops overseas, but also to Americans here at home." And

General Lyles, who added to that, "The threat is here and now." Those clear statements from the Pentagon and clear acknowledgement of a developing threat and a developing need for an adequate missile defense system I think have clarified the situation.

Let me just say that I am not a lawyer, I am a political scientist. I have, however, read the reports and analyses both of the Heritage Foundation report by David Rivkin, Lee Casey and Darin Bartram. As you know, they demonstrate that the ABM treaty collapsed with the Soviet Union. The Center for Security Studies Feith and Meron analysis focuses on the question: Did the ABM treaty of 1972 remain in force after the USSR ceased to exist in December, 1991? Their answer is no, it did not remain in force, because both international and domestic law make clear that it could not remain in force. It would require such alteration that it cannot be regarded as having remained in force.

Their second question is, did it become a treaty between the United States and the Russian Federation, as the administration has suggested? Their answer to that is, no, it did not because it could not, because the Russian Federation is not simply a continuation of the Soviet Union. We all know that.

The Soviet Union not only dissolved itself, but it also, under President Yeltsin's leadership, permitted those CIS states who were component states of the Soviet Union to declare their independence and establish their own governments. That does not mean, either, that the Ukraine and Kazakhstan and Belarus and the Russian Federation can be treated as sort of roughly the equivalent of the Soviet Union for legal purposes.

It doesn't work that way, because treaties are painstakingly negotiated between specific states who then assume those obligations in the Treaty. These are not the states with whom the U.S. negotiated, this is not the treaty that the Senate ratified. I believe that we need to face the fact that the ABM treaty has expired and that restoring it would be an obstacle to the development and deployment of an effective and adequate missile defense for Americans, and that it is now time to unleash the creativity of American scientists and technicians and allow them to take on fully with all their creativity the task of completing the development of an adequate missile defense system.

The right of self defense is recognized in courts of law as justifying the use of force and from time to time in criminal law. It's also recognized in the U.N. Charter, in Article 51, where there is a reference to the "inherent right to self defense."

It is not necessary, Mr. Chairman, and prudent people will not wait until they are attacked in order to provide an adequate defense. It is irresponsible for the U.S. Government to remain, to leave us defenseless until we actually confront an attack. I believe the U.S. Government has a solemn obligation to provide for the defense of America and that the next step in doing so, in fulfilling this obligation, would be to give notice of the American intention to withdraw from the ABM treaty.

Thank you, Mr. Chairman.

Senator COCHRAN. Thank you very much, Madam Ambassador. This is a very interesting and thought-provoking statement for us this afternoon.

Let me ask a couple of questions. I just noticed a light went on and our buzzer system sounded, indicating a vote is occurring now, beginning on the Floor of the Senate. We're checking to see what that is, but within 15 minutes, we'll have to go record our votes. We will be taking a break to do that.

But it seems to me that it is clear, as you point out, that the restraints that are imposed on our efforts to develop defenses against missile attack, whether we're talking about theater missiles or a national missile defense system, are very clear. We know that we're not doing things we would do, probably, if we weren't constrained by the ABM treaty otherwise, in the theater missile defense area. We know that we're testing in a limited way to guard against violating the treaty and to guard against violating an agreement that this administration has reached with Russia, this demarcation agreement that's been negotiated without the approval of the Senate. So that's a very real problem.

I suppose we simply have to weigh one interest against the other, that is, the benefits of being free from obstacles to our efforts to develop and deploy theater and national missile defense systems with the potential harm to our relationship with Russia. As we try to assess that balance and make a policy judgment, we need to understand what the potential harm to our relationship with Russia would be.

In that connection, let me ask the first question, which is, what would the Russian reaction be, in your view, to our announcement of an intention to withdraw from the ABM treaty? Would this reverse the successes of the de-escalation of strategic weapons development, destruction of nuclear weapons and changes in targeting of the Russian ICBMs? What do you think?

Ambassador KIRKPATRICK. Mr. Chairman, I believe we cannot ever be certain what the response of another government will be to a U.S. action. I think we could be clear in our own minds that the United States does not see the issues involving the ABM treaty as involving, as threatening to Russia. We are not proposing any sort of action that would enhance the threat to Russia. We're not proposing to attack Russia or to blackmail Russia.

Moreover, I would remind the Chairman of the time that President Reagan first made his speech proposing the development of a national missile defense, which his opponents usually called Star Wars, and those of us who supported it called Strategic Defense Initiative. He actually announced simultaneously that if this seemed too upsetting, if it seemed upsetting to the Soviet Government, you would assure them that it had no intentions to damage them and could in fact enhance their security, and that he would himself propose to make available to the Soviet Union, you recall this, make available to the Soviet Union the benefits of the defense against ballistic missiles that would derive from our research and experience with the national missile defense system.

I have no doubt at all that if we were to think creatively with the Russians, it should be possible to convince them that we in no sense intend to threaten them and that we would, in fact, be better able to protect not only ourselves, but any country in the world, if we had a space-based missile system, which is what, of course,

President Reagan saw and which is what would give us the longest view.

Senator COCHRAN. Thank you.

Senator Akaka, before we have to go vote.

Senator AKAKA. Thank you very much. That means my questions will be limited.

As I expressed in my statement, I am very concerned about what you think. My question to you would be, do you think our ABM treaty has a useful purpose yet, presently? And second, whether you know or feel that we have an alternative defense system that can take its place in case we decide to remove the ABM treaty?

This is in light not only of the Russia which is now the past, but when we look at the present, and that is with our NATO countries, as well as Japan, the kind of agreement we should consider with them.

Ambassador KIRKPATRICK. Let me just say that I know that you know the first job of an American Senator or Congressman is representation of his own constituents, and protection of those constituents and their interests, as well as the Nation's. I think Hawaii obviously has a very special concern in these discussions because Hawaii is the State which is most readily threatened by the technology which exists today in China and North Korea.

I think the threat and the danger constitute a clear and present danger. I do not see a comparable benefit either to the United States, especially to those people that are threatened directly by existing technology. But from the ABM treaty, that's a very good example. Because the ABM treaty at best provides some controls over the defenses that Russia, Belarus, Kazakhstan, or Ukraine may develop. We really don't have any interest in not having those countries not defend their own people, by the way.

But the threat that exists from them, any threat from them, is not a threat to the people of Hawaii, I might say. The threat to the people of Hawaii that exists today comes from states that have never been signatories to the ABM treaty. The ABM treaty, we have to bear clearly in mind, is not a multilateral treaty. It's a bilateral treaty between the United States and the Soviet Union.

I just don't see any benefit to the people of Hawaii derived from this.

Senator COCHRAN. Senator, I hate to interrupt, but we'd probably better go vote. This is a motion to table the Kennedy Amendment.

If you will excuse us, we'll be right back. The Subcommittee will stand in short recess.

[Recess.]

Senator COCHRAN. The Subcommittee will please come to order.

It turned out that we had two votes, rather than one vote. That caused a little extra delay, and we apologize very much for that.

Ambassador Kirkpatrick, you mentioned that there were new threats emerging that the ABM treaty was not designed to deal with—one is China. Our relationship with Russia is the only relationship that was contemplated when the Anti-Ballistic Missile Defense Treaty was entered into. What in your judgment would the effect be on other countries, if any, by our announcement that we were withdrawing from the ABM treaty? Would it cause a new

level of tension between the United States and China? If so, should we consider that before making a decision to withdraw from ABM?

Ambassador KIRKPATRICK. I don't believe so. I believe that the United States has a fairly complex relationship with China, and that there are areas in which we have very constructive and useful relationships, trade is one of those. I always say trade in non-strategic goods. But cultural relations of various kinds, we have important relations with China.

China does a good many things that we're unhappy with. And we rarely do anything that China is very unhappy with, except complain about some of the things that they do.

I think this would make them unhappy. And I think it's a very important thing for us to do, just in fact to preserve some degree of strategic stability in the East Asian theater. But I don't think any of these specific issues in our relationship with China will threaten the whole relationship. I think there's always a lot of hype, over-dramatization of these questions.

Senator COCHRAN. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

I can't help but remember a statement you made, Ambassador, that there is no strategic stability in the world today, which is something that we really need to care and think about. So we have to look to see what we have on the books now that can possibly be part of trying to reach some strategic stability.

In your view, Ambassador, from whom does the United States continue to facte the greatest missile threat? If it is not the Russians, how do you rank the Russian offensive missile threat?

Ambassador KIRKPATRICK. I rank it serious, that's how I rank it. I think it exists, I think it's real. Any threat consists of capability and intention. And the Russians have the capability. We hope they don't have the intention. The reason that the world has been more relaxed and comfortable in the years since the dissolution of the Soviet Union is just that, that we took it as signaling an end to the Russians' hostile intentions, not only Russia, but the other countries of the former Soviet Union.

I believe that the Russia today does not have hostile intent toward us. But I do not think we can—the capability is so great and the level of instability in that country is sufficient that I think it should be a continual concern to us. That's what I think.

I had the privilege of hearing the late former President Nixon on his return from Moscow giving a sort of last semi-public statement that he gave before he was struck dumb, just 2 days before his stroke. He was reporting—he had gone to Moscow for 3 weeks, and he was back and reported to President Clinton. He invited 30 or 40 foreign policy wonks in Washington, officials in former administrations like me and top journalists who had specialized in Soviet relations, to hear a report.

He spoke for about 70 minutes, with great insight and clarity. He began and ended that statement with the comment that he very much hoped that his fellow Americans understood that Russia remained for us the most important country in the world, if for no other reason than they alone could destroy large parts of our country in the matter of an hour or so.

I had a lot of respect for Mr. Nixon's foreign policy insights and clarity. That comment made a special impact on me. I think it's good advice. We should not forget it.

Senator AKAKA. I know we still think about the Russians, and we still worry about them. My question leads to looking for the best means of dealing with them. One of them could be, could it be through containment or elimination? So I come to this question, if Russia deployed a national missile defense system that could prevent the United States from retaliating with its missile forces and still retained its nuclear forces, would you think that would be good for U.S. security?

Ambassador KIRKPATRICK. I have trouble with the question. Because I can't conceive of the United States employing ICBMs aggressively against Russia. But generally, I would simply say that I do not believe that an effective defense is an aggressive act against anyone. I would feel that way about Russia as well. I would not feel that an effective defense against incoming missiles in Russia was an offensive act against the United States or a danger to us. I would not think so. I wouldn't have even thought so during the Cold War, I don't think. The question was never whether they were going to undertake an aggressive war or not. Neither we, nor our NATO allies, is going to make an aggressive move against Russia. I take it for granted that defense against aggression is a duty of every state. The provision of prudent defense against others, against aggressors, is an obligation of every government, in fact. I would think it was Russia doing its duty vis-a-vis its own citizens, which is to provide for their defense.

By the way, President Reagan felt that way too.

Senator AKAKA. At this time—let me just finish with this, because I know you have known the situation there since you were very active in the administration following that, and follow with this question: Do you think we should share defensive technologies with Russia?

Ambassador KIRKPATRICK. I think we should consider sharing defense, perhaps, with Russia. I am not prepared to share technologies with Russia at this stage, because of Russia's instability, frankly, and the uncertainty of the character of its own government. But I would be willing to maybe share its defense, some effort to assist in its defense. That's a different issue.

Senator AKAKA. I thank you so much for your responses. I really appreciate it.

Senator COCHRAN. Thank you, Senator.

One final question occurs to me, Dr. Kirkpatrick, and it relates to the nature of our defense system that we are developing with a view toward deployment as soon as technology permits, and that is that it is a limited national missile defense system. I think it may be incumbent upon us to emphasize this in our relationship with other officials from Russia, as we do encounter them on visits there and they come here.

There's a meeting scheduled in Berlin in August, for example, sponsored by the Aspen Institute, where there will be officials from both the Duma and the U.S. Congress meeting to talk about how to improve and stabilize the relationship. That is to stress what our goals are when we do meet with the Russian officials. It's not to

defend against attacks from Russia. It's to defend against a rogue state attack, or a limited missile defense attack, or an accidental or unauthorized launch of an intercontinental ballistic missile.

It seems to me that we do have that in common, and that is, a vulnerability to that kind of attack. Russia and the United States have that in common. Is this one way that you would suggest that we might begin discussions at that level, parliamentarian to parliamentarian, to try to reassure them that it's not our intention to endanger Russia with the deployment of a national missile defense system, but simply to protect ourselves from this other kind of attack, and that they may end up wanting to deploy a defense against limited ballistic missile attack as well, because of similar concerns they might have from other states, not the United States, but other states?

Ambassador KIRKPATRICK. Senator Cochran, it might be an interesting conversation. I think, myself, candidly, that we need to work toward a less limited national defense system. I am personally not very interested in the argument, the case for a missile defense system which is limited to missiles from, one missile from North Korea, although that could be very destructive and very dangerous.

But I think as long as we're working on the problem, it would be more cost effective and more prudent to work on a system that provided a broader defense for America. Good luck in your conversations.

Senator COCHRAN. But it doesn't have to result in an unlimited defensive arms race between the United States and Russia, or the United States and anybody else.

Ambassador KIRKPATRICK. No. Senator Cochran, see, I don't think there's ever been a defensive arms race in history. And I don't really think there could be a defensive arms race. I don't see and I don't hear anyone seriously foreseeing a defensive arms race, either with Russia or China or any of the various states that are concerned with nuclear development and capacity today. I just mention that.

The strategy of defense is a strategy that is adopted by people who are above all interested in the survival of their own society and its people. I thank you for inviting me today.

Senator COCHRAN. Thank you very much. You've been an excellent witness and we appreciate so much your being here.

Ambassador KIRKPATRICK. Thank you so much.

Senator COCHRAN. Our next panel, we would invite to come forward, Robert G. Joseph. Mr. Joseph is former Ambassador and a Commissioner to the ABM Treaty's Standing Consultative Commission. He's Director of the Center for Counter-Proliferation Research at the National Defense University.

John Rhinelander is Senior Counsel at the law firm of Shaw Pittman and former legal advisor to the SALT I delegation.

We appreciate very much you being here today, and we welcome you. Mr. Rhinelander, let's begin with you. You may proceed.

STATEMENT OF JOHN B. RHINELANDER,[1] SENIOR COUNSEL, SHAW PITTMAN, AND FORMER LEGAL ADVISER, SALT I DELEGATION

Mr. RHINELANDER. Thank you, Mr. Chairman, Senator Akaka.

I have a 10-page statement which I would like to submit to the record and then briefly summarize some of the points, rather than reading the full statement.

Senator COCHRAN. Thank you very much. We will appreciate that, and your statement will be made part of our hearing record in its entirety.

Mr. RHINELANDER. Thank you.

Just for the record, I was the legal adviser to the SALT I delegation that negotiated the ABM treaty. I, in fact, drafted the treaty originally. There then were 100 hands on it, so nobody can claim full authorship of it.

I have written extensively about that treaty in book chapters, testimony on the Hill, etc. I will be frank to say that when I accepted Gerard Smith's invitation to come to Vienna to prepare to draft the treaties I thought I was undertaking a 2-week assignment. It is now 28 years and counting. I never thought that would be the case.

Let me say that in terms of the treaty, while I have written extensively on it, I have not had access to the classified record since I left the SALT world in 1972. I have written from my memory, which I think is pretty good. I have talked to a lot of people.

I do understand that a 100-page analysis of the treaty that I wrote when I was legal adviser to the SALT I delegation is in the process of being declassified. It was classified top secret at the time. I don't know how long that process will take. Presumably some day, perhaps while I'm still alive, you will have a contemporaneous view of what the U.S. SALT delegation felt the treaty meant at the time we negotiated in 1972.

Let me start with three basic points before I get to the details of the treaty. On the details of the treaty, it may be best to handle it by questions and answers.

First of all, on the technology—I spent my Army years with missile defense, going back to the late 1950's. It was a first generation system called the Nike system. So I've been involved in this world for more than 40 years.

We are still unable to achieve the extraordinarily difficult task of intercepting an incoming ballistic missile, at least a long-range, high-speed missile, whether or not it has multi-warheads or whether or not it has chaff and other kinds of systems. Not because we haven't tried, we have tried very hard. But it is an extraordinarily difficult challenge. The Russians haven't been able to do it either. They have a system around Moscow which was no good in the 1960's and 1970's when they put it up, and it's no good right now.

If the United States goes forward with a ballistic missile program, I would urge the Subcommittee and others in the Congress to make sure there is a realistic testing program. We have not always had that in the past. I was down at White Sands twice in my days in uniform when the tests were not realistic. A couple of years

[1] The prepared statement of Mr. Rhinelander appears in the Appendix on page 52.

ago, I went to the Army's national training center which deals with ground forces, which is a remarkable place. I would urge the Subcommittee to think about having something as realistic as that if, in fact, we are seriously going to count on missile defense to defend either the continental United States or in the theater.

Second, the threat—I know my views may differ from others, but I have ranked the threat. I think the single most important threat now is the Russian strategic systems. These are the only ones that could destroy the United States. They could destroy us utterly, we know that, with only a fraction of the ones they still have working.

The second threat I would say is the very large number, we're not sure how many, of the Russian tactical systems, whether or not they're aimed at our treaty allies. The loose nuke problem with the Russian tactical system is very real. I think our people aren't sure the Russians know where all their systems are.

Third, and the thing that makes nuclear weapons different from anything else, is the highly enriched uranium and the plutonium. A number of years ago a Harvard group estimated that the Russians had enough material, based on conservative usage, that means relatively high use on weapons, to make 100,000 nuclear weapons. A small fraction of that material leaking out would be an absolute disaster. These three Russian parts of the equation to me are the ones which are by far and away the most serious.

Fourth, I would go next to the Chinese. The Chinese are in the process of modernizing their systems. I don't know where they're going to go. I know they are converting from liquid fuel to solid fuel on some of their missile systems. I do not know whether they are going to be MIRVing, I don't know where their MIRV program stands. And I don't know what numbers they are likely to aim at. But it certainly seems to me that is a question which ought to be of concern to us.

When we first got into the engagement with the Soviets, McNamara made a famous speech in 1967 focusing on the Chinese threat. It didn't exist at the time. Well, China is now coming forward. So that is something we've got to look at realistically.

Fifth, I would put Korea and Iraq and some of what I would call the rogue states. I have never viewed the threat from those countries as long-range, that is ICBM-range with nuclear weapons. There is a terrorist threat, there is a short-range threat, a threat with delivery by aircraft or ship, which seems to me is much more likely than missiles.

I can recall, because I'm old enough, the original testing programs, of U.S. programs, the Polaris program at sea and the original ICBM programs. Most of our early missile tests failed. It is tricky to do that. Korea has a long, long way to go before they ever develop the full-range intercontinental, and I view that as the least likely of their targets. But that's my own judgment.

Is it a possible threat, is it a theoretical worst case threat? Yes, indeed. But is it a likely one, or is it high on the ranking? Not in my mind.

I think we need more than anything else, and I don't think it has been done honestly since 1969, the first year of the Nixon Administration, a thorough, comprehensive review of the offensive-defensive equations before the United States makes any serious deci-

sions. I think this will have to be undertaken by the next administration. I don't think it's going to be done by the Clinton Administration in year 7 or 8 of their reign.

But if this is done, it's going to be much more complicated than when I was in government. Then we were looking only at the Soviet Union. You've got China now, you've got the rogue states right now. If in fact we are seriously looking at an end stage of reductions around the world of offensive systems, you've got concerns about NATO allies, including the French in particular, which are nuclear armed. It will be much more complicated than anything we undertook in 1969.

I think that ought to be done, though, before any decisions are made to go forward.

With respect to the ABM treaty, the treaty is a relatively short document. It was designed and written, and I think effectively, to limit severely what could be deployed to a fixed land-based mode in originally two, then one, site. The prohibitions made sure that the programs which were over the horizon could not be taken without the treaty being amended. Those would be the sea-based, the air-based and the space-based systems.

I must admit that when I was in this world, and reflecting the views of others who were on the SALT I delegation, we felt we could look ahead about 10 years in terms of technology. But we couldn't look much beyond that. I thought personally that the ABM treaty would be worked on through the Standing Consultative Commission; the treaty amended, interpreted, as you will, as technology changed, so you would have a live, viable, modern treaty to go with technology as it was changed.

That simply has not happened. Basically what you have is a treaty which is over 25 years old. Technology has evolved very significantly since then. With respect to the treaty and where we are going, as far as I know the administration has not made any decisions on deployment and does not plan to make any decisions until June 2000, a date which may slip.

I was asked to comment on some proposals coming out of the Ballistic Missile Defense Organization. Most of what I have seen raises questions on the ABM treaty. I think it's very clear that the nationwide prohibition is explicitly on the other side of the fence from the system that BMDO proposes.

The warhead package on the interceptor with a sensor on board with the infrared system, which would effectively take over from the old ground-based radar and is intended to take the missiles to the intercept point, that really is a substitute for the ground-based system. That raises the earliest question of treaty compliance because that raises a question under Article V of the treaty where the testing as well as the deployment is prohibited. If you're only looking at deployment issues, you've got a lot more time. If dealing with testing prohibitions, that's another matter.

Rather than go through all the other issues, let me say that some of the radar proposals, where we're proposing to put some of the engagement radars outside the deployment area, that is inconsistent with the treaty. If in fact the United States is going to deploy initially in Alaska, with some limited system, that could not

be done either under the present treaty, as amended in 1974, or under the original treaty.

The original treaty allowed two sites. But one had to be around the National Capital area, and the Russians have theirs around Moscow. The other was around ICBM fields, which is where we had ours. We had ours at Grand Forks operational for a couple of months. So Alaska would be entirely new. It's not inconceivable that that concept is negotiable, to have a site up there. But to the extent the key ABM components are not within the circular area concept, it would be a very different kind of deployment than that thought about and approved in 1972.

Let me just conclude with a couple of comments. When we negotiated the ABM Treaty in the Nixon Administration, we were concerned because the Russians had moved first in this world. A lot of people forget it, but the Russians first deployed an ABM system around Moscow. Even before that, they put up a surface to air missile system around Talinn, in the Baltic area, which our intelligence people first thought was ABM.

It wasn't, but when they began putting the Moscow system up, the concern was that was the first in what was going to be many steps. We responded in two ways. One was the MIRVs, multi-independent re-entry vehicles, and the second was our own ABM system which we had operational for 6 months and then shut down because it wasn't cost-effective.

In conclusion, and I will answer any questions you want on the technical side, I think the United States has a choice. If we go forward with the kind of system which we're talking about, which you've asked me to review, it cannot be done consistent with the present ABM treaty. Whether or not it is negotiable with the Russians is an open question. It would be difficult. I don't think I would live long enough to go through that kind of negotiation.

Basically what you're talking about is a world constrained on offense with defense not constrained. If we go forward on the ballistic missile defense side, we give up what I think are two of the great recent triumphs of U.S. diplomacy, and that is the ban on the land-based MIRVed ICBMs, the Russian systems, and the ban on the heavy Russian systems. For 20 or 30 years, this was our priority objective, to get rid of those.

There is no way Russia will agree to the START II ban if we go forward with ABM outside the ABM treaty as presently is or as amended. If amended, that would be fine. But I think that choice is going to be there.

Now, Russia is clearly not going to stay where they are. They're not going to build a defensive missile system. They don't have the technology to do it. Their present system is no good. They don't have the money to do it. They are going to cannibalize, I think, what they have, and keep their SS–18s up as long as they can. They can't produce new ones, because the production line was in part in Ukraine.

But I think they will try to MIRV their new systems, and keep up as many of the old as they can. That is what the choice is going to be.

I would just note to you that in terms of the present world, in many ways, what we're facing now is fundamentally different, of

course, from the old Soviet days. In some ways, it's more threatening. The Russian economy is going to hell. Their ICBM systems are not being maintained as they used to be. Their boats are basically kept in port because they're dangerous to take out and take underwater.

Their early warning system is blind for 2 or 3 hours every single day. They don't know whether in fact we have fired at them. In terms of strategic stability, we are in a very, very dangerous world, because of their weakness, not because of their strength which we saw when I was involved in this world.

So I think we have a very difficult world to deal with. I think it's a world, as I said, we really need to look at comprehensively before we go forward with anything such as a ballistic missile defense deployment. Thank you.

Senator COCHRAN. Thank you very much, Mr. Rhinelander.

Ambassador Joseph, welcome and you may proceed.

STATEMENT OF ROBERT G. JOSEPH,[1] DIRECTOR, CENTER FOR COUNTER-PROLIFERATION RESEARCH, NATIONAL DEFENSE UNIVERSITY, AND FORMER U.S. COMMISSIONER, STANDING CONSULTATIVE COMMISSION

Ambassador JOSEPH. Mr. Chairman, Senator Akaka, thank you for the opportunity to testify today. It truly is an honor for me to be here.

It's necessary for me to state at the outset that the views that I am about to express are personal views, they are not the views of the National Defense University, the Department of Defense or any agency of the U.S. Government.

The prepared statement that I have submitted responds to the issues included in the Chairman's letter of invitation. That statement provides assessments of: First, the principal changes to the ABM treaty that would be necessary to permit the deployment of even a very limited missile defense; second, additional treaty modifications that might be required to counter the missile threat as it is likely to evolve; and third, the prospects for achieving such changes to the treaty. I will summarize from this prepared statement.

Mr. Rhinelander has addressed a number of treaty provisions that would have to be altered if we are to pursue the ground-based architectures currently being considered. And on this subject, I would emphasize only one point. The words of Article I of the ABM treaty are very clear. If one applies plain and ordinary definitions to the terms that are used, I believe the language makes evident the need to confront the very basic contradiction between today's imperative to deploy missile defenses to protect our population against ballistic missile attacks from rogue nations, and the underlying strategic rationale of the treaty.

Designed in the bipolar context of the Cold War, the express objective of the treaty was to severely restrict defenses in order to preserve and ensure the credibility of offensive nuclear forces. In other words, by ensuring the vulnerabilities of our societies to nuclear attack, the treaty was seen as promoting strategic deterrence.

[1] The prepared statement of Ambassador Joseph appears in the Appendix on page 61.

I believe very few would advance this same deterrent concept today for states such as North Korea or Iran. Yet the treaty does not provide an exception for defense against such threats.

Moving to the issue of negotiability, which I have been asked to address in my opening statement, I would note that Secretary Cohen's announcement last January that the United States will pursue a defense against rogue states armed with long-range missiles is a most welcome statement. It appears at least to me to return to and reaffirm the rationale for missile defenses that was articulated during the Bush Administration, for which I had the opportunity to serve.

In this context, I think looking back can be very instructive in assessing some of today's arguments. In 1992, following the Gulf War and the attempted coup in the then-Soviet Union, the Bush team put forth both a deployment plan and an arms control initiative to support this deployment. The concern was really two-fold: A rogue state armed with a small number of ballistic missiles that could strike American cities; and second, an accidental or unauthorized launch, perhaps from a breakaway military commander in the Soviet Union.

To deal with this limited threat, the United States declared its intention to deploy what was called GPALS, or Global Protection Against Limited Strikes. For the near term, this architecture consisted of up to 6 ground-based sites with up to 1,200 interceptors, a space-based sensor capability and robust theater missile defense.

On the arms control side, the United States formally proposed fundamental changes to the ABM treaty consistent with the GPALS concept. These included the elimination of all restrictions on development and testing, in order to preserve our ability to increase the competence of our defense in the future; the elimination of restrictions on sensors; the elimination of restrictions on the transfer of systems and components; and the right to deploy additional interceptors at additional fixed deployment sites.

In Washington, Moscow and Geneva, American representatives presented these positions to the Russians, stating that the emerging threat of long-range missiles compelled changes to the treaty. The Russians were told that we could work together on defenses, but that with or without them, we must protect ourselves from limited attack.

It was also made clear to the Russians that the level of defenses we envisioned would not threaten the offensive capability of the Russian nuclear force at START levels or even well below those levels. At the same time, we stressed to the Russians that the United States and Russia should not base their new relationship on the Cold War doctrine of mutual assured destruction but rather on common interests and cooperation.

The Russian reaction at that time I believe was most telling. They didn't say yes and they didn't say no. They listened and they asked questions. But most important, while we were negotiating on basic changes to the ABM treaty, the Russian START negotiators continued with those negotiations and in fact, concluded those negotiations, which provided for the first time for real reductions in offensive forces. That the U.S. position on the ABM treaty did not affect the Russian willingness to agree to offensive cuts was evi-

dent in their signing of both START I and START II in quick succession.

Nevertheless, in 1993, the new administration reversed course on both national missile defense and renegotiation of the ABM treaty. For years, this policy position has prevailed, often justified by two arguments. First, we have been told that we must choose between offensive reductions and even limited defenses. Second, we have been told that the rogue nation threat is many years distant. I believe that both experience and facts stand in stark contrast to these positions.

Yet the future of defenses is far from certain. Neither the North Korean launch of the TaepoDong missile this past August, a multi-staged, long-range missile, nor the recent legislation that makes it the policy of the United States to deploy defenses as soon as technologically possible, may lead to the actual deployment of effective defenses.

In fact, the administration has reaffirmed that it has not made a decision to deploy, and that it continues to uphold the ABM treaty as a cornerstone of strategic stability. Such an approach, we are told, is necessary to save START II, a treaty that Moscow has held hostage so many times to so many different objectives over so many years, that I think few now believe it will ever be ratified by the Duma, or if it is ratified, that it will have much substantive impact.

Nevertheless, how Russia will react to our deployment of missile defenses is, it seems to me, an important question. A number of Russian and American officials have predicted dire consequences if the United States pushes to amend the ABM treaty or withdraws from the treaty, even though both courses of action are entirely consistent with our legal rights.

Similar predictions were voiced in the context of NATO enlargement and in the context of U.S. strikes on Iraq. Yet in both of these cases, Russia acted on the basis of its interests and not on the basis of its press statements.

The same is true regarding our arms control experience. When NATO in response to the deployment of Russian SS–20s decided to deploy intermediate range nuclear forces while simultaneously negotiating for the elimination of this entire class of weapon, the Soviet Union made stark threats to test the alliance's resolve. Moscow promised to walk out of the negotiations when the first NATO missiles were deployed, and in fact, they did in November 1983, when the first Pershing IIs arrived in Germany.

But when it became clear that the determination of the alliance would not be shaken, the Soviet negotiators returned, and the result was a total ban on these nuclear weapons.

The most recent arms control example of Russia pursuing its own interests in the context of changing strategic realities is in my view perhaps the most instructive. When the end of the Soviet Union led Russia to conclude that the legal limits on forces in its flank areas as established under the CFE treaty were no longer in the interest of Moscow, its approach was straightforward: It insisted that the treaty be changed. The United States and other parties accommodated this demand in the Flank Agreement.

Since then, citing further changes in the security environment, I understand Russia is again insisting on additional changes to this treaty. The principle seems to be clear. Russia assesses the value of arms control agreements in the context of its defense requirements. When the security conditions change, it acts with determination to change the treaties.

For us, the parallel to the ABM treaty and the principle I would argue, should be the same. This leads to two final observations on the issue of negotiability. The first is on timing. Given the stated Russian goal of retaining the ABM treaty without change and given Russian fears that any U.S. deployment of defenses will provide the base for a robust defense that could threaten the viability of their offensive strategic forces, any negotiation can be expected to be long and difficult.

Such negotiations, if we pursue that path, will not be successful in my view unless the United States has a clear deployment objective and the perceived resolve to move forward, even if that requires withdrawal from the treaty under our supreme national interest clause.

In light of the pace of missile programs in countries such as North Korea and Iran, we simply don't have the luxury to devote years to the renegotiation of the ABM treaty. The second observation is that in attempting to modify the treaty, to permit limited defenses, we need to ensure flexibility to counter missile threats as they continue to evolve, taking full advantage of developments in technology.

Narrow relief to allow for ground-based interceptors, to protect against a very small and crude missile threat in the near-term, must not be purchased at the price of fixing in concrete a future that does not permit us to adapt our defenses to meet the threat as it develops. The findings of the Rumsfeld Commission and the launch of the TaepoDong missile underscore that the threat is here now and will become increasingly sophisticated.

To protect against this evolving threat, one that may very well include ship-launched attack, the United States may need to develop and deploy sea and space-based defenses. In fact, such basing modes may well be the most cost-effective means to protect against the threat.

In terms of longer-range objectives, I'll limit my remarks to two final points.

First, prudent defense planning must give priority to the rogue state threat. I believe most everybody agrees that the proliferation of nuclear, chemical and biological weapons represents a major security challenge for the United States.

I also believe that we are near consensus on the missile threat. The National Intelligence Estimate that concluded that we would have warning and that we would likely not face a long-range missile threat for 15 years has been widely repudiated.

In the area of proliferation shocks and surprises, we have a long record of intelligence failures. From Sputnik and missiles in Cuba to the recent TaepoDong launch, there is every reason to believe that we will be surprised in the future about the size, scope and speed of adversaries' missiles programs. The same applies to their programs to develop weapons of mass destruction.

I think most important, North Korea has settled the debate. We now have a desperate, totalitarian regime that could, we are told, possess a couple of nuclear devices, in the possession of long-range ballistic missiles.

Second, it is incumbent upon us to consider the strategic uncertainties that exist with both China and Russia. China highly values both its nuclear arsenal and its ballistic missile force. The degree of value can best be judged by observing Beijing's actions. Its behavior—such as the overflight of Taiwan with ballistic missiles, the ongoing deployment of much greater numbers of ballistic missiles opposite Taiwan, and espionage at our nuclear laboratories—speaks very loudly. This is a country that intends to possess these capabilities for the long-term, and to use them as a means to advance its agenda.

The question is what are we going to do about it? Specifically, are we going to accept the relationship of mutual vulnerability with China? If not, we must assess accordingly our defense requirements and the wider related implications.

Like China, Russia also highly values its nuclear and ballistic missile force. In fact, these weapons play a greater role today in Moscow's defense planning and declaratory policy than in the past. Despite its economic distress, despite its conventional forces literally deteriorating in the field, Russia continues to invest in its nuclear and missile infrastructure. Whether we like it or not, this will remain a condition of the security environment for years to come.

Here the question is how best to promote better relations and how to hedge against risks. In terms of improving our strategic relationship, I believe we should advance cooperation in areas of common interest, such as in areas of cooperative threat reduction and perhaps in sharing early warning data.

Most important, we need to move beyond the policies based on the philosophies and distrust of the Cold War. Here there is no better example than the 1972 ABM treaty. Put directly, we need to move beyond the ABM treaty. Promoting mutual assured destruction as a basis for a healthy relationship is not sound strategic policy. Prolonging the Faustian bargain that we can destroy each other's populations inevitably has a very corrosive effect on our relations and how we perceive each other.

In conclusion, we must move to meet our national missile defense requirements while attempting to place our strategic relationship with Russia on much firmer ground. One clear requirement, an imperative, I believe, is to deploy strategic defenses sufficient to meet the now-present and growing ballistic missile threat represented by hostile regional and rogue states.

This can be accomplished, I believe, consistent with our other national security goals. As I noted, we made formal proposals to this effect during the Bush Administration while making it very clear that Russia would not have a veto over our defense needs. We sought to reconcile their concerns while meeting U.S. security requirements against what was then assessed to be an emerging threat, the threat that has now emerged.

That concludes my opening statement. I thank you and look forward to your questions.

Senator COCHRAN. Thank you, Ambassador Joseph.

You both have set the stage, I think, for a very interesting dialogue about the relevance of the Anti-Ballistic Missile Treaty to current threats to U.S. security.

Mr. Rhinelander, you pointed out that the technologies of 1972, when you were working to help write the Anti-Ballistic Missile Treaty, are much different from what they are today. The emergence of previously unthinkable capabilities, such as space-based tracking sensors, interceptor missiles that perform many of the tasks that were done by the ABM radar back in those days, are examples. Does this suggest that the ABM treaty is technologically obsolete?

Mr. RHINELANDER. I don't think it's technologically obsolete, but if you wish to constrain or commit more than is allowed by the treaty as we wrote it in 1972, obviously you're going to have to amend the treaty. Because it does prohibit many of the things which are listed, at least in the BMDO documents—the kinds of components which BMDO is thinking about.

It's a different question, of course, whether we want to go that way. But if in fact we do go that way, there would have to be very significant changes, really all the substantive articles of the ABM treaty, or we would have to abrogate, which we have the legal right to do.

No country has given notice and in fact withdrawn from an arms control treaty since World War II. North Korea gave notice and backed out 2 or 3 days before the final date. While withdrawal is legally permissible, it is a very significant political act to do that. No country has done it yet.

Senator COCHRAN. In Article I of the treaty, there's a prohibition against the deployment of a territorial defense. It obligates the sides, "not to provide a base for such a defense." What does "provide a base" mean for you?

Mr. RHINELANDER. The "provide a base" concept was put in the treaty in 1972 to prohibit the long lead time items that might then lead on to an ABM defense. We didn't want the Soviets, for instance, to begin placing big engagement radars all over the Soviet Union, which would be a precursor for a national defense.

The Krasnoyarsk radar, if you remember that notorious being a few years ago, I always thought was an early warning radar, and I think it proved out to be in the end. But the concern by others was it was an engagement radar in the wrong place, and was a precursor to others.

That is what we are talking about by a base. A point I should have made in my earlier statement, and I didn't, is that a basic concept of the ABM treaty was a buffer zone, both in space and time. We wanted the longest warning time we could get against Soviet actions that indicated they were going to go against the treaty.

Now, if you amend the treaty to take care of a lot of the current technology which is being thought of now, basically you eliminate the buffer zone almost entirely. We talk, and I think you have to talk when you're dealing with military matters, about capabilities and intentions. I was taught this when I first went in the Pentagon 30 years ago. In terms of capabilities, if you have hot production lines, if you have sensors in space, if you have radars forward, then

you have severely eroded the buffer zone, the kind of buffer zone we wrote into the treaty.

Now, that may be what we want to do. But we ought to recognize that if we go that way, the treaty will no longer provide for either side, or for anyone, the long warning time that the present treaty does.

Senator COCHRAN. Ambassador Joseph, the other day the manager of the Boeing program for national missile defense said that treaty issues have to be resolved by June of the year 2000, or the treaty would hold up the ability to deploy the system by fiscal year 2003. The Secretary of Defense at the same time suggested that the administration intends to maintain the option of deploying a national missile defense by 2003.

Do you think it's realistic to expect that the actions that have to be taken to resolve the conflicts in the treaty can be accomplished in time to actually deploy a system by fiscal year 2003?

Ambassador JOSEPH. Senator, that's a very difficult question to answer. Let me say that if we do choose the route of renegotiating the ABM treaty, I believe that we should begin to engage the Russians now, if we are to have any hope of achieving the changes that would be necessary for us to deploy effective defenses.

The time that such negotiations would take is obviously dependent on a number of factors. As I stated in my opening comments, Russia is likely to seek to draw out the negotiations. They have very little incentive to change the treaty.

We, however, don't have the luxury of time, given the pace of the ballistic missile programs in countries like North Korea and Iran.

In my view, there is sufficient time to achieve an acceptable negotiating outcome with Russia if at the outset the Russians know that we are serious. I think this can only be demonstrated by real programs and real policies and by the demonstration of resolve to move forward to deployment, even if that means we are compelled by Russian intransigence, to leave the treaty, which is an option that is entirely consistent with our legal rights.

I think most importantly, we must avoid mixed signals. And we must be clear in explaining how defending against the missile threat from rogue nations is an imperative on our part, and that it requires us to modify the treaty. If that is not feasible, if that's not achievable, again, we will be required to leave the treaty.

We took this approach in 1992. We did it in negotiations that were non-confrontational, but were done in a determined way, and in a way that made very clear that it was also in Russia's interests to change the treaty. Because a modified treaty, in their calculation, is better than no treaty at all.

Senator COCHRAN. Which treaty are you referring to? Is that the demarcation agreement?

Ambassador JOSEPH. That's when we proposed the fundamental changes to the ABM treaty in 1992, following the Gulf War and the attempted coup in the Soviet Union. This was the arms control initiative that was done in the context of the GPALS deployment.

Senator COCHRAN. What is your view about the practical consequence of our decision, if we make it, to announce that we are withdrawing from the treaty?

Ambassador JOSEPH. Senator, I see very few practical consequences in that context. Given Russia's economic distress, I see little chance for an arms race. In fact, we are told by just about every analyst, American and Russian, that Russia, for budget reasons, will have to go to lower and lower numbers of strategic offensive forces.

On the political side, I believe that Russia will understand and will accept our need to deploy defenses. They certainly won't like it. But they'll accept it, just as they have accepted our decision to enlarge NATO and to use force against Iraq. I think at the end of the day, if the Russians are given assurances that our defenses will not undermine their nuclear offensive capability, they will have what they believe they need, independent of whether or not the renegotiation of the ABM treaty would be successful.

Senator COCHRAN. Mr. Rhinelander, I'm going to yield to my colleagues for their questions, but before doing that, I'm going to ask you what your answer to that same question is.

Mr. RHINELANDER. Assuming it's the question of giving formal notice of withdrawal under the ABM treaty with 6 months notice, which of course we can legally do, I think that means the end of limitations on all nuclear weapons between the United States and Russia. And the question is, what is Russia going to do. They are not going to build an anti-ballistic missile system, as they could have done in the 1970's. Because they don't have good technology, they don't have the money, that's not the way they're going to go.

I think more likely than not, they're going to scramble around to keep as long as they can their present MIRVed ICBMs, the SS–18s, in the field, and probably work to MIRV, putting the multi-warheads on their new Topol M.

Two things on that. I have been told by people who have access to the classified information, which I don't any more, that they could probably keep the SS–18s up another 5 years, maybe 10 years at the most, beyond the present period of time. We have kept our Polaris systems, our boats and other things, in service long, long after their useful life.

But their maintenance has been so bad in their liquid fuel missiles that they're not going to be able to keep those systems up forever. But they certainly are going to try to keep them active as long as they can by cannibalizing one to keep another one going. They'll do the same thing with their boats tied up in port, they won't take them out, because they're a threat. And they'll clearly, I think, try to produce a new missile with multi-warheads.

As I indicated earlier, I think one of the great achievements over the last years was to get the agreement of the Russians to no more MIRVs on the land-based systems and no more heavy missiles. I think that agreement goes down the tubes if we give notice to withdraw from the ABM treaty. So it's a different kind of reaction than what they would have done in 1972.

Senator COCHRAN. Senator Akaka.

Senator AKAKA. Thank you, Mr. Chairman.

Mr. Rhinelander, I'm impressed to hear that you were one of the original writers of the ABM treaty. Also, about your feeling that if we are going to try to improve our technology that we must be sure that there is a realistic testing program. Is it your view that testing

of an NMD system would require renegotiation of the ABM treaty, and if so, does this preclude the United States from deciding on the NMD architecture?

Mr. RHINELANDER. I think the answer is, in some cases it would. But of course, it would depend on the elements chosen. This goes to a question that the Chairman asked Ambassador Joseph earlier. I think the early issue is not the deployment issues. I think it's the testing issues of those components which run up against Article V of the ABM treaty, which prohibits the testing of spaced-based, the sea-based, the air-based, etc.

The front end of the missile interceptor, as it has been described in the documents which were given to me, has a sensor on board that effectively takes the place of the old ground-based radar. It's a homing system, an infrared system. That substitutes for the old ground-based engagement radar as we knew it in 1972.

The testing of that is prohibited by Article V of the treaty. So in that case, you would have to have amendment to the treaty there, even before you made a deployment decision.

There may be some other radars and sensors where you'd have to amend it, but I'm not familiar with what the testing schedule is vis-a-vis getting some elements out into the field. But you certainly would have to amend the treaty with respect to the interceptors, the smart interceptors, if you will, as opposed to the dumb ones being guided from the ground.

And probably with some of the sensors, particularly the low SBIRs, which is again a substitute for a tracking radar. You'd have to look at it technology by technology, but some of the present systems, as currently being discussed, would require an amendment to the treaty to go forward with the testing program.

Senator AKAKA. Ambassador Joseph, you talk about real programs that we need to think about and in the future. These, I think you also mean, will certainly impact what we do with the treaty.

From your comments you made before this, do you believe we should withdraw now from the treaty?

Ambassador JOSEPH. Senator, I believe, if I can first just refer to one of the earlier questions that the Chairman asked Mr. Rhinelander about the obsolescence of the ABM treaty. I believe that the ABM treaty is strategically obsolete. I believe that we pay a high price for compliance with the ABM treaty in terms of the development and—in the future—the deployment of even limited missile defenses against small scale threats from rogue nations.

If the treaty ever did make sense strategically—and I think that's something that we could explore perhaps in an off-line conversation—it lost its relevance with the end of the Cold War, at least in the context of U.S. interests.

The ABM treaty doesn't protect us against any threat. The ABM treaty doesn't defend us against any threat. In fact, it denies us the protection against new threats that weren't in existence in 1972. The new threats of rogue states armed with long-range missiles, threats that we're hearing a great deal about in the context of the Rumsfeld Commission and other studies, threats that we're seeing in the context of the North Korean TaepoDong launch last August. These are real threats.

I believe that it is very important how we manage moving beyond the treaty with Russia. What we do matters a lot with Russia. It seems to me that we don't want to posture, we don't want to be confrontational with the Russians. If in fact we do choose the route of renegotiating the treaty, what it will be about is reconciling interests.

On the one hand, we do, I believe, have an imperative to defend ourselves against North Korean type attacks. On the other hand, at least for a transitional period, I can understand why the Russians want assurances that our defense, in terms of what we deploy, will not undermine the credibility of their nuclear forces.

But I think we ought to aim higher than simply narrow treaty relief for the short term, a short term accommodation with Russia. I think we need to base our strategic relationship not on distrust, not on Cold War philosophies, but rather on cooperation and common interests. In some areas, that exists. I think we ought to be able to find that same common ground in this area.

Senator AKAKA. You say that we paid a high price on the ABM treaty. The question about making sense of it, and I repeat part of it, and wonder here how you feel about it, my question is should we withdraw now?

Ambassador JOSEPH. Senator, if you're asking me for my personal view, I think that we should withdraw. I think that we can find a means of accommodation with Russia outside of the treaty. This treaty is not healthy for us and it's not healthy for the Russians.

Again, I can understand a transition period in which we do, through a renegotiation of the treaty, provide certain assurances. I can understand that. It's certainly better than the current position that we have.

But I think fundamentally, we do need to move beyond the treaty, for the sake of our overall strategic relationship and to ensure us the capability of protecting against real world threats that were simply not part of the picture when this treaty was negotiated.

Senator AKAKA. Thank you very much.

Senator COCHRAN. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Mr. Chairman.

Ambassador Joseph, I'm interested in your statement both that we ought to try to negotiate a new relationship with the Russians and we ought to unilaterally withdraw now from a treaty which is so important to the relationship. Why you would want to unilaterally withdraw before you need to unilaterally withdraw in order to make a decision to deploy a system? In other words, unless you need to withdraw now in order to accomplish your national missile defense goal, you are withdrawing prematurely and making it more difficult to negotiate with a country that you say you'd like to negotiate with.

I don't quite understand why you would then not take the position that national missile defense is important, we ought to develop it as soon as we can, and we shouldn't be constrained by the treaty in that process. In the interim, while this is going on, we ought to try to negotiate with the Russians as new partners and friends,

rather than adversaries. And then when the point comes that the ABM treaty constrains our development, if we haven't negotiated with the Russians a change in the whole regime or a change in the treaty, at that point, we would then make a decision whether to abrogate or withdraw from the treaty.

Why isn't that more consistent with your stated belief that we ought to have a new negotiated positive partnership relationship with the Russians?

Ambassador JOSEPH. My answer to the question that was asked about my personal view, whether or not we should withdraw now, should be seen in the context of, if not a perfect world, at least a more perfect world than we have today.

I understand the importance that Russia attaches to the ABM treaty. Yet, I'm not comfortable with the rationale for why the Russians want to continue to perpetuate mutual assured destruction. And I think it's fundamentally unhealthy for our relationship.

That said, I am certainly willing to accept the argument that for a transitional period, while our strategic relationship evolves to a more positive one, the treaty might be of some assistance, if renegotiated, to allow us to do what we need to do with regard to the imperative of defending against rogue threats.

But I think we need to move beyond that perspective, that Cold War perspective, with the Russians.

Senator LEVIN. I don't disagree with that. That's not my question.

Ambassador JOSEPH. I was also going to address another aspect of your question, and that is it seems to imply that we are not paying a price for staying with the treaty in terms of the development of a national missile defense architecture. I believe we do.

Senator LEVIN. But let me ask you to assume that, since that's what the missile defense folks say, if just for the purpose of discussion, that we're not paying a price, we're not constrained by the treaty. If you could accept that for one moment as a hypothetical. If in fact we're not being constrained now by the treaty, do you then not see some advantage in trying to negotiate treaty changes or a new regime with the Russians until we are constrained? Would you agree with that as a theoretical matter?

Ambassador JOSEPH. Senator, on this issue I have trouble with theory. I have trouble with the hypothetical, because I do believe that the treaty does impose restrictions on our development of defenses. I think that absent the ABM treaty, the United States would be considering different deployment options than we're considering today. We would be considering sea-based, for example, and space-based approaches that are prohibited by the treaty.

Our development program is compliant with the treaty and should be compliant with the treaty, but compliance in this context comes at a price.

Senator LEVIN. Mr. Rhinelander, would you comment on my question?

Mr. RHINELANDER. Withdrawal, I think, would be one of the more foolish acts we could do at the moment. First of all we don't have the technical capability to put a system up so we would be getting rid of something which is important in the relationship with the Russians for no good purpose right now.

As I indicated in my statement earlier, I think Russia is the principal threat we've got to deal with—their capabilities. It's much more important to me than the rogue states.

What we need to do with Russia right now is to sit down with them and try to get them to get their warheads off their ICBMs, get them out of their submarines, get their fissile material under control and get a handle on their tactical missiles that we don't know much about. We're not sure that they have them under full control.

These are the kinds of things we need to do with them. I am absolutely certain that if we withdraw from the ABM treaty, as we're legally entitled to do, the chances of dealing with the Russians cooperatively on what I think are the principal threats just go out the window.

There's another thing we should do, and this is almost independent of the treaty, but if we withdraw from the ABM treaty, that's by the boards, too. I think we've got to work out a system to provide early sharing of data, early warning sharing. Because the Russians are partly blind. Every day they are blind for 2 or 3 hours.

In the old Cold War day, if we were blind or they were blind for 2 or 3 hours, and the worst case thinking was at work, maybe they fired a missile the moment we went blind, and they won't know until after it hits. I can't think of a more serious situation if we ever come to a moment of crisis.

I understand we've been negotiating, but we haven't gotten very far. I don't think we're going to be able to do anything constructive with the Russians, though. It starts with—it's their perspective, not necessarily ours—NATO expansion. Gorbachev and his people thought there was an implicit promise that NATO would not move farther east. We have moved east.

The Duma was going to vote on START II either December 18 or December 25 if we didn't bomb Iraq. We bombed Iraq. They had another vote set for April 2 if the bombing didn't start in Kosovo.

Now, in a sense, the whole system is cursed. SALT I never got off the ground at the beginning when the Soviets went into Prague. So we have had external events coming up time and time again.

We've got to try to work through these and work cooperatively with Russia, because it is the single largest threat. They're a bigger threat in their weakness, in many ways, than they were when they were strong.

Senator COCHRAN. Let me ask a question, Mr. Rhinelander, given the concerns about the Russians, and how any defensive system in their view would threaten them, is that to you a valid concern, that any defensive system that we develop and deploy is in reality a threat to their retaliatory capabilities?

Mr. RHINELANDER. Senator, you know there's a strange history of all this going back 20 or 30 years. They view any defensive system that we're thinking about as much more likely to work than I do. As you know, I'm very highly skeptical.

But on the other hand, looking at Soviet systems in times past, we looked at these as the greatest threat. I cannot tell you how much time we spent at SALT I dealing with what we call the SAM upgrade problem. They had a single ABM system around Moscow.

But they had 1,200 sites for surface to air missile, anti-aircraft systems, around the Soviet Union.

The Pentagon was convinced that with a few tweaks, doing a few things here and there, they could make this fairly quickly into a robust nationwide ABM system. Personally, I thought that was crazy. But we spent an enormous amount of time. We came up with partial responses to that concern.

So I think the answer to your question is that each side sees the worst case in the other, whether it's believable to a third party is not the question. They did initially with Star Wars. They felt Star Wars in fact could do some of the things which we felt it could do.

So I think the answer is not how we feel about our system, not our present intent in terms of a limited system against the Korean threat. It's partly a question of capabilities and partly a question of how they are likely to see it. And they see things very differently from the way we do.

Senator COCHRAN. Ambassador Joseph, would you comment on that question?

Ambassador JOSEPH. I certainly agree that it's how they see it that's important. But I don't find the Russian concerns in this regard to be at all valid. The architectures that we are considering for limited missile defense in no way under any circumstances provide the type of capability that could threaten the offensive credibility of Russian strategic forces at levels well below START II, well below even those numbers that we've been hearing for START III.

It's not just numbers, it's also the quality of their force and the ability of their individual warheads to penetrate any defense that we might build, or any defense that we are considering.

Again, going back to 1992, we talked about this issue with the Russians. We talked about it, and they didn't disagree with us. We talked about offense-defense, and we had a sound conversation. I think they understood that even at the GPALS level, which is a much more significant level than the architectures that we're considering today, our defenses would not undermine the credibility of their nuclear forces.

And again, in the context of those negotiations on the ABM treaty, at our mission in Geneva, we had literally in the next room, their START negotiators working with our START negotiators. They came to the conclusion that offensive reductions in the context of START I was the way for them to go, knowing that our position was to make fundamental changes to the ABM treaty—much more fundamental than the changes that would be necessary to achieve the types of capabilities under the various architectures we're contemplating today.

So I don't believe the Russian concerns are valid, sir.

Senator COCHRAN. It seems to me that we're caught in a situation where the most logical step for us to take may be between what we are hearing recommended today at this hearing. Doing what the administration is doing right now, which is ignoring the reality that our development program even violates the ABM treaty terms, and not engaging the Russians in a frank discussion, which is indicated by the emerging technological realities of these systems, is in the view of some Russians possibly duplicitous, dis-

honest, and provocative in itself, while announcing that we're going to withdraw from the treaty would also, I agree, be provocative as well.

So we're caught between a suggestion for one action that would possibly get us in a more dangerous situation than we are right now and actions that the administration are taking, which are equally proactive in my view. We've got to find a different course of action to take, in my opinion.

I think Ambassador Joseph has suggested the right course. I'll withhold making any final decisions about it, but this is just my reaction. It seems to me we have to adapt this defensive treaty we have with the Russians to the technological realities of today, and no longer pretend that we have only the technologies of 1972 available to us.

What's your reaction to that, Mr. Rhinelander?

Mr. RHINELANDER. Mr. Chairman, let me make two comments to it. One is that I haven't been in Moscow now for 4 or 5 years. I was due there last week, I didn't go. But when I talk to Russians, and I think it's probably true with Chinese, who I haven't spoken to personally, but I've talked to a lot of people who have, they simply can't believe we're going to build a system against the North Korean threat, because they know as much as we do.

So they see this system as one really designed against them. We can say no, it's not our intention. It's not, but then they say, OK, look at the capabilities.

If we put up the SBIRs low—I don't know how many we're talking about—we will have in space a highly capable system, if it works the way it's designed to work.

If we have tested the interceptors with the smart front end package to it, even if we put 100 of them just at North Dakota, they would look at the breakout capacity we have.

We would have broken entirely the buffer zone concept that we had in the ABM treaty—the long lead time—because we could change our mind from a limited system, in their view. I don't know how long it would take if we had the production lines open to go from 100 interceptors to 200 to 300. It depends on how many contractors we have, etc.

But they don't see it as limited, the way we are describing it. There will be a great problem trying to convince them that a system with these kinds of components, assuming they would work, was in fact going to be as limited as you think it would be.

Senator COCHRAN. Senator Akaka.

Senator AKAKA. Thanks, Mr. Chairman.

I'd like to follow up and ask Mr. Rhinelander to comment on Ambassador Joseph's comment. This interests me, the comment that they just made now that any U.S. NMD architecture would not threaten Russia's nuclear force credibility.

Mr. RHINELANDER. If we were to go forward with a testing program of the kinds of components which we have here, and if we say, OK, we're going to start in Alaska and then we're going to put a second site up in North Dakota, we would have the production lines open, we would have the satellites in space, we would have the interceptors already tested and deployed in limited numbers, a couple of hundred.

The Russians would view that as threatening, not because of what the deployed ones could do, unless their systems fall apart even faster than I think they are. But they could see us with the capability, very quickly, of putting up a system which would be much more robust.

Now, I understand from talking to some Americans who have talked to Russians, so it's not first-hand, it's second-hand, but sophisticated ones say that one of the Russians' concerns right now as we move forward in NATO is with our smart non-nuclear armed missiles. We could basically take out the systems in Moscow, their control system, etc., and they wouldn't even know they were coming.

So they have an extraordinary concern that the way the U.S. capability is moving. They are vulnerable, and they might never even see the punch coming. If we take some things out, they have a few ragged systems to respond, how many left, I don't know. But that's what they would be looking at.

Now, if in case we did strike them with even conventional weapons of one kind or another, what would they have left? Would they have enough to get through? I think that's the kind of analysis which they are going through right now.

So a lot of it depends, of course, on whose systems do you believe. They tend to look at ours and believe everything is going to work perfectly. They look at theirs with the high failure rates. I think their ICBMs are going to be down into the hundreds, maybe 700 or 800, within the next 10 years, even as they cannibalize, simply because that's the way things are falling apart over there.

But as they get down to 700 or 800 systems deployed, normally you have 20 percent of those systems down at any one point in time, doing working modernization and repairs, etc. Say they were trying to preserve several hundred, a good many aren't going to get off the ground, for different reasons. Their worst case analysis will be that, are the Americans going to put up enough of a defense so that they could counter a ragged retaliatory response, which is all they might be capable of 10 years down the line.

I think that's the way they would look at it. Is it rational? I won't say it is. But that's the kind of analysis which tends to go on when they look at us or we look to them.

Senator COCHRAN. Senator Levin.

Senator LEVIN. Let me just ask Ambassador Joseph a couple of questions about the SS–18s. Is it to our advantage that those SS–18s be dismantled?

Ambassador JOSEPH. Absolutely, Senator. I think perhaps the greatest achievement of decades of arms control to reduce offensive forces was the elimination of SS–18s in the context of START II. I think that would be a great achievement, if it were to occur.

Senator LEVIN. Which means that if we acted in a way where the Russians decided not to dismantle the SS–18s that we would then have some pluses and minuses in your perspective, it wouldn't all be pluses?

Ambassador JOSEPH. Senator, they have told us that we have acted in such a way when we enlarged NATO and when we struck Iraq. They've even talked about this in the context of Kosovo.

Senator I think your question——

Senator LEVIN. I know they've told us that. But let me read you what our two leaders, their president and our President, have said about the importance of the ABM treaty. I know that this is not something you agree with, but it's something which they surely feel, and at least this President feels. This is a summit statement, this isn't some statement of parliamentarians saying, oh, you guys now have hit Iraq, we're not going to ratify START II. This is a summit statement of the two presidents:

"President Clinton and President Yeltsin, expressing their commitment to strengthening strategic stability in international security, emphasizing the importance of further reductions in strategic offensive arms, and recognizing the fundamental significance of the Anti-Ballistic Missile Treaty for these objectives, as well as the necessity for effective theater missile defense systems, consider it their common task to preserve the ABM treaty, prevent circumvention of it, and enhance its viability."

I know you don't agree with that. That's not my question. But you've got the President of Russia and at least this President of the United States who say that this treaty is fundamentally significant to the further reductions in strategic offensive arms. They didn't say that about the bombing of Iraq or the expansion of NATO. There was no summit agreement where two presidents agreed that that's what the result would be from either of those two events.

But here you've got something so central to them that for the life of me, I've got to tell you, I don't understand why we cannot try to pursue both the development of a limited national missile defense and a modification of this treaty, so that we can deploy such a system. I don't understand why we would withdraw prematurely, as long as our ballistic missile defense office says we're not constrained by and we haven't violated the ABM Treaty. You may not agree with either of those positions, but we've got at least our ballistic missile defense folks saying we're not constrained by it yet, and we haven't violated it yet.

For the life of me, I don't understand why, if this relationship is important to you, as you say it is, and we know it's important to them as they say it is, we don't take the time until there is a problem to make a good faith effort to negotiate either a totally new regime, which is fine with me, or a modification of the ABM treaty.

I happen to think it is in our advantage to be able to deploy a national missile defense system, if we can make it operationally effective, and cost-effective. Because I think there is a threat. I think there's probably a greater threat from trucks, ships, and other sources, by the way. So I don't want to put all of our eggs in that basket.

But there is a threat, and we ought to try to address that threat, if we can do so in an operationally effective manner. But I don't understand this idea that we've got to prematurely now, your testimony is now, say that we're pulling out of the treaty, when a good faith statement by our ballistic missile defense people is that we have not violated the treaty, and that we're not constrained by the treaty. Why not use this period of time, until there is some constraint to try to negotiate that new regime, if you really believe that it is important, and if you really believe that getting rid of SS–18s is useful?

That's a long question, but there it is.

Ambassador JOSEPH. Senator, I'll try to answer that. Let me say that I think the greatest likelihood is we will go down the path of negotiations. In fact, both my prepared statement and my opening statement deal with my view on the negotiability of making the types of changes that I believe we need to make to the treaty in order to provide us not just relief to permit a very narrow defense, but to permit the type of defense that can evolve as the threat evolves. I think we've all come a very long way in terms of our view of the sophistication of the threat.

Senator what I was reacting to is what I consider to be this fallacy of false alternatives that often clouds thinking. That is, we are forced to make a choice between offensive reductions and even limited defenses. I reject that. I do not believe that that is a real choice that we must make. I believe that in fact we need to pursue defenses, and we need to pursue additional offensive reductions with the Russians.

Senator LEVIN. Equally?

Ambassador JOSEPH. I believe that it is an imperative to deploy defenses against the rogue state threat. I believe that threat to be real, as you do. I believe that we will have the capability to defend against it.

I think the defense that is required to protect our population against that threat will under no circumstances threaten the credibility of Russian offensive forces. I think that our interests are not irreconcilable. I think our interests are not mutually exclusive. I think we have to work with the Russians to find accommodation, whether inside or outside of the treaty.

My personal sense is that it is best to do it outside the treaty, because the treaty comes at a high price. As long as we're in the treaty, we should comply with the treaty. And compliance does entail a cost in this regard, a cost with regard to the effectiveness of the type of defense that we need.

Senator LEVIN. Do you think it's also important to try to negotiate further reductions with the Russians?

Ambassador JOSEPH. Yes, Senator.

Senator LEVIN. You do?

Ambassador JOSEPH. I do.

Senator LEVIN. My last question, but I'd like to ask Mr. Rhinelander, if I have another minute, to any comment he might want.

Mr. RHINELANDER. Well, as I've said several times, I think getting those Russian systems and all the complications we have to deal with down and separated is the imperative we deal with. We've had inspectors over there at operating missile bases where there's basically nobody there, they're all out hunting for food. We've heard stories of people out there in submarines with gun battles on board the submarines armed with ballistic missile systems.

These are the systems which can threaten us, the only systems right now that can threaten us.

Senator LEVIN. Threaten us with what, leakage, proliferation?

Mr. RHINELANDER. All of that, of course. The ICBMs and the SLBMs are the threats to us right now, the deployed systems. The

administration has a position, we don't move to START III until START II is ratified. I would go way beyond that. I would sit down with them and say, let's sit down and try to get the deployed systems down as fast as possible, move the warheads off the missiles. I think you could take the launchers out much later.

They are living in a world of launch on warning as doctrine, they are living in a world where they are partially blind every day. I think this is the threat we have to face, and you have to deal with it by getting their systems down and out as fast as we can, which is by negotiation. We have to do it mutually. We take ours down, they'll take theirs down.

It's going to be difficult doing that anyway. Dealing with the president of the Russian government is not going to be easy under any circumstances. They have elections coming up, and who follows orders in Moscow right now is an interesting question.

But I would focus very much on sitting with them and getting these Russian systems down. Because these are the things that concern me. It's both the loose nukes proliferation question as well as the systems aimed at us.

On the submarines, they have now got long-range missiles on their submarines. They can keep them tied up up north—they won't take them out because they may not come up if they go underwater—but they can fire from where they are right now. These are ones which I would like to see those missiles off, as many as possible.

Another point I would make, if in fact they're likely to go down on their own into the hundreds, which I think is where they're going to be in 10 years from now. Because of the way things are going, the lower they get, because their economy and everything else is driving it that way, the greater they're going to see the threat of whatever we do.

If they've got 2,000 or 3,000 strategic ballistic missiles, having a couple of hundred interceptors here isn't going to change the equation very much. But if they get down to 400 or 500 operating systems at best, many of which don't work, then a relatively modest defensive system in our time could realistically change the equation.

I'll simply close with one final comment, Ambassador Joseph said offensive-defensive ought to be separated. They have been linked ever since I've been involved in this world. They were certainly linked during the ABM and SALT I negotiations, where we dealt with both offense and defense. One was conditioned on the other.

The START I treaty is conditioned on the United States staying within the ABM treaty. I can remember when Cap Weinberger was Secretary of Defense, it must have been 1985. He was asked what would we do if the Soviets—it was still the Soviets in those days—would begin to put up a nationwide ABM defense? He said, of course, we would multiply our offense. And of course, that is exactly what we would have done.

They don't have the technical capability to do a lot of things now that they had earlier on. But I am sure they are going to keep as many of those offensive MIRV systems up as long as they can on hair triggers, which is the biggest threat we face today.

Senator LEVIN. Thank you.

Senator COCHRAN. It seems to me, Mr. Rhinelander, that there's agreement that we've come to today that if we continue to pursue the national missile defense system architecture that has been laid out, we need to negotiate changes in the ABM treaty. It seems to me that it's dangerous not to begin that right now. Do you agree with that?

Mr. RHINELANDER. Let me say yes and no. I think we obviously need, if we had firm decisions now and we knew what we were doing, then obviously you've got to negotiate. I think until you know exactly what you want to do, you're in an awkward position in terms of negotiations.

Ambassador Joseph or somebody made a comment earlier that we ought to make a decision and stick to it. Having been involved in this world for 40 years, I guess, I can make one comment on the U.S. political system. We never stick with anything on this subject very long anywhere. It's left or right, it's not biased one way or the other.

I would add one issue which I haven't commented on but I think goes to the heart of those who are proposing deployment. And that is to what degree are we willing to share with Russia?

Ronald Reagan, as you will recall, at the Reykjavik summit, made the suggestion we would share our defensive technology. Every single advisor he had with him then was absolutely horrified at the thought. It hadn't been cleared. And of course, it disappeared.

I don't believe we ever will. I don't believe this Congress, any Congress, is going to agree to amend all the laws so we can ship over every bit of defensive technology we have to Russia. Even if that were done, I don't think the Russians would believe we would do it.

If we keep saying we're going to share and then take it back, the Russians look at us and say, you're trying to kid us again. If it is humanly possible with our political system, we need to come to some coherent decisions and stick with them.

As I said earlier, I don't see that happening until after the national election of the year 2000. We don't have much time running before then. One of the earliest priorities of the new administration, whichever it will be, whoever is going to staff it, is the necessity for a comprehensive review, offensive-defensive, involving much more than simply the United States-Russian relationship. I think that's got to be done before we undertake some of these steps.

If we are gung-ho to test a system, presently prohibited by the ABM treaty, and we want to go by the book, and the Russians don't agree to amendment and therefore we withdraw, we have taken a step which I think forecloses avenues which are much more productive.

We've got to look at this thing comprehensively, which we haven't done. I know this administration hasn't done it. I have no faith that it will be done during the remainder of this administration. I have served in the last couple of years of an 8-year term, and that is not the most productive time.

So I think we're really looking forward to the next administration to look comprehensively at a very complicated question and then

come up with what's the net interests of the United States in this world.

Senator COCHRAN. Ambassador Joseph, what is your answer to that question?

Ambassador JOSEPH. Senator, first, for the record, I did not say that we should separate offensive and defense. I don't think that is an option, nor would I want to do that if it were an option. In fact, in 1992, when we attempted to renegotiate fundamental changes to the treaty, the discussions on offense-defense were very important discussions. We had very frank, very serious discussions.

As I said, we talked about how the GPALS architecture, which was much more robust than the ones we're talking about today, would not impact on the credibility of their offensive forces, and in fact, the START agreements were finalized in that context, the context of us stating explicitly that the strategic rationale of the ABM treaty as signed in 1972 was fundamentally bankrupt.

I think we need to keep that experience very much in mind. Most of all, we need to move beyond this Cold War framework that we're talking about even today, such as our advanced conventional capabilities taking out their command and control. We need to get beyond that.

I think we can get beyond that. I think we can base our interests on common ground, on common interests and cooperation. There are many areas in which we do cooperate. The co-optive threat reduction initiative is a very important initiative in that regard. Perhaps the sharing of early warning.

There are certain areas that we can build on. But let's move beyond the Cold War concept of the treaty. I think, and I hate to end on a comment like this, but I truly think if someone were to come up with the concept of an ABM treaty today and bring it to the U.S. Senate, they would have to take that individual off to St. Elizabeth's. It's simply not part of today's strategic culture, and shouldn't be part of the strategic culture. It's simply not healthy. It's not healthy for us and for the Russians.

Let's find the means by which we can accommodate their concerns and yet achieve the imperative that we have for the deployment of strategic defenses.

Senator COCHRAN. I think that is a good note on which to conclude our hearing today, and observe that our witnesses have been very helpful to us in reaching an understanding of some of the problems that we have in deploying a national missile defense system and remaining in compliance with the Anti-Ballistic Missile Treaty.

It's obvious to me that there are clear obstacles that the treaty poses to the deployment of any national missile defense system regardless of its architecture. For one that's sophisticated enough to give us the kind of defense we need, or that will evolve, there are obvious conflicts between the treaty's terms and the deployment of a national missile defense.

It also follows that this is an urgent matter. While it would be nice to wait until the next election or wait until things settle down in Russia in terms of their politics and who's in charge of what, I think it's dangerous for us to wait any longer. I think we need to get busy and reach out to the Russians at the highest levels of our

government and start talking about these issues and do it in a very serious-minded way.

I don't know anything that's a bigger threat or a greater danger to our security or the safety of our citizens than, as Mr. Rhinelander so clearly described it, the condition of the strategic weapons systems in Russia today.

So taken all together, the facts form a very serious challenge for the United States and our policymakers. Those who advocate that we should remain a party to the treaty, no matter what, have to now understand that the treaty has to be changed significantly and rapidly if we're going to continue adhering to it while developing and then deploying a national missile defense system.

We appreciate all of the witnesses who've testified, Dr. Kirkpatrick, Mr. Rhinelander, Ambassador Joseph, and the Members of our Subcommittee who have attended and participated in the hearing. I think it's been a very important undertaking.

The Subcommittee is adjourned.

[Whereupon, at 5:18 p.m., the Subcommittee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

Testimony of Jeane J. Kirkpatrick
National Missile Defense and ABM Treaty

Thank you, Mr. Chairman, for inviting me to testify on this vitally important issue which directly and deeply affects the security and well-being of the United States.

Mr. Chairman, as you know, the number of non-democratic, non-constitutional states which either have or will soon have weapons of mass destruction and Intercontinental Ballistic Missiles capable of delivering nuclear, chemical and biological bombs on American cities has grown and is growing.

States such as North Korea, Iran, Iraq, and yes, China, have again and again developed these capacities with a speed that exceeded the expectations and predictions of skilled prognosticators.

What George Washington called our "blessed location" between two vast oceans can no longer protect America and Americans from weapons of mass destruction available to states of violent intentions.

We are wholly, utterly vulnerable to incoming missiles.

I know, Mr. Chairman, that you are as aware as I am of this nation's growing vulnerability to blackmail and destruction. I

congratulate you for the leadership you have offered in the effort to develop an effective defense that can end this vulnerability. I also know that there remains powerful resistance in this Administration against serious action to develop an effective defense against incoming missiles. There are still too many in the Administration and Congress who are more concerned with preserving the ABM Treaty than with preserving millions of American lives. I wish it were not true.

I would like to briefly state the reasons I believe the effort to preserve the ABM Treaty is mistaken and dangerous.

For years persons who relied on the ABM Treaty to defend the United States against the proliferating nuclear arsenals described the Treaty as a "cornerstone of strategic stability" in our relationship with Russia. Now China and Russia describe the ABM Treaty as the "cornerstone of strategic stability" in the world.

But, Mr. Chairman, there is no strategic stability. The ABM Treaty has no more been able to stabilize the strategic relations among nations than the Non Proliferation Treaty has been able to prevent the spread of nuclear technology, or the Missile Regime has controlled the

number of governments capable of producing long-range ballistic missiles. Russia, of course, retains its huge arsenal of weapons of mass destruction and ICBMs. Everyone concerned with these issues now knows that the number of other countries with nuclear weapons and the missiles to deliver them has increased, and the reach, and the accuracy of China's missiles, in particular, have increased and is increasing still. China's weapons and China's delivery systems reflect – or will soon reflect – the most advanced U.S. technology. The U.S. need to be able to defend itself grows even more rapidly.

We also know that Russia's political and economic systems are unstable and that as its missiles multiply, the tendency of the People's Republic of China is to become more assertive, sometimes even threatening, in its dealings with Taiwan, Japan, the Philippines and the United States.

Now China has joined Russia in declaring it an egregious offense for the United States to seek an effective defense against deadly weapons, and that is, of course, all that is or ever was at issue in the ABM Treaty – their recent warning reflects the spirit of the French jingle that proclaims

"This is a very bad animal. When attacked, it defends itself." (Cet animal est tres mechant, Quand on attack il se defend.)

While China speaks of its solidarity with Russia's efforts to preserve the ABM Treaty and strategic stability, it seeks to revolutionize the balance of power in Asia and in the world – through policies that promote the spread of nuclear and missile technology to Pakistan, Iran, and North Korea and destabilizes strategic stability and by using its new power to threaten Japan, Taiwan, the Philippines and the United States.

What is worse, the bipartisan Rumsfeld Commission concluded last year, asserted in their report that,

- "In addition to ballistic missile threats posed by Russia and the People's Republic of China, such states as Iran, Iraq, and North Korea "would be able to inflict major damage on the U.S. within about five years of a decision to acquire such a capability"; and
- During several of those years the U.S. might not be aware that such a decision had been made."

What makes the recent spread of nuclear and missile technology

especially serious is that this proliferation gives repressive one party states large new powers which they could well use aggressively.

It is widely understood by political scientists that democratic nations do not start wars, in part because democracy gives power to those who must fight the wars and they are usually less enthusiastic about facing the risks entailed, but mainly because democracy breeds habits of restraint in the use of power, in dealing with differences, and in tolerating opposition.

Some students of international affairs consider concern with a government's internal practices "moralistic" and regard it as irrelevant to "strategic" matters. They are mistaken.

Democratic governments regularly submit their power to the requirements of law and the principle of consent. The unwillingness of rulers to share power or to tolerate criticism warns us that they may not be willing to share power or negotiate differences in external affairs. The uninhibited use of force against dissidents warns us that the government may use force to impose its will in external relations as well. The fate of Tibet is not irrelevant to the fate of Hong Kong or Taiwan or any other

distinctive community that becomes an object of China's ambition or is absorbed by it.

For all these reasons I believe developing and deploying an effective defense against incoming missiles is the most important security problem faced by the United States. I further believe the ABM Treaty is the most important obstacle to an adequate defense.

Why The U.S. Should Withdraw From The Treaty

The ABM Treaty was conceived and ratified as a bilateral treaty during a time when only the United States and the Soviet Union had the capacity to reach the other's territory with ballistic missiles.

Whether the Treaty contributed to America's security during the Cold War is a question for historians. The question that should concern us now is whether the ABM Treaty contributes to the security of the United States today. The answer is a resounding no. It undermines our security.

The reason the United States has no defense against an attack by an ICBM with a lethal payload is that the U.S. continues to adhere to a

Treaty with a country that no longer exists, which when it *did* exist, violated the Treaty and lied about it. Recall that soon after the Cold War ended, Soviet Foreign Minister Edouard Schevardnadze admitted major Soviet Treaty violations at Krasnoyarsk which had, till then, been passionately denied. The Administration adherence to the ABM Treaty – broadly interpreted -- hinders the development of an effective national missile defense capable of eliminating a mortal threat to the United States and has greatly handicapped the development of theater defenses.

I strongly believe that the United States should give notice of the intention to withdraw and move immediately our attention and focus, and efforts on building a missile defense system to protect our most vital interest: our national survival.

But the ABM Treaty prevents the United States from developing effective defenses against the greatest ever threat to the United States: the launch of a ballistic missile or missiles bearing nuclear, chemical or biological poisons against the United States.

This now archaic treaty initially assumed presumes that only the United States and Russia would be capable of fielding advanced ballistic

missiles. Now, that capability has spread and is spreading to governments that have openly expressed hostility towards the United States.

By allowing the ABM Treaty to continue constraining our ability to defend ourselves against a ballistic missile attack, we weaken our strategic abilities, demoralize our allies and allow dangerous governments to acquire power they would not otherwise have.

The proliferation of these weapons is accelerating and we cannot count on intelligence alone to warn us of a threat. Administration analysts concluded that it would take up to ten years for a rogue third world nation like North Korea to develop long-range ballistic missiles. Yet, within weeks of the Rumsfeld Commission report, on August 4, 1998, North Korea sent a two-stage ballistic missile over Japan, an important ally whom the United States is committed to defend. This missile, the Taepo-Dong 1, is judged to be capable of reaching Taipei, Tokyo, U.S. bases in the Pacific, Alaska and Hawaii. The next generation of Taepo-Dong missiles could be capable of reaching the western coast of the United States.

North Korea is not the only existing new threat.

Iran has already produced the Shahab-3 with a range of 800 miles. After its successful test, the elated Iranians announced plans to develop a Shahab-4 with a range of 1250 miles (and the Rumsfeld Commission reported) is actively seeking advanced missile components to build a missile capable of reaching the United States. I would point out that no nation, once acquiring nuclear weapons, has ever given them up.

The Russians, clearly, have an interest in keeping America vulnerable to its missiles. The Russian military lacks its former size and power and so has chosen to place ICBMs at the center of their national strategy and they possess many thousands.

Americans have an interest in eliminating this threat. Those who believe we can be defended by arms control proposed the START II Treaty which would reduce the number of Russian missiles, and argue that the United States must continue to be bound by the ABM Treaty because the Russian Duma will *not* ratify the START II Treaty if the United States withdraws from the ABM Treaty.

But the Duma (in which the Communist and Zhirinovsky parties

have a majority) has had six years to ratify START during which time the United States has steadfastly honored its obligations under the Treaty. With the strength and vehement opposition of the communists and nationalists to START II in the Russian Duma, I think it is clear that they will not ratify it now.

The ABM Treaty serves China's long-term ambition to become the dominant power in East Asia because to accomplish this, they must neutralize U.S. power in the region. A missile defense system developed by the United States and shared with its allies in East Asia would neutralize China's ability to blackmail its neighbors. But China's military leaders have shown a predilection for using the threat of force to blackmail others.

During the crisis in the Taiwan Straits in which Taiwan was harshly threatened, China's Lt. General Xiong Guang Kai threatened the U.S. as well, suggesting that if Americans had to choose between having bombs rain on Los Angeles or Taipei, it would be no choice.

Mr. Chairman, the massive theft of U.S. nuclear secrets recently reported in *The New York Times* has enabled the Chinese to leapfrog a

decade or more in their nuclear and missile technology, gives China important new powers, and also a new assertiveness reflected in the recent military exercises in the Taiwan Straits against Taiwan and U.S. troops in the area. China, like North Korea, Iran and Iraq understands the power of ballistic missiles to intimidate.

Since North Korea's Taepo-Dong missile shot over Japan, Japan has become more assertive about its ability to defend itself. Not one month ago, Japan launched, for the first time since WW II, destroyers to pursue North Korean ships sighted in Japanese waters.

The United States has kept the peace in East Asia for 50 years because we have been able to deter the use of force against our allies in the area. If we cannot provide an adequate defense for allies in the region, they act to insure their own defense, thus creating a nuclear arms race in East Asia.

Mr. Chairman, the threat to the United States' security and interests is real and present. Recently, Secretary of Defense Cohen stated, "We are affirming that there is a threat and that the threat is growing and that we expect it will pose a danger not only to our troops

overseas, but also to Americans here at home."

Air Force Lt. General Lester Lyles, Director of the Missile Defense Organization went further: "The threat is here and now." Both acknowledge that developing an adequate missile defense system will require modifications of the ABM Treaty. And why not?

The ABM Treaty is without legal standing. Under international and U.S. law, it expired with the Soviet Union's demise on December 26, 1991.

Last year, the Heritage Foundation commissioned a study of this issue. It was prepared by David Rivkin, Lee Casey and Darin Bartram of the Hunton and Williams law firm. I recommend it. They persuasively demonstrate that the ABM Treaty collapsed with the Soviet Union, and so altered the rights and obligations under the Treaty that a new treaty or treaties are required, and that requires the advice and consent of the U.S. Senate. The Feith and Meron study, sponsored by the Center for Security Policy also definitively demonstrates that the ABM Treaty no longer exists.

The U.S. cannot develop an effective or adequate ballistic missile

defense system under ABM Treaty restrictions. The scientists and technicians who work on these problems are constrained in the range of testing options and are prohibited by the terms of the Treaty from developing an effective, economical system. They know how to do so.

Treaty supporters claim that such a system can never be built. The problem of building a workable missile defense system is not our lack of scientific capability, it is the hobbling of our scientists by forcing them to work within narrow restrictions placed on them.

Mr. Chairman, the ABM Treaty expired. It is time now to unleash the creativity of American scientists and technicians and allow them to take on the problems of protecting the United States, its allies, and peace. The United States and its allies will not start an aggressive war, and so have a special need for defense. The failure to do so could be catastrophic. The right of self-defense is recognized in courts of law and in the U.N. Charter. The U.S. government has a solemn obligation to provide a defense of America and Americans. A next step in fulfilling this obligation would be to give notice of the intention to withdraw from the ABM Treaty.

STATEMENT OF
JOHN B. RHINELANDER
BEFORE THE INTERNATIONAL SECURITY,
PROLIFERATION AND FEDERAL SERVICES
SUBCOMMITTEE OF THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
WEDNESDAY, APRIL 28, 1999

Mr. Chairman and Members of the Subcommittee:

I am honored to appear before you to testify on the US NMD program and the ABM Treaty. I will be frank to admit I never thought in April 1971, when I accepted Ambassador Gerard Smith's invitation to join the US SALT delegation to begin to prepare drafts of the ABM Treaty and the companion Interim Offensive Agreement, that I would continue to write and testify about the ABM Treaty twenty-eight years later. A generation has passed. My youngest, who was two years old in the summer of 1971 when my family joined me in Helsinki for the fifth negotiating session, now has a two-year old of his own.

A. Background

For background purposes, let me note I was a clerk to Justice John Marshall Harlan after Virginia Law School, have practiced in New York City and Washington, and have served in six departments and agencies of the Executive, including legal adviser to the SALT I delegation. I am now a Senior Counsel of my law firm, Shaw Pittman Potts & Trowbridge, have been active in several not-for-profit organizations focused on arms control, and taught arms control in the nuclear age for a dozen years at the Universities of Virginia and Georgetown.

I have written extensively on the ABM Treaty including chapters in two books – Willrich and Rhinelander (eds.), **SALT — The Moscow Agreements and Beyond (1974)** (hereafter "**1974 SALT Book**") and Chayes and Doty (eds.), **Defending Deterrence (1989)**. The latter is

much more detailed and sophisticated than the former, written after fifteen years experience with the Treaty. My views are also reflected in prior Congressional testimony, and in numerous articles and comments, most recently in the November/December 1998 and forthcoming March 1999 issues of *Arms Control Today*.

The most comprehensive and authoritative article-by-article analysis of the ABM Treaty contemporaneous to its negotiation and entry into force probably remains the lengthy memorandum I completed on May 24, 1972 that was classified TOP SECRET ("JBR 1972 Memorandum"). I understand that it is in the process of being de-classified, but I have not read a complete copy since I left the SALT world in June 1972. Declassified excerpts are printed in an article I co-authored, "Mission Accomplished", in the September 1987 issues of *Arms Control Today*, page 13.

The next best source for a contemporaneous view of the ABM Treaty is the chapter I wrote in 1973 for the **1974 SALT Book**. I did not at the time have access to the classified record, but my memory was then quite fresh on details. I have attached the relevant pages from that chapter to this statement.

B. The Present Strategic Setting

Let me make three observations before turning to the legal issues.

First, the technological challenge of missile defense is daunting and has not been mastered in fifty years of efforts. Before any deployment decision, I hope the US will pursue a rigorous testing program under realistic conditions. This has generally not been US practice, including my experiences at White Sands in the 1950s while on active duty, and has lead to false hopes and enormous wastes.

Second, the rogue states including North Korea are a fifth level threat to US security interests and are unlikely to mate an ICBM with a nuclear warhead; a terrorist delivery is more likely. The first level of threat is Russian strategic offensive missiles, the second Russian tactical offensive missiles, the third the enormous Russian inventory of highly enriched uranium and weapon-grade plutonium, and the fourth Chinese modernization programs.

Third, before any deployment decisions are made, there should be a comprehensive review of the offensive — defensive trade-offs focused on the US, its NATO allies, Japan, Taiwan, Russia and China. This by necessity will be more complex than those conducted by the Nixon Administration in 1969 which focused on the USSR before SALT I.

C. The ABM Treaty in General

The ABM Treaty is a short document. In the broadest terms and as amended in 1974, it:

(1) prohibits deployment of a nationwide defense, or base for one, or even regional BMD (Article I(2));

(2) permits the deployment of fixed, land-based ABM components (ABM radars, ABM launchers and ABM interceptor missiles) within a circle with a radius of 150 kilometers at one deployment area each in the US and USSR, including no more than 100 ABM launchers per deployment area and with particular limitations on ABM radars (Article III);

(3) permits the testing of fixed, land-based ABM components at agreed AMB test ranges, whether the technology is of the 1972 type or based on "future systems", such as lasers, that substitute for 1972-type technology (Article IV);

(4) prohibits the advanced development, the testing and the deployment of ABM components (whether 1972-type technology or "future systems") that are sea-based, air-based, space-based or mobile land-based (Article V(1));

(5) prohibits giving non-AMB systems, such as surface-to-air (SAM) systems or theatre missile defense (TMD) systems, "ABM capability" or "testing them in an ABM mode" (Article VI(a)); and

(6) limits deployment of future early warning radars to the periphery of national territory and oriented outwards (Article VI(b)).

The original ABM Treaty, as ratified in 1972, permitted two ABM deployment areas in each county — one in defense of the national capital area and the other in an ICBM field. The USSR chose only the former around Moscow and the US only the later at Grand Forks, ND. In 1974, Article III of the Treaty was amended to limit each side to one deployment area each.

Verification of the Treaty is by national technical means (Article XII). The ABM Treaty created the Standing Consultative Commission (SCC) (Article VIII). Its term is for an unlimited duration, but permits withdrawal in exercise of national sovereignty, based on extraordinary events, upon six months' prior notice (Article XV).

After the dissolution of the USSR at the end of 1991, Russia announced in January 1992 that it was the successor to the USSR in all international treaties, explicitly including the ABM Treaty. The Bush Administration agreed. George Bunn, the first General Counsel of ACDA, and I have examined the successor state issues and arms control at length in a law review article published in *33 Virginia Journal of International Law* (Winter 1993), pages 325-350. Russia as

the successor to the USSR in the ABM Treaty, the UN Charter, or any other international agreement, is not dependent on prior approval by the Duma or Senate.

In the 1979 book, **Defending Deterrence,** I explored numerous legal issues including the interpretation of treaties (pages 63-64). There is no bright line between an interpretation and an amendment, but in the most general terms an interpretation clarifies the text and an amendment changes it. Under the U.S. Constitution the Senate must give the latter its advice and consent to ratification.

D. The US NMD Program

The basic problem I and others have in analyzing the US NMD program and the ABM Treaty is that the US has not yet fixed its architecture. For purposes of this statement I am assuming the architecture summarized in BMDO Fact Sheet JN-99-06 and related charts and texts. I have not had the opportunity to discuss the NMD program with present or former government officials or other experts. Accordingly, I view this statement as an initial, once-over-lightly first effort.

The NMD program will have five major components or elements: (1) Ground-Based Interceptors (GBI); (2) X-Band Radars (XBR); (3) Upgraded Early Warning Radars (UEWR); (4) Battle Management/Command, Control and Communications (BM/C3); and (5) the Space-Based Infrared System (SBIRS). There is another element, the In-Flight Interceptor Communications System (IFICS), but I have insufficient data to comment on it.

E. The NMD Program as a Whole

If the NMD program is designed to provide nationwide coverage of the US, as it is frequently described, then its deployment would be inconsistent with Article I(2) of the Treaty, which would have to be amended.

In the **1974 SALT Book** I wrote that Article I prohibits the deployment of even a "thin" nationwide defense "even in the unlikely event that technological advances made feasible thin coverage" from the two authorized deployment sites (Attachment, page 127). While Sid Graybeal, a colleague from SALT I and our first SCC Commissioner, told me that he disagreed with this conclusion, I believe it is correct. Nevertheless, I urge the Subcommittee to seek a copy of the still-classified "JBR 1972 Memorandum" to determine whether it sheds any light on this Article I issue.

In any event, even if Article I is viewed as preambular rather than substantive, many of the technical features of the NMD program that would give it nationwide scope are inconsistent with Articles III, V, VI and IX, as discussed below.

F. The Five Major Components/Elements and the ABM Treaty

1. Ground-Based Interceptors (GBI)

If the GBI launchers are deployed only at the present Grand Forks, ND site and are limited to 100 or less, this would be consistent with present Article III.

Because the GBI interceptor kill vehicle (EKV) on the missile includes its own sensors, guidance and computing functions to complete the intercept (and thereby substitute for the function of the land-based engagement radar at the last stage before intercept), this would be inconsistent with the space-based ban on ABM radars, or substitutes for them, in Article V(1).

Testing as well as the deployment of the EKV would be prohibited unless Article V(1) is amended.

If 20 initial GBI launchers were to be deployed in Alaska (as one chart indicates), this would be inconsistent with Article III, which would have to be amended. (Note an Alaskan site would also not be consistent with either type of deployment area authorized by the present Treaty.)

2. X Band Radars (XBR)

If the XBRs, which are land-based engagement radars, are forward deployed (that is, outside the 150-kilometer radius of the ABM deployment area), this would be inconsistent with Article III, which would have to be amended. Based on one chart all would be forward based, and none of the XBRs would be in an ABM deployment area. Therefore, Article III would have to be amended.

3. Upgraded Early Warning Radars (UEWR)

If the present early warning radars at Beale, Clear, Cape Cod, Fylingdales and Thule are upgraded to better perform the early warning function, this would be consistent with Article VI(b). If a new UEWR were built in Korea, this would be inconsistent with Article VI(b) which requires future early warning radars to be deployed along the periphery of national territory. Therefore, Article VI(b) would have to be amended.

4. Battle Management/Command, Control and communications (BM/C3)

BC/C3 components are not limited by the ABM Treaty.

5. Space-Based Infrared System (SBIRS)

No information is provided on SRIRS (High). Assuming the High is in geo-synchronous orbit to detect missiles in boost phase, this would be consistent with the Treaty.

The SBIRS (Low) which will acquire and track ballistic missiles throughout their trajectory by providing "over-the-horizon" precision tracking data would be space-based substitutes for an ABM radar and inconsistent with Article V(1). (Note that this would be an important technical feature to provide nationwide coverage even if the ABM launchers were located at a single, authorized ABM deployment site since it "would permit interceptors to be launched before the threats come within range of the XBRs". This would require amendment of Article V(1).

G. Three Deployment Phases

One chart suggests three possible deployment phases, but without dates:

C1 = Capable against a few simple warheads

C2 = capable against a few sophisticated warheads

C3 = capable against a larger number of sophisticated warheads

<u>C1 Phase</u> – One chart indicates that one XBR will be deployed at Shemya, Alaska, and that 20 GBIs will be deployed in Central Alaska. This would be inconsistent with the present design of Article III which requires that both the AMB launchers and ABM radars be deployed within a ABM deployment area of 150-kilometer radius. Article III would have to be amended in any event to accommodate an Alaskan deployment area.

C2 Phase – The same chart indicates that there will be three XBRs at the location of three present early warning radars (Clear, Thule and Fylindale). The deployment of XBRs at these three sites would be inconsistent with Article III (outside the ABM deployment area, and in two cases outside US national territory). Article III and Article IX would have to be amended.

C3 Phase – The same chart indicates that an upgraded early warning radar would be deployed in South Korea. As indicated earlier, this future UEWR outside national territory would be inconsistent with Article VI(b). Five XBRs would be deployed in this phase. The one at Grand Forks would be consistent with Article III. The other four (Beale, Cape Code, Hawaii and South Korea) would be inconsistent with Article III, with the South Korea site also inconsistent with Article IX (not to deploy ABM components outside U.S. national territory).

H. Conclusion

The ABM Treaty was negotiated in 1972 based on then-current ABM technology that was fixed land-based. From a US perspective, the Treaty provided a broad buffer and lengthy warning time in the event of Soviet breakout of strategic significance. The Soviets, after all, had deployed the first ABM deployment system and had extensive SAM sites that raised significant concern in DOD about covert "upgrading".

The strategic situation has obviously changed and technology has significantly evolved. The USSR has dissolved and Russia is an economic basket case. Even though not parties to the ABM Treaty, our NATO allies and China in particular, have a real and continuing interest in the ABM Treaty. Of course, the Russian and US interests are paramount.

While some aspects of the proposed NMD program would be consistent with the ABM Treaty, the main substantive Articles (III, V and VI) would all have to be amended, in addition to Article I, and the definitional Article II would almost certainly have to be rewritten. This would be a daunting challenge for negotiators, given the abysmal and worsening state of affairs between the United States and Russia. The US should know with much greater precision what it wants to do before starting such an effort.

Testimony of Robert G. Joseph
Senate Committee on Governmental Affairs
Subcommittee on Int. Security, Proliferation, and Federal Services
April 28, 1999

Mr. Chairman, distinguished Members, thank you for the opportunity to testify today. I am honored to be able to present my views on the need for national missile defense -- and specifically on ABM Treaty issues associated with the pursuit of effective defenses against the growing threat we face. This is a subject of fundamental importance to our nation's security.

This prepared statement responds to the issues included in the Chairman's letter of invitation. First, it provides an assessment of the principal changes to the ABM Treaty that would need to be made to permit the deployment of the candidate ground-based ABM defense architectures currently being considered. Second, it presents an assessment of additional Treaty modifications that might be required to counter the missile threat as it is likely to evolve. Third, it gives an assessment of both the negotiability of such changes to the Treaty, as well as what our long-term objectives should be in this critical area of national security policy.

It is necessary to emphasize at the outset that the views expressed in this statement are entirely personal and do not necessarily reflect the views of the National Defense University, the Department of Defense or any agency of the U.S. Government.

In identifying the key areas of required Treaty relief -- that is those modifications of Treaty provisions that currently impede or prohibit the development and deployment of effective strategic defenses -- it is best to begin with Article One. This article embodies the purpose of the Treaty by committing each party "not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense." Coupled with the 1974 Protocol that reduces the number of permitted sites from two to one, Article One limits a compliant defense to the sole purpose of protecting the former ICBM field near Grand Forks, North Dakota.

The words of Article One and their meaning are very clear and, if one applies plain and ordinary definitions, the language makes evident the need to confront the contradiction between today's imperative to defend our population against ballistic missile attacks from rogue nations and the underlying strategic rationale of the Treaty.

Designed in the bipolar context of the Cold War confrontation with the then Soviet Union, the express objective of the Treaty was to prohibit defenses so as to preserve the credibility of offensive deterrent forces. In other words,

by ensuring the vulnerability of our societies to nuclear attack, the Treaty was seen as promoting strategic stability. Few would advance this same deterrent concept today for states such as North Korea or Iran. Yet, the Treaty does not provide an exception for what is often referred to as a light territorial defense against these and other ballistic missile threats.

In addition to Article One, all of the candidate national missile defense architectures with which I am familiar come into direct conflict with the implementing articles of the Treaty. For example, permitting more than one deployment site or moving the Grand Forks site to anywhere other than Washington would require formal Treaty changes. Moreover, all of the contemplated architectures that provide for reasonable effectiveness against limited threats appear to require the deployment of ABM guidance radars outside the deployment sites, a practice prohibited by Article Three.

Architectures that might be contrived to avoid prohibited ABM radar deployments appear to entail giving Treaty-prohibited capabilities to existing early warning radars. This would raise further compliance problems not only with regard to deployment but also, under Article Six, with regard to the development programs to create those capabilities. A further compliance problem under Article Five will likely arise when the SBIRS Low satellite constellation is fielded as an essential contribution to a defense against more sophisticated threats, even if all other Treaty issues have been resolved.

This is not a comprehensive list of compliance issues raised by the ground-based architectures being considered for limited national missile defense. Others would almost certainly arise in the context of our own compliance review process and still others would be raised by the Russians who have consistently demonstrated both tenacity and imagination in voicing compliance concerns with the ABM and other arms control treaties.

This leads to two further observations. The first is on timing. Given the stated Russian goal of retaining the ABM Treaty without change, and given their fears that any U.S. deployment program will provide the base for a robust national missile defense that could threaten the viability of their nuclear arsenal, any negotiation can be expected to be long and difficult. Such negotiations will not be successful unless the United States has a clear deployment objective and a perceived resolve to move forward to meet the threat from rogue states, even if that requires withdrawal from the Treaty

under the supreme interest clause of the Treaty. In light of the pace of missile programs in countries such as North Korea and Iran, we simply do not have the luxury to devote years to the renegotiation of the ABM Treaty.

The second observation is that in attempting to resolve Treaty issues to permit limited defenses, we need to ensure flexibility for the future to counter missile threats as they continue to evolve, taking full advantage of developments in technology. Narrow Treaty relief to allow for fixed ground-based interceptors to protect against a very small and crude missile threat in the near term must not be purchased at the price of fixing in concrete a future that does not permit us to adapt our defenses to meet the threat as it evolves. For example, we must not compromise now on a defense against a small handful of missiles from North Korea but leave ourselves totally defenseless when they add one or two more.

The findings of the Rumsfeld Commission and the North Korean launch of the TaepoDong missile last August underscore that the threat is here now and will become increasingly sophisticated. To protect against this evolving threat, one that may include ship-launched attack, the United States may well need to develop and deploy sea and space-based defense capabilities that are also prohibited by the Treaty. In fact, such basing modes may well be the most cost-effective means to protect against the missile threat.

Moving to the issue of negotiability, I would note that Secretary Cohen's announcement last January that the United States will pursue a national missile defense against rogue states with long-range ballistic missiles is a most welcome statement. It offers the prospect for charting a new course away from outmoded arms control and defense policies that have inhibited our capability to protect against such threats.

The Cohen announcement is also remarkable in that it appears to return to, and reaffirm, the rationale for missile defenses articulated by the Bush Administration. In this context, looking back can be instructive in assessing some of today's arguments.

In 1992, following the Gulf War and the attempted coup in the then Soviet Union, the Bush national security team put forth both a deployment plan and an arms control initiative to support this deployment. The concern was twofold: a rogue state armed with a small number of ballistic missiles able

to strike American cities, and an accidental or unauthorized launch, perhaps from a breakaway military commander.

To deal with this limited threat, the United States declared the intention to deploy GPALS – Global Protection Against Limited Strikes. For the near term, this architecture consisted of up to six ground-based sites with up to 1200 interceptors, a space-based sensor capability, and robust theater missile defenses. In the longer term, as the threat evolved, many looked to space-based interceptors as the key capability.

On the arms control side, in the summer and fall of 1992, the United States formally proposed fundamental changes to the ABM Treaty consistent with the GPALS concept. These included:

- First, the elimination of restrictions on the development and testing of ABM systems. These restrictions both directly and indirectly had impeded our ability to field effective strategic and theater defenses, just as they do so today.

- Second, the elimination of restrictions on sensors. Disagreements in this area had for years dominated the contentious compliance debate. Moreover, it was recognized that no missile defense architecture that would permit even a limited territorial defense could be deployed without Treaty relief on sensors. This also remains the case today.

- Third, the elimination of restrictions on the transfer of ABM systems and components to permit cooperative relationships on missile defenses with other countries, including Russia. And

- Fourth, the right to deploy additional ABM interceptor missiles at additional ABM deployment sites.

In Washington, Moscow and Geneva, American representatives presented these positions to the Russians, stating that the emerging threat of long-range missiles compelled changes to the ABM Treaty. The Russians were also told that we could work together on defenses but that, with or without them, the United States would protect itself from limited attacks. If modifications could be agreed, we could retain the Treaty. If not -- and the implication was direct -- the United States would need to consider withdrawal, legally in accordance with the provisions of the Treaty.

American representatives also made clear that the level of defenses envisioned, with or without the ABM Treaty, would not threaten the offensive capability of the Russian force at START levels or even well below those levels. At the same time, the U.S. team also stressed that, with the end of the Cold War, the United States and Russia should base their new relationship on common interests and cooperation, and not on the distrust that was the foundation of the doctrine of mutual assured destruction which had defined relations as Cold War enemies.

The Russian reaction was most telling. They did not say yes or no; they mostly listened and asked questions to explore the U.S. proposals. Indeed, President Yeltsin himself had called for the joint development of a "Global Defense System" to protect against ballistic missile attack.

Most important, and relevant to keep in mind in today's discussions, while we were insisting on basic changes to the ABM Treaty, the Russian START negotiators were concluding the long sought START agreement providing, for the first time, for substantial reductions in offensive forces. That the U.S. position on the ABM Treaty did not affect the Russian willingness to agree to offensive reductions was evident in the signing of both START I and START II in quick succession.

Nonetheless, in 1993, in one of its most substantial departures from the Bush Administration security policy, the new Administration reversed course on national missile defense and the renegotiation of the ABM Treaty. National missile defense programs were downgraded in priority and funding was significantly reduced. For years this policy position prevailed, often justified by two arguments. First, almost as an article of faith, we have been told that we must choose between offensive reductions and even limited defenses. Second, we were told that the rogue nation threat is many years distant. Both arguments stand in contrast to experience and facts.

Like the prospect of an imminent hanging, the North Korean TaepoDong launch has concentrated our attention. It is in large measure this demonstration of a multi-staged, long-range capability that provided the urgency for developing missile defenses, as reflected in Secretary Cohen's comments. Moreover, recognition of the threat contributed to the overwhelming passage of the National Missile Defense Act of 1999, clearly a milestone in the pursuit of defenses.

Yet, the future of defenses is far from certain. Neither the Korean launch nor the recent legislation that makes it the policy of the United States "to deploy defenses as soon as technologically possible" may be sufficient to change policies and programs in a way that permits the United States to move forward with effective defenses.

For example, the Administration has reaffirmed at the highest level that the United States has not made a decision to deploy and continues to uphold the 1972 ABM Treaty as the "cornerstone of strategic stability." Such an approach, we are told, is necessary to save START II – a Treaty that Moscow has held hostage so many times to so many different objectives over so many years that few now believe it will ever be ratified by the Duma or, if it is ratified, that it will have much significance.

Nevertheless, how Russia will react to our deployment of national missile defenses is an important question. A number of Russian officials have predicted dire consequences if the United States insists on amending the ABM treaty or withdraws from the Treaty, even though both courses of action are entirely consistent with our legal rights. Similar predictions were voiced in the contexts of NATO enlargement and air strikes on Iraq. Yet, in both of these examples, Russia acted on the basis of its interests, not its press statements. Russia's actions spoke louder than its words.

The same is true regarding arms control experience. When NATO decided to deploy intermediate-range nuclear forces in the early 1980s, while simultaneously negotiating for the elimination of this entire class of nuclear weapon, the Soviet Union made stark threats to test the Alliance's resolve. Moscow promised to walk out of the negotiations when the first NATO missiles were fielded, and did so in November 1983. But when it became clear that the determination of the Allies would not be shaken, the Soviet negotiators returned to the table and the result was a total ban on these weapons.

The most recent arms control example of Russia pursuing its own interests in the context of changing strategic realities is also perhaps the most instructive. When the breakup of the Soviet Union led Russia to conclude that the legal limits on deployed forces in its flank regions -- as established in the Conventional Armed Forces in Europe (CFE) Treaty -- were no longer in its interest, its approach was straightforward: it insisted that the Treaty be changed. The United States and the other parties accommodated the Russian

demand in the 1996 Flank Agreement. Since then, citing further changes in its security environment, I understand Russia is again insisting on additional changes to the CFE Treaty.

The principle is clear. Russia assesses the value of arms control agreements in the context of its defense requirements. When the security conditions change for Russia, it acts with determination to change the treaties. For us, the parallel to the ABM Treaty is evident and the principle, I would argue, should be the same.

In terms of longer-term objectives, I believe that we should substitute a threat-based approach for establishing both our offensive and defensive force deployments to meet our security requirements. The Russians, according to almost all assessments, will be compelled by economics to go to much lower levels of offensive forces, independent of arms control outcomes.

If this forecast is accurate, and Russia does go to lower numbers, the United States could make appropriate adjustments in our own posture -- a posture that must be structured to meet our global interests, which are much different from those of Russia. Yet, even at the lowest levels speculated for Russia in the future, a missile defense deployed to protect against a limited attack would not undermine Russia's offensive capability.

On the defensive side, most everyone agrees that proliferation of nuclear, biological and chemical weapons represents a major security challenge to the United States. We are also near consensus on the missile threat. The National Intelligence Estimate that concluded that we would have warning and that we likely would not face a long-range missile threat for fifteen years has been widely repudiated.

Here, two points should be made. First, in the area of proliferation shocks and surprises, we have a long record of intelligence failures. From Sputnik and missiles in Cuba to the recent TaepoDong launch, there is every reason to believe that we will be surprised in the future about the size, scope and speed of adversaries' missile programs. The same applies to their programs to develop weapons of mass destruction. Second, it seems to me that the North Korean launch settles the debate. We now have a desperate, totalitarian regime, that could we are told have a couple nuclear bombs, in the possession of long range missiles.

In addition to taking into account rogue nation proliferators, prudent defense planning also requires us to consider other strategic uncertainties. In the area of ballistic missile threats, two major uncertainties exist.

The first is China, a state that highly values both its nuclear arsenal and its ballistic missile force. The degree of value can only be judged by observing Beijing's behavior, not its words. Its actions -- such as the overflight of Taiwan with ballistic missiles, the recent deployment of much greater numbers of ballistic missiles opposite Taiwan, and espionage at our nuclear laboratories -- speak loudly. This is a country that intends to possess these capabilities for the long-term and to use them as a means to advance its political agenda.

The question, like that associated with rogue threats, is what are we going to do about it? Specifically, are we going to accept another relationship of mutual vulnerability with China in addition to that which now exists with Russia? If not, we need to assess accordingly our missile defense requirements and the related, wider implications.

Finally, we have Russia and the huge political and security unknowns that it represents. Like China, Russia highly values its nuclear and ballistic missile arsenal. In fact, these weapons play a greater role today in Moscow's defense planning and declaratory policy than in the past.

Despite its economic distress, despite its conventional forces deteriorating in the field, and even despite its inability to put to sea many of its ballistic missile submarines, Russia continues to invest heavily in its nuclear and missile infrastructure. Whether we like it or not, this will remain a condition of the security environment for years to come. Here, the question is how best to promote better and more secure relations and how best to hedge against risks.

In terms of improving our strategic relationship, we should advance cooperation in areas of common interests, such as in areas of cooperative threat reduction and in enhancing early warning capabilities. Most important, we need to overcome and end policies and postures based on the philosophies, insecurities and distrust of the Cold War. Here there is no better example than the 1972 ABM Treaty.

Promoting mutual assured destruction as a basis for a healthy relationship is not sound strategic policy. Prolonging the Faustian bargain that we can destroy each other's populations inevitably has a very corrosive effect on our relations and how we perceive each other. In conclusion, we must move to meet our national missile defense requirements while attempting to place our strategic relationship with Russia on much firmer ground.

One clear requirement is to deploy strategic defenses sufficient to meet the now present and growing ballistic missile threat represented by potentially hostile regional and rogue states. Even this limited capability would require fundamental changes to the Treaty, starting with Article One which prohibits any territorial defense, no matter what its size or shape. We would need to have more sites and more interceptors than permitted. We must also insist on removing restrictions on sensors, as well as on development and testing – including for space components – to permit us to evolve our defenses to meet the threat as it evolves.

This can be accomplished consistent with other national security goals. As I noted, we made formal proposals to this effect during the Bush Administration when -- while making clear that Russia would not have a veto over our defense needs -- we sought to reconcile Russian concerns while meeting US requirements against what was then assessed to be the emerging ballistic missile threat – the threat that has now emerged.

At a minimum, we need to pursue a similar approach today. The threat is more urgent and we no longer have the luxury of further time to postpone acting.

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