



Backgroundunder

Executive Summary

No. 1215

August 20, 1998

THE ABM TREATY: OUTDATED AND DANGEROUS

BAKER SPRING

During his tenure as Secretary of Defense in the 1960s, Robert S. McNamara formulated a strategic nuclear policy designed to keep both the United States and the Soviet Union essentially defenseless against nuclear attack. This policy, aptly named “mutual assured destruction” or MAD, was codified in a treaty signed by President Richard Nixon in 1972 called the Anti-Ballistic Missile (ABM) Treaty. The ABM Treaty barred both the U.S. and the Soviet Union from deploying systems capable of defending their national territories against ballistic missile attack.

Despite dramatic changes in the strategic environment since 1972, the territory of the United States remains completely undefended against ballistic missile attack. In fact, the Clinton Administration continues to work assiduously to retain both the MAD policy and the ABM Treaty.

The tangible result of this effort was revealed in a new set of ABM Treaty-related agreements between the United States and four republics of the former Soviet Union. One of these agreements would establish a new ABM Treaty, virtually identical to its predecessor, in a multilateral setting. The new agreement, formulated as a memorandum of understanding (MOU) among the United States, Belarus, Kazakhstan, Russia, and Ukraine, was

signed for the United States by Secretary of State Madeleine Albright on September 26, 1997, at the United Nations in New York. It must be approved by the Senate prior to ratification.

The original ABM Treaty, under the terms of international law, lapsed when the Soviet Union collapsed in 1991. Considering that Senate rejection of the MOU would block the re-establishment of ABM Treaty-style restrictions, the most critical question for the Senate is whether the continuation of ABM Treaty restrictions serves the national security interests of the United States.

The answer is that, if continued, these restrictions will prevent the U.S. from protecting itself from a clear, present, and growing danger. Specifically:

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- The continuation of ABM Treaty restrictions will perpetuate a security policy based on the illogical notion that leaving the American people vulnerable to missile attack somehow makes the nation more secure.
- With the demise of the Soviet Union, both MAD and the ABM Treaty are obsolete.
- ABM-style restrictions increase the risks associated with accidental or unauthorized missile launches from Russia or China.
- Continuation of ABM-like restrictions will leave the U.S. unable to respond to the growing threat associated with the proliferation of missile systems among rogue states.
- Continuation of ABM restrictions will impose limits on the kinds of cooperative efforts the United States can undertake with its friends and allies in the area of missile defense.
- As in the past, the ABM Treaty will not serve its stated purpose of limiting the size of offensive nuclear arsenals.
- ABM Treaty restrictions involve purely artificial distinctions between tactical and theater missile defenses and strategic missile defenses.
- The alternative of a “treaty-compliant” deployment of national missile defenses is a dead end because it ensures that effective missile defense technologies remain permanently in the

research and development stage and are never deployed.

- The continuation of ABM Treaty restrictions will bar the U.S. from developing a reasonable missile-defense deployment plan that initially would field 650 interceptors on 22 Navy ships and later field a combination of space-based interceptors and space-based lasers.

CONCLUSION

The ABM Treaty has always been incompatible with the deployment of an effective missile defense system, despite the arguments of some ABM proponents that a treaty-compliant approach to deployment was available. This incompatibility will be perpetuated if the MOU is ratified.

It has been difficult to argue that deployment of an effective missile defense system is incompatible with the ABM Treaty, however, since few realistic opportunities to free the U.S. from the treaty have materialized. Now, with the collapse of the Soviet Union and the end of the Cold War, the Senate has both the opportunity and the obligation to debate the benefits and risks of the policy of vulnerability codified in the ABM Treaty.

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During his tenure as Secretary of Defense in the 1960s, Robert S. McNamara formulated a strategic nuclear policy designed to keep both the United States and the Soviet Union essentially defenseless against nuclear attack. This policy, aptly named “mutual assured destruction” or MAD, was codified in a treaty signed by President Richard Nixon in 1972 called the Anti-Ballistic Missile (ABM) Treaty. The ABM Treaty barred both the United States and the Soviet Union from deploying systems capable of defending their national territories against ballistic missile attack.

Despite a dramatic change in the strategic environment since 1972, including the collapse of the Soviet Union, the proliferation of ballistic missile technology throughout the world, and increased risks of accidental or unauthorized missile launches, the territory of the United States remains completely undefended against ballistic missile attack. This vulnerability is not the result of any inability to deploy effective defenses. Rather, it is a consequence of the Clinton Administration’s decision to perpetuate the policies of Robert McNamara.

The tangible results of these efforts to retain both the MAD policy and the ABM Treaty were revealed last year in a new set of ABM Treaty-related agreements between the United States and four republics of the former Soviet Union. One of these agreements would establish a new ABM Treaty, virtually identical to the old one, in a multilateral setting. It takes the form of a memorandum of understanding (MOU) among the United States, Belarus, Kazakhstan, Russia, and Ukraine.

The ABM Treaty, under the terms of international law, lapsed when the Soviet Union collapsed in 1991.¹ The Clinton Administration, however, continues to honor the requirements of the Treaty as a matter

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1. See David B. Rivkin, Jr., Lee A. Casey, and Darin Bartram, “The Collapse of the Soviet Union and the End of the 1972 Anti-Ballistic Missile Treaty: A Memorandum of Law Prepared for the Heritage Foundation,” Hunton & Williams, June 15, 1998.

of policy. Secretary of State Madeleine Albright signed the MOU on September 26, 1997, at the United Nations in New York. The agreement must be approved by the Senate prior to ratification, but the Administration has not yet transmitted it to the Senate.

The most serious problem with the MOU is that it re-imposes the ABM Treaty's restrictions on the development and deployment of missile defenses. The most critical question for the Senate, therefore, is whether continuing these restrictions serves the national security interests of the United States.

The answer is "No." The restrictions found in the ABM Treaty, if continued, will prevent the United States from protecting itself from a clear, present, and growing danger. Specifically:

- **The continuation of ABM Treaty restrictions will perpetuate a security policy based on the illogical notion that leaving the American people vulnerable to missile attack somehow makes the nation more secure.** The ratification of the ABM Treaty served to codify a national security policy best described as a mutual suicide pact between the United States and the Soviet Union. This policy of mutual assured destruction was predicated on the idea that with their civilian populations exposed to extinction in a nuclear war, neither U.S. nor Soviet leaders would risk launching an attack.

The MAD policy left innocent American civilians vulnerable to attack when the U.S. government had at least limited means for providing for their protection. Further, it was rooted in the U.S. assumption that Soviet leaders would not take advantage of the vulnerability of U.S. retaliatory forces and launch a first strike. Striking first is a high-stakes gamble. The attacker must be sure of destroying the opponent's retaliatory forces in order to avoid a reprisal. With even limited U.S. defenses in

place, the probability that Soviet leaders could have launched a successful first strike would have fallen to near zero because the defenses would prevent them from destroying all U.S. retaliatory forces.²

- **With the demise of the Soviet Union, both MAD and the ABM Treaty are obsolete.** The lapse of the ABM Treaty and the collapse of the Soviet Union were not coincidental events. Both the MAD policy and the ABM Treaty were forged in an era when the U.S. and Soviet Union regarded each other as primary strategic foes. The intensity of this rivalry was such that each nation seriously considered options for destroying the other. Continuing the ABM Treaty through the MOU, therefore, treats Russia as the substitute for the former Soviet Union.

Why the Clinton Administration would want to risk encouraging a U.S.–Russian rivalry on the order of the former conflict between the U.S. and the Soviet Union, even if unintentionally, is difficult to fathom. The ABM Treaty is as much a relic of the Cold War as the U.S.–Soviet rivalry. It would be a mistake of historic proportions to encourage the continuation of a Cold War strategic policy and the treaty that codifies it just because the policy is familiar. But that is exactly what the Clinton Administration is asking the Senate to approve.

- **ABM restrictions increase the risks associated with accidental or unauthorized missile launches from Russia or China.** Even supporters of MAD acknowledged from the outset that the policy was not equipped to address the possibility of nuclear missile strikes launched by accident or without authorization. The cautious behavior of Soviet leaders and the tightly controlled Soviet nuclear command-and-control system made the likelihood of such launches appear very remote;

2. Fortunately, the strategic modernization program undertaken by the Reagan Administration in the 1980s made U.S. retaliatory forces survivable enough that Soviet leaders never obtained a high level of confidence, even with the lack of U.S. defenses, that they could undertake a successful first strike.

this shortcoming of the MAD policy, therefore, was deemed an acceptable risk.

However, with the Soviet Union gone and Russia's military in a state of disarray, some believe that the risk of an accidental or unauthorized missile launch from Russia actually may be higher.³ This alarming conclusion can be drawn from events that took place in 1995. At that time, although the American people generally are not aware of it, the United States faced the greatest threat of nuclear attack since the Cuban Missile Crisis of October 1962.

On January 25, 1995, a scientific rocket was launched from Norway into space. The rocket's payload contained instruments for studying the *aurora borealis*. The Norwegian government had notified the Russian Foreign Ministry of the launch plan well in advance of the launch date, but the Foreign Ministry failed to pass this information on to the Russian Ministry of Defense. As a result, Russian military authorities initially misinterpreted the launch as a missile attack heading for Russian territory.

This precipitated a nuclear alert that caused Russian President Boris Yeltsin and the chief of the Russian General Staff, General Mikhail Kolesnikov, to open their nuclear control briefcases (the so-called footballs) and consult each other via hot line. The two men were on the verge of initiating a launch sequence of Russia's awesome nuclear forces on the basis of a misinterpretation of the Norwegian rocket launch.⁴

Such a mistaken launch of Russia's nuclear forces, had it occurred, certainly would have targeted the United States. Because President Clinton observed ABM Treaty limitations as a matter of policy and prohibited the deployment of an effective national missile defense system, the United States did not have the abil-

ity to counter even a single missile launched at its territory. The only option, other than inaction, would have been to assume hostile intent on the part of the Russian government and respond in kind.

This is how the MAD policy could result in a nuclear holocaust even in the absence of hostilities. Nevertheless, President Clinton is asking the Senate to revive the ABM Treaty so that this increasingly risky policy of vulnerability can be sustained.

The extent to which the same risk of an accidental or unauthorized missile launch extends to the Chinese government has not been widely discussed in public, and there has been virtually no public debate on the reliability of the Chinese nuclear command-and-control structure. The lack of attention paid to China may reflect an assessment by the intelligence community that China's nuclear command-and-control structure is in better shape than Russia's. It also could reflect a mere assumption that the Chinese system is more reliable.

Given that millions of American lives hang in the balance, however, it would be extremely imprudent to retain a policy of vulnerability based on such an assumption. Yet this is exactly what the Clinton Administration could be asking the Senate to do in reviving ABM Treaty restrictions.

- **ABM restrictions leave the United States unable to respond to the growing threat of missile-systems proliferation among rogue states.** Missile technology is now over 50 years old. Thus, the widespread proliferation of missile systems throughout the Third World, including rogue states, is an inevitable reality. Americans witnessed the proof of this live on their television screens when the Iraqi government launched missile barrages at Israel and Saudi Arabia during the Persian Gulf War.

3. Bruce Blair, "Who's Got the Button?" *The Washington Post*, September 29, 1996, p. C1.

4. For a detailed description of this incident, see Peter Vincent Pry, *War Scare: Nuclear Countdown After the Soviet Fall* (Atlanta, Ga.: Turner Publishing, 1997), pp. 243-310.

Today, more than 20 Third World countries possess ballistic missiles.⁵ These include such rogue states as Iran, Libya, and North Korea. While none of these countries yet possesses missiles of sufficient range to reach U.S. territory (like those now in the arsenals of China and Russia), such missiles likely will be available to them within a few years. Indeed, the July 15, 1998, report of a commission chaired by former Secretary of Defense Donald Rumsfeld to assess the missile threat concluded that a rogue regime might well deploy, with little or no warning, a missile capable of threatening U.S. territory.⁶ The urgency of the problem was underscored by the series of nuclear tests undertaken by India and Pakistan in May. Those tests proved that proliferation is not confined to ballistic missiles, but extends to nuclear weapons fitted for those missiles.

To put the current missile proliferation problem in perspective, it is helpful to recall the Cuban Missile Crisis of 1962. The Kennedy Administration was so alarmed by the threat posed by a rogue nation possessing missiles capable of reaching U.S. territory that it went to the brink of nuclear war with the Soviet Union to reverse the installation of these weapons in Cuba.

In the coming decade, the United States could face the equivalent of multiple Cuban missile crises. Yet the Clinton Administration is prepared to ask the Senate to revive a treaty that will bar the United States from fielding a defense system to protect U.S. territory against these multiple threats. Although the ABM Treaty was designed to maintain a posture of vulnerability to the Soviet Union, and to a lesser degree to China, it inevitably establishes

the same posture toward all rogue states that obtain missiles capable of reaching U.S. territory.

Regarding the policy of U.S. vulnerability to missile attack in an era of proliferation, Henry Kissinger, who served in the Nixon White House when the ABM Treaty was signed, put it best in a recent opinion column in *The Washington Post*:

The nuclear explosions by India and Pakistan have knocked the last prop out from under the administration's doctrinaire opposition to ballistic missile defense. During the Cold War it was possible to argue that mutual vulnerability guaranteed military restraint. But in a world of multiple nuclear power centers, that argument—which I always rejected—lacks any merit. It is reckless to stake the survival of a society on its vulnerability or on genocidal retaliation—even against an accidental launch. National and theater missile defense must become a higher national priority.⁷

- **ABM Treaty restrictions impose limits on the kinds of cooperative efforts the United States can undertake with its friends and allies in the area of missile defense.** Article IX of the ABM Treaty bars the transfer of ABM systems and system components to other states. Yet missile proliferation has posed an even more immediate security threat to the territories of U.S. friends and allies than to the United States itself.

5. For detailed descriptions of missile proliferation trends, see Department of Defense, "Proliferation: Threat and Response," April 1996; Kim R. Holmes and Thomas G. Moore, eds., *Restoring American Leadership: A U.S. Foreign and Defense Policy Blueprint* (Washington, D.C.: The Heritage Foundation, 1996), pp. 271–279; Director of Central Intelligence, "The Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions," June 1997.

6. Commission to Assess the Ballistic Missile Threat to the United States, "Executive Summary of the Report of the Commission to Assess the Ballistic Missile Threat to the United States," July 15, 1998.

7. Henry Kissinger, "India and Pakistan: After the Explosions," *The Washington Post*, June 9, 1998, p. A15.

Israel, for example, is surrounded by such hostile states as Iran, Iraq, and Syria. All three of these countries are attempting to obtain more sophisticated ballistic missiles. As a result, Israel desperately needs advanced missile defense systems and components. But under Article IX, which would be carried forward essentially unchanged by the MOU, the U.S. is barred from sending Israel certain ABM components, some of which could be of use in protecting Israel's security.

Other U.S. friends and allies, including Japan, certain NATO countries, and South Korea, are facing similar threats. The United States should be improving missile defense capabilities in these friendly and allied countries if only because it may have to deploy American forces to these countries in the face of serious missile threats.

- **As in the past, the ABM Treaty will not serve its stated purpose of limiting the size of offensive nuclear arsenals.** Defenders of the ABM Treaty base their strongest convictions on the proposition that the treaty, with its accompanying lack of missile defenses, encourages reductions in offensive nuclear armaments. But history shows that ratification of the ABM Treaty was followed by a rapid rise in the number of strategic nuclear weapons in the arsenals of both the United States and the Soviet Union. The Soviet strategic nuclear arsenal, for example, grew from just over 2,000 deliverable warheads in 1972 (the year the ABM Treaty was ratified) to over 12,000 by 1990.

The Clinton Administration no doubt will claim that Senate rejection of the MOU will halt offensive reductions. Specifically, the Administration is virtually certain to charge that rejecting the MOU means also killing the Strategic Arms Reduction Treaty II (START II), under which U.S. and Russian strategic nuclear arsenals would be reduced to no more than 3,500 deliverable warheads on each side. Such an argument, however, ignores the fact that START II has not been ratified because the

Russian Duma has chosen not to take up the treaty for consideration.

The Administration also will fail to acknowledge that it foolishly reversed Reagan and Bush Administration policies of separating ("de-linking") the consideration of START from matters related to the ABM Treaty. In response to these charges, members of the Senate should ask the Administration whether the record on offensive reductions following ratification of the MOU would be as auspicious as that during the period following ratification of the ABM Treaty.

- **ABM Treaty restrictions involve purely artificial distinctions between tactical and theater missile defenses and strategic missile defenses.** The ABM Treaty implied there is a difference between tactical and theater missile defenses (those used to defend U.S. overseas forces and allies against shorter-range missiles) on the one hand and strategic missile defenses (those meant to defend U.S. territory against long-range missiles) on the other. It did so by imposing restrictions on the latter but not the former.

The Senate must recognize that such a distinction makes neither strategic nor technological sense. The United States today faces a global threat of missile attack by missiles of varying ranges. Therefore, it needs to deploy a global missile defense system that is not hampered by the artificial distinction implied by the ABM Treaty. Technologically, a system like the Brilliant Eyes sensor satellite will support interceptors capable of destroying missiles of all ranges.

Two additional agreements, also signed by Clinton Administration representatives in New York last September, attempt to define the difference between strategic and theater defenses.⁸ Thus, the two agreements will create a new version of this artificial distinction and permanently hamstring U.S. missile defense programs.

- **The alternative of a “treaty-compliant” deployment of national missile defenses is a dead end because it ensures that effective missile defense technologies remain permanently in the research and development stage and are never deployed.** Defenders of the ABM Treaty and its reincarnation, the MOU, are quick to point out that the treaty did not prohibit missile defenses. They state (correctly) that the original ABM Treaty limited only the kind and number of such systems that the United States may develop, test, and deploy.

Indeed, a treaty-compliant approach to developing and deploying a missile defense system is what the Clinton Administration supports.⁹ This approach, however, will be a dead end for three reasons:

1. **It cannot provide protection to all U.S. territory because Article I of the ABM Treaty, as carried over in the MOU, prohibits it.** Deploying a system that, by definition, will leave some Americans undefended is certain to face fatal political opposition. The Alaska legislature warned the federal government against this approach in May of last year when it adopted a resolution demanding that the federal government develop and deploy a missile defense system capable of defending *all* Americans on an equal basis.¹⁰ Alaska’s representative in the U.S. House of Representatives, Don Young, has introduced a resolution making the same

demand.¹¹ Language from this resolution has been incorporated in the House version of this year’s Defense authorization bill.¹²

2. **Article VI of the treaty, and by extension the MOU, bars upgrading theater missile defense systems to give them the capability to defend U.S. territory.** This provision bars the most cost-effective approach to deploying a limited national missile defense system in the near term, an upgrade of the Navy’s “Upper Tier” theater defense system. This system would cost only some \$3 billion to deploy. Its mobile platform would allow it to meet the threat more efficiently and inexpensively than a fixed system could.
3. **Article V of the ABM Treaty, as extended by the MOU, bars all but fixed, ground-based ABM systems.** This provision bars not only the Navy Upper Tier deployment for national defense, but space-based defenses as well. Both sea-based and space-based missile defenses are required to obtain a truly effective defensive capability. That the ABM Treaty barred the deployment of an effective national missile defense system of any type is evident in the fact that since 1972, U.S. leaders have determined that the limited national defenses allowed by the Treaty were not worth maintaining. The same situation almost certainly would result from adoption of the MOU.

8. For a detailed description of these two additional agreements, see Baker Spring, “The Clinton Administration’s Dangerous ABM Agreements,” Heritage Foundation *Backgrounder* No. 1210, August 3, 1998.
9. The Clinton Administration’s approach would develop a system of ground-based interceptors such that a deployment decision could be made in 2000, with actual deployment to be completed three years following this decision.
10. For a detailed description of the resolution adopted by the Alaska legislature, see Baker Spring, “Alaska’s Missile Defense Appeal: A Model for Other States,” Heritage Foundation *Backgrounder* No. 1136, September 8, 1997.
11. For a description of this resolution, see Baker Spring, “House Resolution Tells the President: Defend All Americans from Missile Attack,” Heritage Foundation *Executive Memorandum* No. 530, June 2, 1998.
12. National Defense Authorization Act for Fiscal Year 1999 (H.R. 3616), §231.

MISSILE DEFENSES WITHOUT THE MOU

Defenders of the ABM Treaty, in the course of the debate over the MOU in the Senate, can be expected to pose the following question to proponents of missile defense: What is it that you want to do that requires abandoning ABM Treaty restrictions? This is a reasonable question and deserves a forceful answer.

The answer is found in a report first released by The Heritage Foundation in 1995, *Defending America: A Near- and Long-Term Plan to Deploy Missile Defenses*.¹³ This study proposes a missile defense architecture with global coverage, and therefore capable of defending all U.S. territory, U.S. military forces in the field, and U.S. allies against missile attack.

A first step toward such a defense would upgrade the Upper Tier system now under development by the Navy to defend against theater-range missiles. This initial deployment would field 650 interceptor missiles on 22 Navy ships. The next stage of the plan would deploy the Brilliant Eyes sensor satellite system, and later a combination of space-based interceptors and space-based lasers to provide a layered defense capability. As the report points out, however, this upgraded defense cannot be executed unless the United States obtains relief from the kinds of strictures imposed by the ABM Treaty.

Under the Clinton Administration's interpretation of the MOU, the deployment of an improved Navy Upper Tier system would breach the agreement in four ways.

1. It would violate the provisions of Article I, which prohibits deploying a national missile defense system capable of defending more than a small portion of U.S. territory.
2. It would violate the provisions of Article III of the treaty, as amended in 1974. This provision

limits the deployment of national missile defense systems to a single location.

3. It would violate Article V of the treaty, which prohibits development, testing, or deployment of national missile defense systems on sea-based platforms, among others.
4. It would violate Article VI of the treaty, which bars the upgrading of theater defense systems to give them a national missile defense capability.

The deployment of space-based interceptors and space-based lasers, under current interpretations of the ABM Treaty and the MOU, would violate three of the four treaty provisions standing in the way of the Upper Tier program. Specifically, these space-based systems would be capable of defending all U.S. territory (a violation of Article I); would be deployed in more than one defined location (a violation of Article III); and would be deployed in space (a violation of Article V).

In short, the proponents of missile defense have an eminently reasonable plan for meeting the nation's missile defense needs. The primary obstacle to implementing this plan is the Clinton Administration's determination to continue the ABM Treaty. As a result, the Administration's national missile defense plan contains no commitment to deploy anything, is more expensive for the level of protection it would provide, and is less capable than what otherwise could be built.

CONCLUSION

From its inception, the ABM Treaty has been incompatible with deployment of an effective missile defense system, despite the arguments of some that a treaty-compliant approach to deployment was available. This will remain true if the MOU is ratified.

It has been difficult to argue that deployment of an effective missile defense system is incompatible with the ABM Treaty, however, because few realis-

13. Missile Defense Study Team, *Defending America: A Near- and Long-Term Plan to Deploy Missile Defenses* (Washington, D.C.: The Heritage Foundation, 1995).

tic opportunities to free the United States from the treaty have materialized. The only previous opportunity occurred following the discovery of the illegal Krasnoyarsk radar facility in the Soviet Union and the admission that this facility was a purposeful violation of the treaty.

Now, after the collapse of the Soviet Union, the end of the Cold War, and the determination that the treaty has lapsed as a legally binding obligation, the Senate has both the opportunity and the responsibility to debate the merits and shortcomings of the ABM Treaty.

The Senate should embrace this opportunity for several reasons. First, it provides a means to educate the American public about the alarming vulnerability of the United States to missile attack

under the provisions of the ABM Treaty and its successor, the MOU. Second, it is an opportunity to move U.S. national security policy in a new and secure direction.

To take advantage of these opportunities, members of the Senate must begin by acknowledging that the MOU signed by Secretary Albright works directly against the security interests of the United States. The ABM Treaty made little sense even during the Cold War. Adopting a new version of the same treaty makes no sense whatever in today's post-Cold War world.

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