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CHINA'S NUCLEAR AND MISSILE ESPIONAGE HEIGHTENS THE NEED FOR MISSILE DEFENSE

RICHARD D. FISHER, JR., AND BAKER SPRING

Developing and deploying a credible defense against ballistic missiles for Americans now must become an even higher national priority following revelations in the May 25, 1999, Cox Report that China soon will have the ability to threaten the United States with new nuclear missiles based largely on stolen or purchased U.S. technology. U.S. technology in the areas of missile motors, nuclear warheads, nuclear reentry vehicle design, and perhaps even warhead penetration aids are enabling China in the near future to begin to field at least three new modern intercontinental-range ballistic missiles (ICBMs) capable of reaching cities inside the United States.

According to the Cox Report, by as early as 2002 China could begin deployment of its new 5,000-mile-range DF–31 ICBM. From northern areas of China, this missile could reach the states of Washington and Oregon. Around 2005, China could field an 8,000-mile-range variant of this missile, the DF–41, which could hit most of the continental United States. Both ICBMs are expected to be modern, mobile missiles with solid-fuel motors, possibly armed with multiple warheads. China also is expected to deploy a submarine-launched ballistic missile similar to the DF–31. As the Cox Report and an earlier report issued by the Senate Select Committee on Intelligence make clear, China's missile program has benefited significantly from U.S. technology. In fact, China's new nuclear missiles may have not been possible without access to U.S. solid-fuel rocket motor technology, modern small nuclear warhead and nuclear reentry vehicle design, and missile-guidance technology.

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These disturbing revelations, especially when viewed in light of the volatility of U.S.–China relations and China's record of conducting provocative missile tests to pressure Taiwan and the United States, make it imperative that the United States develop and deploy a national missile defense (NMD) system as soon as possible. This means the Clinton Administration should abandon its adherence to the defunct 1972 Anti-Ballistic Missile (ABM) Treaty, which prevents the United States from developing effective missile defenses, and

increase funding for existing national and theater missile defense programs.

To counter China's new missiles, the United States should:

- **Perform an intercept test of an upgraded version of the Navy Theater-Wide (NTW) missile defense system in a way that responds to the threat from China.** The NTW system envisions 650 interceptor missiles to be deployed on 22 existing U.S. Navy Aegis cruisers around the world. Congress should require that the Department of Defense conduct an intercept test of this version of the NTW system against a target missile that has the flight characteristics of the long-range missiles China currently has under development. Considering the urgency of the threat, Congress also should require that this test take place no later than the end of fiscal year (FY) 2001. Finally, Congress should demand that the test demonstrate the capability of the NTW system to intercept a modern, long-range missile in the ascent phase of its flight before it can release multiple warheads, decoys, and penetration aids.
- **Revive the space-based interceptor (SBI) program.** The Clinton Administration canceled the SBI program in 1993. The emerging missile threat from China reveals this cancellation was a mistake. Congress should revive the SBI program by allocating $250 million of the money to be made available to NMD programs in FY 2000 to resuming the development of this technology. Congress also should require that the Department of Defense conduct a test of an SBI against a target missile that resembles the long-range missiles China currently has under development. In this case, the test should occur before the end of FY 2003. As with the test for the upgraded version of the NTW system, this test should demonstrate the capability to destroy long-range missiles in their ascent phase.

The Clinton Administration's policy of observing the ABM Treaty, in effect, blocks much-needed progress in both the NTW and SBI programs. In the latter case, there is no program at all. The alarming developments regarding China's use of U.S. nuclear and missile technology to modernize its strategic forces means there is no time to waste. The United States urgently needs to develop and deploy these two systems to address the emerging threat, or it runs the risk of being blackmailed by China with missiles designed with stolen U.S. technology.

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Early in the next decade, China will begin to field modern, long-range ballistic missiles that will be capable of reaching the continental United States. Two recent reports from the U.S. Congress explain in disturbing detail the ways in which China's missile programs have benefited from the theft of U.S. nuclear and missile technology secrets over many years. The most comprehensive report is that of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, chaired by Representative Christopher Cox (R–CA), which was issued on May 25, 1999.[1] A second important report was released in April by the Senate Select Committee on Intelligence.[2]

The sobering revelations in these reports, especially when viewed in light of the volatility of U.S.–China relations and China's record of conducting provocative missile tests to pressure Taiwan and the United States, make it imperative that the United States develop and deploy a national missile defense (NMD) system as soon as possible. This means the Clinton Administration should abandon its adherence to the defunct 1972 Anti-Ballistic Missile (ABM) Treaty, which prevents the United States from developing effective missile defenses, and increase funding for existing national and theater missile defense programs.

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1. *U.S. National Security and Military/Commercial Concerns with the People's Republic of China*, Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China (Washington, D.C: U.S. Government Printing Office, 1999). This paper will refer to this publication as the Cox Report.
2. Select Committee on Intelligence, United States Senate, *Report on Impacts to U.S. National Security of Advanced Satellite Technology Exports to the People's Republic of China (PRC), and Report on the PRC's Efforts to Influence U.S. Policy* (Washington, D.C.: U.S. Government Printing Office, May 1999). This paper will refer to this publication as the Report of the Senate Select Committee on Intelligence.

CHINA'S NEW LONG-RANGE BALLISTIC MISSILES

Today, China may have 18 to 26 DF–5 intercontinental-range ballistic missiles (ICBMs).[3] These missiles, with a range of 8,000 miles, are unwieldy due their use of liquid fuel, which takes a long time to fill. To remedy this deficiency, China's People's Liberation Army (PLA) is developing two new ICBMs and one submarine-launched ballistic missile (SLBM). Its most advanced missile program is the solid-fueled, 5,000-mile-range DF–31 ICBM, which would be capable of hitting the western United States. The Cox Report estimates this missile could be deployed by 2002.[4] The DF–31 is expected to be nearly identical to China's next SLBM, the JL–2, which recent reports indicate China intends to test this year.[5] If the test is successful, it will enhance the likelihood that the DF–31 will be deployed by 2002. Deployment of the JL–2 itself will take longer because China must complete building a new class of nuclear-powered ballistic missile submarine that will be quieter and faster and reach greater depths than China's current submarines.

In 2005 and beyond, it is likely that China will field the 8,000-mile-range DF–41 solid-fueled ICBM. This missile could target almost the entire United States from bases inside China. Both the DF–31 and DF–41 are expected to be mounted on mobile transporter-erector-launchers (TELs) developed with the help of technology from Russia.[6] Likely to be concealed within a network of mountainside caves, China's new missiles would be much more difficult to find, thanks to these TELs, and could be launched with much less warning for the United States. Both of the new ICBMs are expected to incorporate multiple independently targeted reentry vehicle (MIRV) warheads. This means a single missile based in China could threaten a number of cities or military targets inside the United States.

Impact of U.S. Technology on China's New Missiles

China's potential near-term ability to threaten the United States with modern, solid-fueled ICBMs armed with multiple warheads is a direct consequence of its access—illegal and legal—to U.S. technology. The Cox Report and the Report of the Senate Select Committee on Intelligence outline several areas in which stolen U.S. technology probably has assisted China's nuclear missile development programs and enabled them to advance much more rapidly than they otherwise could have. China has obtained U.S. information or technology in the specific areas of solid-fuel motors, nuclear warhead design, and missile guidance. In addition to becoming able to build new modern ICBMs, China also now has the ability to retrofit existing ICBMs to carry multiple warheads. U.S. technology has been instrumental to China's new ICBM programs in the following areas:

Solid-Fuel Motors. Access to U.S. solid-fuel missile technology is perhaps one of the most important elements that have enabled China to build

3. China has made no official statement about the size of its ICBM force. The estimate of 18 DF–5s comes from a leaked assessment by the U.S. Central Intelligence Agency. See Bill Gertz, "China Targets Nukes at U.S.," *The Washington Times*, June 3, 1998, p. A1. In 1998, China reportedly added 8 new DF–5s. Bill Gertz, "China Adds 6 ICBMs to Arsenal," *The Washington Times*, July 21, 1999, p. A1. This small number is viewed as confirming the "retaliatory" role of these missiles. Based on estimated production rates, others estimate China has produced 120 to 150 DF–5s. See Yang Zheng, "China's Nuclear Arsenal," National University of Singapore, March 16, 1996, at *http://www.kimsoft.com/korea/ch-war.htm*. Although this analysis is highly speculative and far exceeds "conventional" wisdom, some U.S. sources regard this latter estimate as plausible. See also the Center for Defense and International Security Studies, "New Information on the Size of China's Missile Force," on the Internet at *http://www.cdiss.org*.
4. Cox Report, Volume I, p. 186.
5. James Kynge and Stephen Fidler, "China Plans to Test Submarine-launched Ballistic Missile," *The Financial Times* (London), June 3, 1999, p. 1.
6. Bill Gertz, "Missile-related Technology Sold to Beijing by Belarus," *The Washington Times*, June 12, 1997, p. A9.

new modern, small-sized nuclear-capable ballistic missiles. China's existing ICBMs, like the DF–5, are somewhat less threatening to the United States because they are large, immobile, and use slow-loading liquid fuels. China now is able to make modern ballistic missiles, however, that have a high degree of flexibility and can be launched much more rapidly because it acquired U.S. solid-fuel technology in the course of commercial cooperation with a U.S. company. In 1994, with the approval of U.S. Department of Defense monitors, a U.S. corporation helped China to perfect its Perigee Kick Motor (EPKM), which "kicks" a satellite into a precise orbit. Prior to this help, the EPKM failed repeatedly because of poor motor wall insulation.[7] U.S. know-how apparently helped to solve the problem. According to a Chinese former rocket motor engineer, this new knowledge was applied quickly to the motors of China's DF–21 intermediate-range ballistic missile (IRBM) and the DF–31 ICBM. According to this defector, before the U.S. assistance, the DF–21 had a record of failure and the DF–31 program was at a standstill.[8]

Nuclear Warhead Design. Equally important to China's new ballistic missiles as U.S. solid-fuel motor technology is U.S. technology for making small, accurate nuclear warheads. China has had to rely on large, unwieldy liquid-fueled missiles in part because it could not build small, lightweight nuclear warheads. The Cox Report details the ways in which, most likely since the late 1970s, China has infiltrated agents into U.S. nuclear laboratories who have "stolen classified information of every currently deployed thermonuclear warhead in the U.S. ICBM arsenal."[9] The Cox Report concludes that China's next-generation small nuclear warheads will emulate U.S. designs, most likely either the W–70 Lance warhead or the W–88 Trident D–5 warhead. China also has stolen very important "legacy codes" that are critical to testing the reliability of nuclear weapons by computer without the need to detonate a nuclear device. This stolen information could have saved China 2 to 10 years of effort.[10]

Warhead Accuracy. Thanks again to technology stolen from the United States, China's new nuclear warheads will be much more accurate. Along with information on the nuclear payload of the warhead, China also obtained information on modern U.S. reentry vehicles. The shaping of warhead reentry vehicles is essential to improving the accuracy of such nuclear warheads, and increased accuracy is needed to compensate for the reduced nuclear yield of the smaller-sized warhead. A brochure of the Beijing Institute of Aerodynamics shows China's small, modern shape reentry vehicles in development.[11] In contrast with China's early nuclear reentry vehicles that were large and blunt, and thus less accurate, the new warheads will feature sharp conical bodies characteristic of modern, accurate reentry vehicles.

7. Report of the Senate Select Committee on Intelligence, p. 11.
8. The engineer's account was relayed by *Reader's Digest* Contributing Editor Kenneth Timmerman at a May 26, 1999, forum at The Heritage Foundation, "China's Espionage: Impact on U.S. Security."
9. Cox Report, Volume II, p. 67. These include the W–88 warhead used on the Trident D–5 SLBM; W–87 warhead used on the Peacekeeper ICBM; W–78 warhead used on the Minuteman III ICBM; W–76 warhead used on the Trident C–4 SLBM; W–70 warhead used on the Lance short-range ballistic missile; W–62 warhead used on the Minuteman III ICBM; and the W–56 warhead used on the Minuteman II ICBM.
10. Carla Ann Robins, "China Got Secret Data on U.S. Warhead," *The Wall Street Journal*, January 7, 1999, p. A3.
11. Brochure, Beijing Institute of Aerodynamics, pp. 20, 25. This brochure was obtained at the November 1998 Zhuhai Air Show in China. Pictures from the brochure of China's new, small nuclear warheads in development are available on an exclusive Heritage Foundation Asian Studies Center Web site report on the Zhuhai Air Show at *http://www.heritage.org/exclusive/zhuhai/*.

Multiple Warhead Delivery. U.S. technology also has been critical to enabling China to develop MIRVs. To increase their effectiveness against a larger number of targets, most modern ICBMs are equipped with these MIRV warheads. MIRV delivery requires an advanced warhead "bus" that is able to point and release warheads with precision. Although it does not appear that any stolen or purchased U.S. technology has helped China to develop such a warhead bus, commercial interaction with a U.S. satellite maker did provide China the impetus to build a Smart Dispenser that allows a single space launch vehicle to place multiple satellites in orbit. The technology required for the satellite Smart Dispenser is virtually identical to that needed for a MIRV bus. To date, Motorola has launched 12 of its Iridium communication satellites from China's Long March LM–2C/SD rockets that use the Smart Dispenser bus. According to the Chinese engineer mentioned earlier, the Smart Dispenser project was moribund until it was revived by commercial funding from U.S. firms. The Report of the Senate Select Committee on Intelligence concludes that commercial interaction with a U.S. company had a "pulling effect" on China's satellite Smart Dispenser program.[12]

Because of its progress in building small, accurate nuclear warheads and its development of a satellite Smart Dispenser that can be converted to a MIRV bus, China now has the option to retrofit its existing 8,000-mile-range DF–5 ICBMs to carry multiple warheads. In fact, the Long March LM–2C/SD used to launch the communication satellites is only a slightly modified DF–5 ICBM. Outfitting China's estimated 26 DF–5s with an 8-warhead MIRV bus would increase the number of nuclear weapons carried by the DF–5s from 26 to 208.

Missile Design, Testing, and Reliability. In the course of commercial cooperation with U.S. companies, China has acquired information that can improve the design, testing, and reliability of its satellite space launch vehicles—information that can be used to improve current and future strategic missiles. Following the failure of two Long March launches in 1992 and 1995 that destroyed satellites made by a U.S. company, China was given information to improve the cone, or "fairing," atop the missile that covers the satellite.[13] This same information could be used to build better fairings for MIRV ICBMs. China also received analysis of the ways in which stress affects missiles, thereby helping it to improve the reliability of future missiles.[14] In the course of the review of the February 14, 1995, failure of a Long March LM–3B launcher, which also destroyed a U.S. company's communication satellite, China was given information that could improve the reliability of missile inertial guidance systems and diagnostic processes that could reduce the failure rate of future missiles.[15]

A DEFENSIVE RESPONSE

The impending improvements to China's missile arsenal carry several important implications for the future of the U.S. NMD program. First and foremost, China's advances increase the urgent need for missile defense just to address the threat to the United States and it allies. It is clear that China's strategic nuclear missile arsenal of the future will be mobile—deployed on trucks or submarines—and therefore more difficult to target with offensive forces. This is not to say that U.S. offensive strategic forces will have no role in holding China's missile arsenal at risk;[16] instead, it acknowledges that the technology for making U.S. offensive weapons capable of countering missiles mounted on trucks

12. Report of the Senate Select Committee on Intelligence, p. 6.

13. Cox Report, Volume II, pp. 85, 86, 90–93.

14. *Ibid.,* pp. 72, 73.

15. *Ibid.,* pp. 166, 214, 215.

and advancements in anti-submarine warfare are not yet sufficient to counter China's emerging missile threat effectively. Missile defenses are the logical near-term answer to the mobile missile threat.

The second implication is that the U.S. missile defense program will have to accelerate the development and deployment of systems that are capable of destroying ballistic missiles in their ascent or boost phases. It is clear that the ability to build smaller nuclear warheads will allow China to mount more than one warhead on each missile. It also is likely that China's future missiles will include decoys and penetration aids that can be used to overwhelm or fool certain kinds of missile defense systems.

Ascent-phase Missile Defenses

The missile defense systems that are susceptible to being overwhelmed or deceived are those that perform intercepts in the midcourse or terminal phases of a ballistic missile's flight, after each warhead, decoy, or penetration aid has separated from the booster. On the other hand, a defense capable of intercepting missiles in their ascent phase—or, even better, their boost phase—could destroy a missile before individual warheads and decoys or penetration aids could be released. Thus, an ascent-phase defense would undermine the military purpose of deploying multiple warhead missiles that included decoys or penetration aids.

There are several additional reasons that a boost-phase missile defense system is preferable. First, during its ascent phase, and even more so during its boost phase, a ballistic missile travels fairly slowly. It also emits a large plume of heat and light at this stage. Taken together, these two characteristics of ballistic missile flight make such a missile relatively easy to track and target, and therefore intercept, during these early stages of flight. Moreover, a boost-phase defense could be coupled with midcourse and terminal defense systems to provide a layered defense capability. This layered system would provide the opportunity to shoot at the attacking missile several times during the course of its flight. Obviously, a multiple-shot defense would be more capable than a single-shot defense, particularly against the kinds of sophisticated missiles that carried multiple warheads, decoys, and penetration aids.

Countering China's Nuclear Strategies

Finally, an ascent-phase defense would provide the United States with the greatest leverage for countering what may be China's emerging nuclear strategy. Because of the small number of deliverable strategic nuclear warheads currently in China's arsenal (several dozen) and the low alert status of the missiles (indications are that, on a day-to-day basis, the missiles are neither mated to their warheads nor fueled), the speculation is that China has adopted a "limited deterrence" nuclear strategy. Such a strategy assumes that China's leaders see their nuclear arsenal as essential to deterring enemy attacks by maintaining a capability to inflict unacceptable damage in a retaliatory strike.

China's strategic modernization effort, however, may signal the intention of its leaders to jettison their existing strategy of limited deterrence in favor of a more aggressive strategy to actually fight a nuclear war.[17] If China is pursuing such a strategy, its success will depend on obtaining a more survivable strategic nuclear arsenal that is appropriate for warfighting against perceived regional rivals and for deterring a U.S. military response. It almost certainly would involve targeting Taiwan with nuclear weapons and even Japan, a strong ally of the United States. Most important, it would target U.S. territory in an attempt to deter a U.S. intervention to protect its friends and allies in Asia. Ascent-phase missile defenses, which are capable of protecting both U.S. territory and U.S. allies, would directly undermine the viability of China's more threatening potential nuclear strategy. In ideal circumstances, the deployment of

16. Among the highest research and development priorities of the Department of Defense should be the creation of both nuclear and conventional weapon systems that are capable of locating and destroying ballistic missiles mounted on trucks.

17. Cox Report, Volume 1, pp. 192–194.

such defenses could serve to persuade China's leaders to retain the less threatening nuclear strategy they are thought to have today.

First from the Sea

The Heritage Foundation released a report in March 1999 that was prepared by a panel of experts on missile defense chaired by Ambassador Henry Cooper, the former director of the Strategic Defense Initiative Organization (SDIO) in the Bush Administration.[18] The missile defense plan outlined in the Heritage study would give a limited capability for countering ballistic missiles in their ascent phase (prior to the release of individual warheads, decoys, or penetration aids) by the deployment of sea-based interceptors.[19] A much more robust boost-phase intercept capability could be achieved from the later deployment of space-based interceptors (SBIs) and space-based lasers (SBLs).[20]

To field a global, sea-based ballistic missile defense system, the Heritage experts recommend upgrading what is called the Navy Theater-Wide (NTW) system for defending against IRBMs. The cost of acquiring 650 interceptor missiles, to be deployed on 22 existing U.S. Navy Aegis cruisers, would be about $3 billion. With streamlined management, this system could be deployed as early as 2003. An undated and unclassified summary of a classified study undertaken by the Department of Defense's Ballistic Missile Defense Organization (BMDO) confirms that the NTW system could be refined and adapted for intercepting long-range missiles of the type China is working to modernize. Making the NTW system fully capable also would require that it be supported by a constellation of sensor satellites deployed in low-earth orbit. This system, currently under development, and is called the Space-Based Infrared System–Low (SBIRS–Low). If the program were accelerated and managed as a national priority, this satellite constellation could begin operations as early as 2003 as well. It would cost some $5 billion to acquire.

Under certain circumstances, this enhanced NTW system would be capable of intercepting ballistic missiles in their ascent phase, and even their boost phase. The limitations on the NTW system's ability to perform ascent-phase and boost-phase intercepts are derived in part from the range of the target missile and the location of the Navy ship relative to the launch site of the target missile. Generally speaking, the longer the range of the target missile and the closer the ship is to the launch site, the more likely the NTW system is to intercept and destroy the target missile in the ascent or even boost phase. The NTW system has been hampered, however, by the Clinton Administration's policy of constraining the development and testing of the system. The Administration has reduced the velocity of the NTW system's interceptor missile and denied the use of external sensor data in the course of tests on the system.[21]

These restraints should be removed in order to allow a demonstration of the system's ability to counter missiles of the kind China soon will begin to produce. Specifically, Congress should require that the BMDO conduct an intercept test of the NTW system against a target missile with the flight characteristics of a modern ICBM in a way that demonstrates the ability to intercept the target missile in its ascent phase. The urgency of the threat dictates that this test should occur no later than the end of fiscal year (FY) 2001. Finally, the BMDO should be required to maintain the speed of the NTW interceptor at 4.5 kilometers per second to allow it to counter faster, long-range missiles, and to allow the use of external sensor data during the intercept tests.

18. The Heritage Foundation's Commission on Missile Defense, *Defending America: A Plan to Meet the Urgent Missile Threat* (Washington, D.C.: The Heritage Foundation, 1999).

19. *Ibid.,* p. 36.

20. *Ibid.,* pp. 38–39.

21. For a summary description of the restraints the Clinton Administration is imposing on the NTW system, see *ibid.,* p. 48.

And Then from Space

Building a more advanced capability for performing intercepts of long-range missiles in the ascent phase than what is available with the NTW system would require developing, testing, and deploying SBIs and SBLs. Both systems would have greater capabilities for defending against long-range missiles in the boost phase than an upgraded NTW system would. Because SBLs still are in the technology demonstration phase, the best option would be to resume the development and testing of SBIs, which could be deployed within five years for an initial investment of $4 billion to $5 billion.

The Clinton Administration cancelled the SBI program in 1993. Thus, it is up to Congress to revive the program. It could do so by allocating $250 million of the $836 million the Administration plans to make available for the development of an NMD system.[22] Congress should insist that the BMDO test an SBI against a target test missile with the flight characteristics of a modern ICBM similar to what China is working to develop, to demonstrate the interceptor's ability to counter such missiles in the ascent phase. This requirement would mirror the one proposed for the NTW system. In this case, however, the required test should occur no later than the end of FY 2003.

THE ABM TREATY

The primary reason the Clinton Administration has restrained the NMD program is its policy of honoring the ABM Treaty with the former Soviet Union. The ABM Treaty barred the deployment of a territorial NMD system. It also imposed a variety of restrictions on even the development and testing of certain kinds of missile defense systems, including those that could be deployed at sea and in space. It is likely that, for these reasons, China supports the ABM Treaty and even has suggested that it become party to the treaty.[23]

The ABM Treaty, however, no longer is legally binding, if for no other reason than the only treaty partner with the United States, the Soviet Union, no longer exists. No individual state or group of states—including Russia—is capable of assuming the obligations of the Soviet Union under the treaty.[24]

Despite the ABM Treaty's lack of legal standing, the Clinton Administration honors its terms on a unilateral basis. Further, it in effect is trying to revive the treaty through the adoption of a new treaty with four states, which was signed by Secretary of State Madeleine Albright on September 26, 1997. This new treaty contains many of the provisions of the old ABM Treaty, but would apply them to a new, multilateral setting. This new treaty requires the approval of the Senate prior to ratification. But the Administration has not transmitted the treaty to the Senate yet, let alone obtained its approval.

The tests of the NTW and SBI systems proposed above are not consistent with the Clinton Administration's policy. Enactment of these requirements by Congress effectively would end the Administration's policy. Such tests also would be inconsistent with the new multilateral treaty, at least according to the Administration's descriptions of the ways it intends to interpret and apply it if it is ratified. Thus, enacting these testing requirements would be tantamount to rejecting the new treaty because statutory requirements supersede the provisions of even ratified treaties, and certainly of treaties that have been signed but not ratified.

22. In fact, Congress may make more funds available to the NMD account in FY 2000 than what the Clinton Administration is requesting. The House version of the Defense Authorization Bill (H.R. 1401) would increase funding for NMD by $15 million.

23. "One on One, Ambassador Sha Zukang," *Defense News*, February 1, 1999, p. 22.

24. For a detailed explanation of the reasons the ABM Treaty no longer is binding, 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," The Heritage Foundation, June 15, 1998.

Although the two tests would not necessarily violate a provision of the ABM Treaty directly—if it remained in force—they would not be consistent with the Clinton Administration's "narrow interpretation" of the treaty.[25] The subsequent deployment of the upgraded NTW system and the SBI system generally would be viewed as inconsistent with the treaty, if it were still in force. As a result, the enactment of these testing requirements would signal that the United States no longer considered itself bound by the ABM Treaty and would codify in U.S. law the fact that the ABM Treaty has lapsed under international law.

Establishing these legal precedents, however, should not be the primary purpose of performing the tests of the NTW and SBI systems. The primary purpose should be to develop, test, and deploy the most capable missile defense technologies obtainable to counter the growing missile threat presented by China and other countries. Only in the absence of ABM Treaty–derived restraints would the United States become able to address the urgent missile threat from China and similar serious threats from such rogue states as Iran, Iraq, and North Korea. This is the reason it is important—indeed vital—that the United States abandon these restraints now. It is important to note that China never has been party to the ABM Treaty and always has been free to develop, test, and deploy any kind of missile defense system it is capable of producing.

CONCLUSION

A defensive response would be the most effective way to address the China's emerging missile threat. Doing so, however, would require that the existing program to develop and test the Navy Theater-Wide missile defense system be accelerated and expanded. The system should be upgraded to make it capable of intercepting long-range missiles in their ascent phase, before individual warheads and decoys could be released. Responding to the missile threat from China also requires that the Clinton Administration's decision in 1993 to cancel the space-based interceptor development program be reversed. This system, when deployed, would have an inherent capability to defend against long-range missiles in the boost phase.

The problem is that the Clinton Administration, because of its policy of observing the now-defunct ABM Treaty, is effectively blocking much-needed progress in both programs. In the case of space-based interceptors, the Administration has no program whatsoever. The alarming developments regarding China's use of U.S. nuclear and missile technology to modernize its strategic forces means there is no time to waste. The United States urgently needs to develop and deploy both the Navy Theater-Wide and space-based interceptor systems to address the emerging threat from China, or it runs the risk of being blackmailed by China with missiles designed with stolen U.S. technology.

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25. Under the "broad interpretation" of the ABM Treaty, which was U.S. policy during the Reagan and Bush Administrations, the testing of sea-based, and particularly of space-based, defenses against long-range missiles would be allowed under certain circumstances.