

LECTURE

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The 10th Anniversary of the Anti-Ballistic Missile Treaty Withdrawal

Abstract

The Anti-Ballistic Missile Treaty of 1972 prohibited the United States and the Soviet Union from testing or deploying national missile defense systems. Three months after 9/11, President George W. Bush gave notice to Russia of the U.S. intent to withdraw from the treaty. Ballistic missile technology was proliferating at an alarming rate, and Washington did not want to leave Americans vulnerable to such attacks. Without being bound by the treaty, engineers and scientists could finally innovate, and they have achieved significant advances in land- and sea-based defenses in the interim. On June 13, 2012, The Heritage Foundation invited nine national security experts to reflect on the circumstances that led to the U.S. withdrawal from the treaty a decade earlier.

This paper, in its entirety, can be found at <http://report.heritage.org/h1220>

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Looking around the room, I see as many people in the audience who were involved in overturning the Anti-Ballistic Missile (ABM) Treaty as are up here on stage. I appreciate all of you coming here today.

Ten years ago today, the U.S. officially withdrew from the Anti-Ballistic Missile Treaty. It is something many people—in this room, and others long before the George W. Bush Administration—had advocated. We at Heritage had long talked about it, dreamed of it, and worked to make it happen. Our work in missile defense goes back to the early 1980s, and one of our first studies was our well-known “High Frontier” report. Another notable effort was the 1995 report by our Missile Defense Study Group, also known as Team B, which specifically recommended that the U.S. overturn the ABM Treaty.

We are here to celebrate the 10th anniversary of this historic event. In retrospect, when we look back, people frankly thought we were out of our minds to think we could ever get out of this treaty. But many of

KEY POINTS

- In 2002, the United States officially withdrew from the Anti-Ballistic Missile (ABM) Treaty after 30 years of being party to a treaty that legally prohibited the country from protecting itself from ballistic missile attack.
- By the last decade of its existence, the ABM Treaty was not the cornerstone of arms control—it was the principal impediment to progress on arms control.
- While the U.S. now has the right to deploy a robust missile defense system, the policies of the Obama Administration have undermined progress in protecting the nation from the missile threats of Iran and North Korea.
- For the Obama Administration, vulnerability is a choice—it is an element of its feckless pursuit of the “nuclear zero” agenda and its failed promotion of reset with Russia.
- The U.S. must not repeat the mistakes of the past by getting locked into arms control agreements that prevent self-defense.

us believed otherwise, and because the Bush Administration had the courage to take that step, we have made significant progress on missile defense ever since.

To start this discussion, we have with us two distinguished gentlemen who were very involved in the decision to overturn the ABM Treaty. Ambassador Robert Joseph was the principal staff member on President Bush's National Security Council working on this issue. He also played a key role in the creation of the Proliferation Security Initiative and the Global Initiative to Combat Nuclear Terrorism. And, Bob was one of the key people working to convince Muammar Qadhafi to give up his weapons of mass destruction, which he did in 2003.

Bob Joseph also served as the President's Special Envoy for Nuclear Non-Proliferation, Undersecretary of State for Arms Control and International Security, and Special Assistant to the President and Senior Director for Proliferation Strategy, Counter-Proliferation, and Homeland Defense on the National Security Council. Today he holds the position of senior scholar at the National Institute for Public Policy.

Joining him is John Rood, currently vice president for business development at Raytheon. He also held numerous national security positions in the government—including at the State Department, Department of Defense, National Security Council, CIA, and on the Hill. John succeeded Bob Joseph as Acting Undersecretary of State for Arms Control and International Security before being named the Assistant Secretary of State for International Security and Non-Proliferation. On the National Security Council, John served as Special Assistant to the President,

and Senior Director for Counter-Proliferation Strategy.

Gentlemen, thank you for coming.

Keynote Address 1
Ambassador Robert Joseph
Senior Scholar, National Institute for Public Policy, and former Under Secretary of State for Arms Control and International Security

It's a pleasure to see so many of you here today. Our gathering has a feeling of a reunion and a celebration. Let me thank the organizers here at Heritage for the opportunity to provide this stage setter for today's session, which marks the 10th anniversary of U.S. withdrawal from the ABM Treaty.

It's most appropriate that I'm doing this with my friend and colleague John Rood, who played a vital role in the outcome and with whom I worked side by side to achieve the objective of our withdrawal. John and I have been asked to address the lessons learned from our experience in staffing President Bush as he led the U.S. withdrawal from the treaty beginning in the very first days of his Administration in January 2001 until the formal withdrawal in June 2002. What I will do is highlight a number of lessons from that experience that I believe remain relevant today, and then John will follow with a further elaboration, especially on the treaty's negative impact on our ability to develop and deploy missile defenses—not just against long-range missile threats, but across the board.

I know that all of the panelists will add to this, especially when we hear from Alison Fortier and Mira Ricardel about the progress we have made since our withdrawal in both the ground-based mid-course system, as well as with Aegis. While both John and I will draw from the past, we intend to be forward-looking.

Our value-added is connecting the lessons learned to the contemporary strategic debate.

Let me begin by recalling that, 10 years and one day ago, the U.S. was legally prohibited from protecting our nation against ballistic missile attack. Article I of the ABM Treaty was very explicit, committing each of the two parties—the U.S. and the Soviet Union—"not to deploy ABM systems for the defense of the territory and not to provide a base for such a defense." This obligation, as we all know, translated into the doctrine of mutual assured destruction, which remained the bedrock of our national strategic posture for three decades.

However, despite the dire predictions at the time, when we did withdraw from the treaty, the sky most definitely did not fall, and few today would openly suggest a return to the condition of a legally mandated vulnerability. Yet while we now have the right to develop and deploy a robust missile defense system, the policies and programs of the Obama Administration have undermined progress, in my view, in protecting our nation from the emerging missile threats from countries like Iran and North Korea. For the Obama Administration, vulnerability is a choice; it is an element of the feckless pursuit of the "nuclear zero" agenda and its failed promotion of reset with Russia. I will return to this point.

Let me start with the first lesson from our withdrawal. It's an obvious one, but the obvious often escapes those who work in the arms control arena—and that is, that it is extremely difficult to extricate ourselves from treaties that we have ratified, even if those treaties contain supreme national interest clauses that permit such an action. Today in discussions about the Comprehensive Test Ban Treaty,

which is often touted as an important step toward a nuclear-free world, we hear from arms control advocates that we can simply abrogate the treaty if in the future we determine there is a need to test.

Of course, all evidence is to the contrary. The ABM Treaty was in force from 1972 until 2002, and during the last 15 years—the last half of those three decades—three of four Presidents emphasized its negative effects on our national security and expressed the desire to seek relief from the constraints of the treaty. President Reagan criticized the treaty on both moral grounds as well as strategic grounds. His Strategic Defense Initiative was severely hampered by the basic prohibitions of the treaty on testing of mobile, maritime and space-based capabilities, including interceptors and sensors. While the interagency would at the time debate points of broad versus narrow interpretation in an attempt to expand what we could and could not do in the area of research and development, we stayed with the treaty at the expense of building effective defenses.

The first President Bush also sought relief from the treaty, and again without success. In his case, the most fundamental conditions had changed: the end of the Cold War, the dissolution of the Soviet Union, our treaty partner, and most important, the emergence of third country missile threats. Yet the lawyers at the State Department and elsewhere were quick to assert that Russia was the successor to the ABM Treaty and that the treaty remained in effect. Never mind that Russia was not the Soviet Union, or that Moscow was no longer the enemy. Even when President Yeltsin proposed, at the United Nations, a global initiative calling for protection against all

missile attacks, and President Bush offered the space-based Brilliant Pebbles program as the U.S. contribution, the treaty persisted, precluding the achievement of the objective of both the American and the Russian presidents at the time.

TO DENY REGIMES SUCH AS THOSE IN PYONGYANG AND TEHRAN THE ABILITY TO BLACKMAIL AND INTIMIDATE THE U.S. IN THE FUTURE, WE NEEDED TO DEPLOY DEFENSES, AND TO DO SO, WE NEEDED TO WITHDRAW FROM THE ABM TREATY.

Why did both Reagan and Bush 41 fail? The answer is clear: because there were always arguments to the contrary and those arguments prevailed. Withdrawal would mean that we would threaten progress in arms control; the allies would never accept it; congressional supporters would respond negatively; and on and on. There never seemed to be a good time to withdraw from the treaty. It was only under the leadership of President George W. Bush that we did withdraw. In his first year, he worked effectively to achieve this goal, which he saw as essential to protect our country. To deny regimes such as those in Pyongyang and Tehran the ability to blackmail and intimidate us in the future by holding our cities hostage, we needed to deploy defenses, and to do so, we needed to withdraw from the ABM Treaty.

For the second President Bush, the national security imperative of deploying missile defense against rogue state proliferators prevailed over the arguments that had been made by every Secretary of State from George Shultz forward. As late as November 2001, only weeks before President Bush announced

our intention to withdraw, Secretary Powell publicly advocated that we simply inform Moscow of the tests that we intended to perform and stay within the treaty.

This leads to the second lesson: To succeed, we needed to win the intellectual debate, and for the ABM Treaty this meant de-mythologizing the articles of faith that surrounded the treaty. John played the role of chief de-mythologizer from the day that he came on board at the National Security Council staff until the day of our withdrawal from the treaty. The ABM Treaty, after all, was based on the counterintuitive proposition that protecting the U.S. from missile attack was actually detrimental to our security. The belief was, if the U.S. and the Soviet Union did not deploy defenses, both would feel secure in their ability to destroy the other and therefore would not feel the need to build up their offensive nuclear forces.

Secretary of State Henry Kissinger, at the time of the ratification debate, actually praised the treaty by noting that it would give Soviet missiles a “free ride” to U.S. targets. Following ratification, the corollary was also frequently heard, and that was if the U.S. would dare to withdraw from the treaty, there would certainly and automatically be an arms race. Well, in fact, and to the contrary, the signing of the ABM Treaty ushered in the Soviet Union’s most ambitious expansion of nuclear forces, and as for withdrawal, Russian President Vladimir Putin’s announcement of large force reductions on the day that we announced our intention to withdraw put the stake through the heart of the arms race myth. In both cases, the demonstrated truth was the exact reverse of what treaty proponents had asserted.

Other now-discredited myths that surrounded the ABM Treaty were that defenses were too expensive and that defenses would never work, and as long as we stayed in the treaty, these were self-fulfilling propositions because its provisions, and the U.S. compliance process, ensured that we could not develop effective defenses, or even maximize the theater defense capacities, out of concern that they might possess what was called a theoretical capability against long-range missiles.

Looking back, it was easier—I think far easier—to get the acceptance from Russia of our withdrawal than it was from the die-hard treaty adherents at home and in allied countries who, in some cases, described the ABM Treaty as a “sacred document.” Perhaps this was because Moscow never really bought into the myths, and certainly did not buy into the sanctity of the treaty itself. Russia, once it concluded that we were serious about withdrawing from the treaty, accepted it. President Putin went so far as to state on the very day that we announced our intention to withdraw that the U.S. withdrawal was not a threat to Russia.

As for the true believers in Congress, academia, and elsewhere, the theological adherence to the treaty prevailed until the bitter end. It was only when the treaty went away—almost unnoticed—that these individuals and institutions went quiet; perhaps less because they were convinced by the facts than they were concerned about the potential embarrassment of continuing their arguments.

Not surprisingly, many of the same myths that accompanied the ABM Treaty now pervade the debate over the use of space in the U.S. missile defense architecture. Advocates,

both foreign and domestic, of an arms control agreement banning the militarization of space most often seek only to prohibit the U.S. from deploying interceptors in space on the grounds that such a capability would be “destabilizing,” unaffordable, and unachievable technically—all familiar assertions from the past. They seem much less concerned about the buildup of anti-space capabilities by Russia, China, and others that are the real threat to our ability to operate in space.

PRESIDENT OBAMA'S COMMENT TO PRESIDENT MEDVEDEV THAT HE WOULD BE MORE “FLEXIBLE” ON MISSILE DEFENSE AFTER THE U.S. PRESIDENTIAL ELECTION IS YET ANOTHER INDICATION OF THE ADMINISTRATION'S INTENT TO TRADE THE DEFENSE OF THE U.S. HOMELAND FOR A QUIXOTIC NUCLEAR ZERO.

The third lesson from the ABM Treaty experience is the need to overcome the bureaucracy, which under every Administration exerts a powerful influence over national security policy and is generally resistant to fundamental change. For the ABM Treaty, this included the State Department and our embassies abroad, which, whenever we asked, reflected the arguments of those who favored the treaty. This was not due to disloyalty to the new Administration, I believe, but rather to the prism through which they saw and evaluated the world. And State was not alone; after fighting for missile defenses in the 1960s, the uniformed military, up through the hierarchy to the Joint Chiefs of Staff, adopted the civilian-led commitment

to vulnerability, perhaps encouraged by the prospective budget impact of missile defenses.

The key for us was to exert control over the process and to do so immediately. If the new Administration was to succeed in achieving its goal before the bureaucratic antibodies asserted themselves, it was imperative to move quickly. That's exactly what we did: By mid-February the President had signed out presidential guidance entitled “Transforming Deterrence” that provided the new security framework in which the defense of the homeland against small-scale missile attack was central. At the more operational level, and within days of assuming office, new talking points were sent out by the White House to all departments and to all of our embassies; no longer would the ABM Treaty be the cornerstone of strategic stability. Instead, it was branded a relic of the Cold War. As you might suspect, it felt rather good writing those talking points and that presidential guidance, and even better when the President signed them out.

The fourth and final lesson from the ABM Treaty experience is that bad ideas in Washington rarely go away. If ever there was an example of the power of a bad idea, it is the ABM Treaty, which was based more, I believe, on intellectual arrogance and ideology than on sound strategic sense and the realities of the threats that face our nation. Today, while there are no vocal advocates of reinstating the ABM Treaty, there is an unmistakable creep backwards. The Obama Administration is taking us back to the era of vulnerability, to the defenseless posture of the past. This is reflected in positions taken by supporters of the Administration as well as by the President himself. There are growing indications of a

willingness to negotiate a demarcation agreement with Russia, an agreement that would define the technical boundaries between strategic and theater defenses.

This proposal, which was tried and failed in the Clinton Administration, would serve only to impede the development of all U.S. missile defense programs, which can only perform effectively when there is an integrated layered defense to protect the U.S. and our friends and allies. Moreover, the Obama Administration has spoken against homeland defense, not in its policy pronouncements, but in its funding of programs. Here, the Administration continues to underfund the defense of the homeland while favoring capabilities seen as less provocative or offensive to Moscow.

The imbalance is pronounced, with about four of every five dollars going to theater defenses, and with the cancellation of most programs intended to provide capabilities against future longer-range threats. Funding for the currently deployed ground-based system in Alaska and California has been dramatically reduced, and the test program, I believe, artificially constrained. While we're digging new silos, there is simply no money for more interceptors.

Finally, the President's off-mike comments to President Medvedev in March 2012 that he would be more "flexible" on missile defense following the U.S. presidential election provides yet another indication of the Administration's intent to trade away the defense of the U.S. homeland in pursuit of its quixotic quest for nuclear zero. Not surprisingly, Russian leaders have dusted off the old ABM Treaty line that we, the United States, must remain

vulnerable to their missiles for the sake of stability. What is surprising—I think disappointing is a better word—is that we have apparently acceded. Missile defenses, especially strategic defenses, are clearly a lesser priority than the arms control agenda of the Obama Administration.

Keynote Address 2 **The Honorable John Rood**

Former Acting Under Secretary of State for Arms Control and International Security

As I look around the room, it's great to see so many folks that I've had the chance to work with over the years on this particular topic. Actually, it feels like a gathering of the faithful back to church to work on our long-held project. There are so many people that played a role over a very long period of time in either supporting missile defense or trying to undermine the bases for the treaty and arguing for a more rational defense policy that it would take me quite a long time to recognize them all. I guess I could devote my whole remarks to testimonials, but suffice it to say that it's great to be back with everyone.

I want to thank The Heritage Foundation for putting together this event and giving me the chance to speak along with Bob Joseph. Before I begin my substantive remarks, I do feel the need to offer a brief disclaimer that the views I'll express are of course my own, my personal views, and shouldn't be associated with any organization that I'm affiliated with.

When we look back at the ABM Treaty and I look back to 10 years ago, more precisely to the date which is most memorable to me, which is 10 years and six months ago on December 13, 2001—the day when President George W. Bush made the formal announcement that the U.S.

had given six months' notice under the treaty's terms, Article 15, that the U.S. would be leaving the treaty. It was particularly memorable to me because at that time I was a Director working under Bob Joseph at the National Security Council and had the pleasure of watching President Bush make that announcement in the Rose Garden of the White House. I watched a tape of that announcement the other night and it really brought back all the emotions that I felt at that time.

As I stood in the Rose Garden, near the end of the President's first year in office, listening to him outline the reasons for U.S. withdrawal from the treaty, I obviously recognized the historical significance of the event and what that meant, and I felt very confident it would usher in a new era in which missile defenses would eventually be deployed to protect the U.S. I felt enormous pride and satisfaction that day that the goal that I and many others had worked so hard to achieve had finally come to pass, but, frankly, mostly I felt relieved and exhausted as I watched the reporters and cameramen rush into the White House Rose Garden—which is a rather small place, not much larger than the size of this room that we're in today—and as they rushed in to set up their footstools and ladders to climb up to videotape the ceremony and a handful of White House staff looked on, I really felt great about what was going on.

That's the way these modern announcements go in the age of television. The hundreds of cheering people that you might see in a movie—they're actually at home watching on television as these events take place. It had been a long slog to get to that point, and many times I wasn't sure we would get there. As I stood there watching the President make

his remarks, I felt like our work was still not done. Under a plan that Bob Joseph and I had crafted, U.S. officials were departing on planes to go around the world to explain the significance of the President's announcement. In my case, I was departing later that day for China and India to be a part of the delegations explaining to those governments why this decision had been taken.

I'd never worked as hard in my entire life as I did that first year at the NSC. Knocking off early meant meeting my wife for a 9 p.m. dinner appointment. I'd somehow miraculously persuaded her that it would be fine to put our toddler, my first child, to bed at 11 p.m. because she was a toddler and could sleep as late as she wanted the next day, and at least this way her father could see her for a little bit after he came home from the office each day.

I'd come to the National Security Council staff three months after President Bush had taken office when Bob Joseph hired me to work on missile defense, the ABM Treaty, and other counterproliferation issues. In hindsight, it may have seemed like a foregone conclusion to some that President Bush would make the decision to have the U.S. leave the ABM Treaty, but that certainly wasn't clear in early 2001 in the White House compound. President Bush had just given his first major national security address since being elected President at National Defense University in May, an address that Bob worked heavily on.

I barely knew Bob when I came to work for him in that office, but quickly grew to have enormous respect for his intellect, for his commitment, and, frankly, the honorable way that Bob always got things accomplished in the Administration.

I recall asking him, on my first or second day at work, about the phrase "move beyond the ABM Treaty"—which was prominent in the President's remarks—what did that mean. I thought that was an interesting formulation. Bob surprised me by saying that was something we still needed to define. It was a broad formulation that had been chosen to capture a range of outcomes to allow continued progress in the missile defense program, but modification of the treaty, phased withdrawal, or the option that I favored, complete withdrawal from the treaty in accordance with Article 15, all fell under this idea of "moving beyond the ABM Treaty."

TREATY OPPONENTS EXPLAINED THAT THE ABM TREATY CODIFIED A HOSTILE RELATIONSHIP WITH THE SOVIET UNION THAT WAS NO LONGER APPROPRIATE FOR THE KIND OF RELATIONSHIP THE U.S. WANTED WITH RUSSIA.

There were some influential players in the Administration, such as Secretary of State Colin Powell, who favored doing the minimum necessary to adjust the treaty to allow only those activities in the U.S. missile defense program that had "bumped up against the treaty"; that, until activities bumped up against the treaty, we would be content to live within it and we would try to manage this friction of bumping up against the treaty's restrictions—or so that point of view went. Those with this point of view argued for postponing adjustments to the treaty as long as possible, and reaching understandings with Russia to allow continuation in the near term of the U.S. missile defense program, and perhaps to seek modest amendments in the far term.

At the State Department, the Assistant Secretary for Arms Control and other senior officials in that bureau were holdovers from the Clinton Administration, and were responsible for implementing a policy during the Clinton presidency that described the ABM Treaty as the cornerstone of strategic stability. Of course, the Clinton Administration had approached the Russians about a three-phase plan to amend the ABM Treaty for only those changes that were needed at that point in order to allow the U.S. missile defense program to progress. After agreement on only those necessary changes, negotiations would immediately commence on the next phase of the treaty modification, according to the Clinton plan.

Secretary of Defense Donald Rumsfeld likened this approach to "cutting off the tail of a dog an inch at a time, hoping it doesn't hurt as much." Unsurprisingly, the Russians saw little upside to agreeing with the Clinton Administration on some changes to the treaty, only to be rewarded with more negotiations on yet more changes. They also correctly judged that the Clinton Administration would ultimately not leave the treaty. We had a bureaucracy, as Bob spoke of, in the government with 30 years of experience with the ABM Treaty that had conditioned their ways of thinking, and in most cases political appointees, like some of our speakers today—Doug Feith and Steve Rademaker—hadn't yet been nominated and confirmed by the Senate, and had therefore not taken their posts in the early days of the Administration.

I must say a few words about Bob's contribution. More than anyone in the Bush Administration, Bob Joseph is responsible for seeing us through to have this day to celebrate

10 years on the successful withdrawal from the ABM Treaty. Bob was the architect of the plans to do that, he was the intellectual engine that drove the policy changes, and from his perch at the White House as a coordinator, and particularly at that time with few political appointees anywhere in the Administration, that was the locus of control under which the new President could exert his authority over the Administration.

Bob understood, and impressed on me, several of the keys that led to success in getting out of the ABM Treaty. First, was the need to control the message from the White House and to push change from the top down. Second, the need to relentlessly articulate and advocate a fundamentally different policy approach than what had existed for the last three decades. And, third, to manage and think through all the details to give the President and other senior leaders confidence that we had a workable plan for getting out of the ABM Treaty.

We explained why the world had fundamentally changed since the treaty was signed in 1972; we explained that the ABM Treaty codified a hostile relationship with the Soviet Union that was no longer appropriate for the kind of relationship we wanted with Russia and that we didn't want a relationship that would continue to be premised on mutually assured destruction. We explained why the threats we faced 10 years ago and continue to face today from rogue states armed with weapons of mass destruction and ballistic missiles required us to have new capabilities like missile defenses.

We explained how missile defenses were not destabilizing—this had been the mantra for 30 years—but, rather, stabilizing, as we required

a contemporary deterrence. Along with U.S. offensive forces, missile defenses would be a key way how we deterred hostile states armed with missiles from attacking or blackmailing the U.S. And we explained why getting rid of a treaty that codified a fundamentally hostile relationship premised on maintaining the ability to destroy each other was not a good cornerstone for the kind of relationship we wanted to build with Russia.

We did this in national strategy documents, countless policy papers, talking points, press materials, memoranda, and other documents. I recall that, at the end of my first year, I had enough in my safe, about five feet tall, of the things that Bob and I had personally authored, to fill the entire shelf. On a good day we would do five or six papers a day. It was really quite a publishing house at that time.

**U.S. COOPERATION WITH ALLIES
UNDER THE PHASED-ADAPTIVE
APPROACH THAT THE OBAMA
ADMINISTRATION DEVELOPED
WOULD NOT HAVE BEEN POSSIBLE
WITH THE ABM TREATY IN PLACE.**

Yet, there was still a debate inside the Administration on how to proceed with the treaty. There were turning points that could have made history different. For example, at one point Bob asked me to draft a paper for Condoleezza Rice, then the National Security Advisor, which she had requested, about the changes needed to amend the treaty to allow the missile defense program to proceed to protect America. Now, Bob and I were naturally very concerned, as we thought she was receptive to arguments that Secretary Powell was making at that point about amending

the treaty rather than withdrawing from it.

I drafted a paper that examined each article of the treaty. For those unfamiliar with the ABM Treaty, it's a very well-crafted document. It was well done to achieve its purpose. Article 1 prohibits defense of each country's territory or an individual region. As modified in 1974, the U.S. had the ability to protect a missile field in North Dakota, while the Soviet Union maintained the ability to protect its capital of Moscow. Article 5 states that "each party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based." Pretty comprehensive coverage. Article 6 prohibited giving other systems capabilities to counter ballistic missiles. Article 9 said, "each party undertakes not to transfer to other states and not to deploy outside its national territory ABM systems or their components limited by the treaty." So, cooperation with allies was prevented.

When drafting this paper on necessary changes to the treaty, I focused on the minimum number of changes. So, an example of a change in Article 1 would be: Instead of arguing that the treaty "prohibited" defense of your territory, the necessary change would say that the treaty "permitted" defense of the national territory of the United States. Article 9 would need to be changed from prohibiting cooperation in missile defense transfers to other countries to "permitting" such transfers and the stationing of systems outside your national territory. Article 6 would need to be changed from prohibiting giving systems capabilities to counter ballistic missiles to "permitting" giving systems capabilities to counter.

When we were done with the paper, we noticed that a small number of word changes had the effect, unfortunately, of turning the treaty on its head and making its provisions mean the opposite of their original intent. In short, Bob and I argued that amending the treaty was simply not workable—a view that Dr. Rice became persuaded of after reading the paper. To my knowledge, she never again spoke of amending the treaty, because she simply deemed it unworkable because it had been properly crafted to achieve its purpose of preventing missile defenses.

There were other close calls, such as when Secretary Powell successfully persuaded others in the Administration to have Bob, John Bolton, and J. D. Crouch brief the deputy chief of the Russian general staff, General Yuri Baluyevsky, on the activities envisioned in the U.S. missile defense program to see if Russia could agree that in the near term the treaty could be preserved if Russia agreed that those planned activities were not in violation of the treaty.

After hearing what was planned by the U.S., General Baluyevsky said that such activities would clearly violate the treaty, which was, of course, true and the very point of the activity, and that Russia expected the U.S. to adhere to the treaty as long as we were party. Eventually the debate was won inside the Administration, and President Bush made the decision to leave the treaty and we've never looked back—at least not until this event today when we celebrate 10 years of the demise of the ABM Treaty.

Russian President Putin made his own statement on December 13, 2001, saying that U.S. withdrawal from the treaty did not threaten Russia's security. We later reached agreement on

the Moscow Treaty to cut deployed strategic nuclear warheads in the U.S. and Russia by two-thirds, once again showing that the theory behind the ABM Treaty was false, that the ABM Treaty did not prevent a massive arms race during the Cold War, and one did not ensue after its demise—even though *The New York Times* and other critics said this was what would happen. I've got a copy of *The New York Times* editorial page from that day titled "An Invitation to an Arms Race." Apparently the invitation got lost in the mail on the way to whoever the recipients were to be.

As Bob said, the Russians quickly moved to put the ABM Treaty behind us. I went with Under Secretary Bolton to Moscow very shortly after the end of the ABM Treaty, and our Russian interlocutor began the meeting by saying, "The ABM Treaty is behind us; let's move on to other work," and the Russians did quickly move on to other work. In the Doug Feith-Baluyevsky channel, which had been a hotbed of discussions about the treaty prior to its withdrawal, afterwards other topics were the dominant discussion items. The Russians did move on because they saw that the U.S. was serious about withdrawal, and they were prepared to move on to other topics with us.

Six months later, of course, the ABM Treaty withdrawal took effect on June 13, 2002, and one year after making the historic announcement of the U.S. withdrawal from the treaty, George W. Bush signed a National Security Presidential Directive (NSPD) making a decision to deploy a missile defense system to protect the U.S. and our allies for the first time—NSPD 23, which Bob and I had worked on, along with others, of course. We've obviously come a long way since that time, and it's tremendously gratifying to me to see

how much progress we've made in the missile defense program since then. These things would not have been possible with the ABM Treaty in place; that's just simply a fact.

Today we have a system including 30 ground-based interceptors in Alaska, sensors around the world, and a command and control system to protect the U.S. territory from missile attack that would have been prohibited by Article 1 of the ABM Treaty. We have a sea-based X-band radar and other X-band radars in Japan and Turkey and other sensors deployed outside our national territory that would have been prohibited by the ABM Treaty. Our cooperation with allies under the phased-adaptive approach that the Obama Administration developed would not have been possible with the ABM Treaty in place.

Our systems like THAAD are no longer dumbed down to prevent them from violating the treaty's provisions on giving systems "capabilities to counter." Perhaps most significant of all, as I say, the Obama Administration's phased adaptive approach would not have been possible under the ABM Treaty. The next version of the Standard Missile 3, called Block IIB, that is planned for deployment in Europe to protect the U.S. and Europe from ICBM attack would have been prohibited under the ABM Treaty.

But we have to be careful not to repeat the mistakes of the past and get locked into arms control agreements that would inappropriately prevent us from defending ourselves. We've just come too far to go back to failed approaches based on dumbing down our defenses like speed limits on our interceptors or others that some in the arms control community favor.

Today is a day to celebrate how far we've come and I think that that

progress is apparent to all. It's fun to take a moment to look back at some of the lessons learned, and as Bob said, I think really winning that ideological debate, pursuing that message effectively, and then capitalizing on the successes, are really some of the lessons that are learned. It's great to have the chance to spend this time with you today and have the opportunity to talk to you.

Kim Holmes:

On behalf of my colleagues here at The Heritage Foundation: I believe the country owes both of you a huge debt of gratitude for what you did on this issue. Thank you.

Panel 1—Missile Defense in the New Strategic Environment

Steven Bucci, PhD (moderator)
Senior Research Fellow, The Heritage Foundation

Our first speaker is the Honorable Doug Feith. Doug is an old friend of mine; we both arrived at the Pentagon almost the same day in July 2001, where he took over as the Under Secretary of Defense for Policy, a position most people look at as the number three civilian person in the Pentagon—though he would probably correct me about that—but his responsibilities were such where he was the primary advisor to Secretary of Defense Donald Rumsfeld and to the President for Defense Department–related international issues. Doug had also served in the Reagan Administration on the National Security Council and as a Deputy Assistant Secretary of Defense for Negotiations Policy. Doug has seen the development of these issues from a very important position in the Pentagon where that capability was developed.

He will be followed by the Honorable Steven Rademaker, who's

served all over the U.S. government. He's worked in the White House, the Department of State, the U.S. Senate and House of Representatives, and even the Peace Corps. He has worked as an Assistant Secretary of State in three different bureaus in that department, including the Bureau of Arms Control and the Bureau of International Security and Non-Proliferation, and he directed the Proliferation Security Initiative during one of those stints. So he also knows quite a bit about fighting proliferation and the battles that were introduced by our first two speakers.

Our last speaker of this panel will be Dr. Mark Groombridge, who works for Global Communications right now and was a Senior Policy Advisor in the Department of Commerce, but more directly to this subject, worked as an advisor to the Under Secretary of State for Arms Control and International Security and was the Counselor and Chief of Staff for the U.S. ambassador to the United Nations in New York. He has also worked at the CATO and American Enterprise Institutes.

Together these three gentlemen will give us quite an overview of the events of which we are celebrating the anniversary today.

The Honorable Douglas Feith
Director, National Security Strategies Center, Hudson Institute, and former Under Secretary of Defense

I want to join in the tribute paid to Bob Joseph by Under Secretary John Rood as being really the central player in this enormous decision by the U.S. government to radically change its approach to the nuclear weapons threat by abrogating the ABM Treaty and moving forward to develop missile defenses.

The George H. W. Bush and Clinton Administrations both took

the position that the ABM Treaty remained in force despite the dissolution of the Soviet Union, and a number of lawyers and commentators took a contrary position—I among them—that the treaty lapsed when the Soviet Union ceased to exist.

I was practicing law in the 1990s in a private law firm and a colleague, George Miron, and I did a lengthy analysis of the legal status of the ABM Treaty following the dissolution of the Soviet Union. That legal analysis became the basis for a lawsuit that we brought in federal district court representing 40 or so Members of Congress, in the House and Senate, challenging the Clinton Administration's assertion that the ABM Treaty remained in force. The court refused to rule on the challenge until further efforts were made by Administration officials and Members of Congress to resolve the issue in political channels. I think our argument had great power; it was essentially that there's a very longstanding principle of international law—one that makes a lot of common sense—that, if you have a treaty of a political nature between two states and one of those states ceases to exist, the treaty lapses automatically.

"Ceases to exist" is a much more important concept than simply "changes its government." Scholars of the history of Russia and the Soviet Union know that when Russia became the Soviet Union, Russia's international legal personality was not extinguished. There was a political revolution and a change in the name of the country, but it was the same country.

But when the Soviet Union, on Christmas 1991, dissolved, it dissolved pursuant to an agreement among what was known as the Commonwealth of Independent

States. All of those states, including Russia under Yeltsin, agreed that the Soviet Union ceased to exist and that none of those states was going to be the successor to the Soviet Union. This was obviously of great importance to the non-Russian republics who did not want Russia to assert later that it had the right to reincorporate those republics into the Russian empire.

Anyway, that was the basis of the legal analysis. But all that's now of only minor historical interest. When I became Under Secretary of Defense for Policy, rather early on Secretary Rumsfeld informed me that the President was not going to rely on any analysis that said that the treaty had lapsed by operation of law. He was going to act as if the treaty remained in force and America would withdraw from it according to its own terms. Those terms, as we heard from John Rood, were that either party had the right to withdraw with six months' notice to the other party, so it was in December 2001 that President Bush formally notified Russia that the U.S. would withdraw six months later from the treaty.

What was the strategic analysis that moved President Bush on this decision? As we just heard from Bob Joseph and John Rood, the George W. Bush Administration officials chose to emphasize that the end of the Cold War ended any rationale for the ABM Treaty, which was of course premised on the deep hostility between the parties to that treaty—the U.S. and the Soviet Union. But let's face it, the rationale for the ABM Treaty was dubious, not to say just flatly wrong, even during the Cold War. One can easily understand the political utility of President George W. Bush making his argument based on the end of the Cold War.

But here at The Heritage Foundation, I think it's important to point out that the idea that the ABM Treaty was not a good, sound, sensible moral and practical basis for American policy had its roots in the Reagan Administration, squarely during the Cold War. There were important people in that era with whom I worked who certainly deserve a mention as having contributed to the developing understanding that we needed to move away from the ABM Treaty even during the Cold War. People like Frank Gaffney, whom I see here, Richard Perle, Fred Iklé, Caspar Weinberger—just to name the people that I worked with at the Pentagon during the Reagan Administration; and of course there were others.

It's worth getting down to some basics. People who were not alive during those debates may be scratching their heads asking, what is this issue really about? Why do people think the renunciation of the ABM Treaty is important and why is it worth celebrating? I think the best person to turn to for wisdom on that score is Ronald Reagan, who explained in what was one of the most famous speeches of his Administration what was wrong with the ABM Treaty. I'll just read you a few sentences from this terrific speech that Ronald Reagan delivered, his so-called Star Wars speech, on March 23, 1983:

I've become more and more deeply convinced that the human spirit must be capable of rising above dealing with other nations and human beings by threatening their existence. Feeling this way, I believe we must thoroughly examine every opportunity for reducing tensions and for introducing greater stability into the strategic calculus on both sides. ...

Wouldn't it be better to save lives than to avenge them? Are we not capable of demonstrating our peaceful intentions by applying all our abilities and our ingenuity to achieving a truly lasting stability? I think we are; indeed, we must. ...

What if free people could live secure in the knowledge that their security did not rest upon the threat of instant U.S. retaliation to deter a Soviet attack, that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies?

I think it's crucial to pay attention to this to understand how deeply moral, and serious, and practical the objections to the ABM Treaty were. Notice that what President Reagan was talking about is that this concept of mutual assured destruction, that supposedly was a contribution to the stability of the balance of terror during the Cold War, was a concept that was troubling morally and did not serve the key practical interests that the world had in maximizing deterrence. He believed that if we moved away from mutual assured destruction toward the development of defenses against ballistic missiles, we could reduce the danger of nuclear war, we could serve the interests of maximizing deterrence, and in the event that deterrence failed, serve the extremely important interest of saving lives.

This is the moral heart of the issue that we're talking about today and it's the reason that people felt so intensely about this. This was not a mere bureaucratic debate; it was not a mere debate over a weapons system. It was a debate about the most profound, serious, humane concerns

that underlie national security policy deliberations.

Now, the George W. Bush Administration's strategic analysis was grounded in the nuclear posture review that we submitted to Congress in January 2002. As the Under Secretary, I was responsible for producing it, and the laboring oar was in the hands of a really brilliant colleague of mine, Keith Payne. Less than a week after providing this nuclear posture review to Congress, I testified about it before the Senate Armed Services Committee. I'll take a minute to read one or two sentences from that which will help explain the strategic rationale that we put forward from the Pentagon to support the kind of thinking that was being developed by Bob Joseph, John Rood, and others at the White House:

The Cold War system of two competing blocs has been replaced by a new system, one with a broad spectrum of potential opponents and threatening contingencies. The continuities of the past U.S.–Soviet relationship have been replaced by the unpredictability of potential opponents who are motivated by goals and values we often do not share nor well understand and who move in directions we may not anticipate. We no longer confront the severe but relatively predictable threats of the Cold War; instead, we've entered an era of uncertainty and surprise.

In this testimony, I went on to say:

Instead of our past primary reliance on nuclear forces for deterrence, we will need a broad array of nuclear, non-nuclear, and defense capabilities for an era of uncertainty and surprise.

The United States will transform its strategic planning from an approach that's been based almost exclusively on offensive nuclear weapons to one that also includes a range of non-nuclear and defense capabilities. In particular, because deterrence will function less predictably in the future, the United States will need options to defend itself, its allies, and friends against attacks that cannot be deterred.

The last piece of this testimony that I gave in February of 2002 that I want to highlight is:

We no longer consider a mutual assured destruction [MAD] relationship with Russia the appropriate basis for calculating our nuclear requirements. MAD is a strategic relationship appropriate to enemies, to deep-seated hostility, and distrust. Russia is not our enemy and we look forward to a new strategic framework for our relations.

So there was a clear-cut repudiation of MAD. While we didn't tend to highlight it at the time, it's extremely important to point out that the rationale for the repudiation of MAD was the one spelled out by Ronald Reagan decades before.

Missile defenses used to be highly controversial. It is a happy development that they are less controversial now—although the work is not over in this area. It is interesting that when President Obama came in and brought into office a whole bunch of people who had been rather outspoken in their criticism of missile defense, they came around, when they had real responsibility, to understanding the importance of missile defense. While they're doing

things that I think could be justly criticized, it's important to point out that a lot of the fundamental arguments about missile defense have been laid to rest. There is now consensus on the importance of developing missile defenses. One can quibble about how to do it, which way to do it, what's the right architecture, but the fundamental point that missile defenses contribute to stability, contribute to better alliance relations, and are the more moral way to approach the risks of nuclear weaponry, I think that's now established. I think that helps. It will help us as we continue to have to deal with nuclear threats from countries like Iran and North Korea.

HISTORY WILL SMILE ON THE DECISION BY PRESIDENT GEORGE W. BUSH TO WITHDRAW FROM THE ABM TREATY AND PUT OUR ENTIRE NUCLEAR POSTURE ON A SANER, MORE MORAL, AND MORE PRACTICAL BASIS.

In conclusion, I would simply say that I believe history will smile on the decision by President Bush to withdraw from the ABM Treaty and put our entire nuclear posture on a saner, more moral, and more practical basis.

The Honorable Stephen Rademaker

Principal, Podesta Group, and former Assistant Secretary of State for Arms Control, Nonproliferation

I, too, am privileged and honored to be here with so many former friends and colleagues who worked on this project at this commemoration of a very important event. Like John Rood, I'm another one of those people who was not in the

Bush Administration at the time this decision was made; I was on the staff of the House Foreign Affairs Committee for almost 10 years prior to the decision on ABM, and then I joined the Bush Administration in the area of arms control. My perspective therefore is really on what came before the decision, and I have some thoughts on what came after as well.

First, with regard to the before, as I said, I was at the House Foreign Affairs Committee and I was the Chief Counsel to the committee, and so I was responsible for legal issues. Any time I think of the ABM Treaty I'm reminded of a saying they teach you in law school, which is that hard cases make bad law. I have to say, having watched the ABM Treaty over a long period of time, the ABM Treaty was a hard case and it made a lot of bad law. I think, actually, that people on the other side of the issue from us in this room would agree with that in a lot of ways.

The first example of bad law that they would cite was during the Reagan Administration. This is ancient history now, but there was a huge debate here in Washington over the so-called broad versus narrow interpretation of the ABM Treaty. Essentially, what that was about was that the Reagan Administration and its legal adviser at the State Department, Abraham Sofaer, came up with a legal interpretation of the ABM Treaty designed to allow the U.S. to research and develop and potentially deploy some missile defense technologies that could defend our nation, notwithstanding the ABM Treaty. Basically Sofaer came up with some clever theories about how this could be done consistent with the treaty with regard to certain advanced technologies.

There was an incredible backlash in the U.S. Congress, led by

former chairman Sam Nunn of the Senate Armed Services Committee and by Joe Biden, who at that point was a senior Member of the Senate Committee on Foreign Relations. There was some unbelievably overheated rhetoric that came out of the Congress on this about the nation facing a constitutional crisis, the usurpation by the executive branch of the prerogatives of the Senate. They were just not going to allow the Reagan Administration to adopt clever interpretations of the ABM Treaty that might permit the U.S. to defend itself against the threat of missile attack.

The Reagan Administration fought this battle. It was a political battle. The Administration fought it for a couple years, and then the Iran-Contra scandal came along and the political balance of power in Washington shifted, and in about 1987 the Reagan Administration backed down. To me that's interesting background because the same people who became so indignant about the Reagan Administration's alleged legal back flips to try to live with the ABM Treaty became responsible for committing their own legal back flips during the Clinton Administration.

There were two of them in particular that I was involved in combating as a congressional staffer, and I'll talk about both of them. The first was a big debate we had about so-called demarcation agreements that the Clinton Administration wanted to negotiate. These were essentially to distinguish theater missile defense from strategic missile defense, and, of course, it was their theory that theater missile defense was good, defending deployed troops or a small area, but you couldn't defend the entire nation; that was strategic missile defense and that was a big threat.

They were trying to come up with a distinction that the Russians would accept that would permit theater missile defense and essentially maintain the ABM Treaty prohibition on strategic missile defense.

Congress got very upset about this and in the 1995 Defense Authorization Act, it actually passed a prohibition on demarcation agreements, and it provided characteristics of what it intended to prohibit. The Clinton Administration subsequently decided to stand this on its head—and even got the Justice Department to produce a legal opinion to the effect—that everything the Congress had not just prohibited, it had implicitly authorized. And so anything not explicitly prohibited was authorized and therefore it was legally permissible to implement demarcation agreements that were not prohibited. The Clinton Administration didn't need congressional approval to do this—in fact, it argued that the congressional prohibition amounted to authority for the Administration to amend the ABM Treaty. It was a preposterous overreach by the Clinton Administration.

The Administration only backed down thanks to the efforts of two people who are not here today: Chris Williams, who worked for the Senate Majority Leader during this time, and Marshall Billingsley, who worked for Chairman Jesse Helms of the Foreign Relations Committee. Williams and Billingsley basically got their bosses to take the position in 1997 that the Chemical Weapons Convention would not be approved by the U.S. Senate unless the Administration backed down on this preauthorization argument that it had concocted. The Administration decided the Chemical Weapons Convention was pretty important

to it, and Sandy Berger, the National Security Advisor, finally sent a letter to Trent Lott, the Majority Leader, saying, Okay, without prejudice to our legal arguments, we promise we will not implement the demarcation agreements without Senate advice and consent to those agreements. On that basis, the Chemical Weapons Convention was later approved by the Senate. Then subsequently we passed legislation, part of something called the European Security Act, which actually made it illegal for the Administration to proceed on the basis of that theory if it ever decided to pull back the Sandy Berger letter.

That was a pretty dramatic fight that we had in the mid-'90s, and this was followed quickly by a similar fight over what the Clinton Administration called multilateralization. This was the effort of that Administration to answer the question of who was our treaty partner in the ABM Treaty. The Administration faced a serious problem. The Soviet Union had collapsed, so who was our treaty partner? Initially, the Clinton Administration took the position that there was automatic succession of four countries, but then there were some problems trying to figure out how that would work, so it eventually retreated and said, Okay, maybe we need to sign an agreement with those four countries—Russia, Kazakhstan, Ukraine, and Belarus. But it claimed that agreement was not a change to the treaty, and so it was not going to send that to the Senate for its advice and consent.

Congress objected to both parts of that. It objected first to the notion that this could be done without advice and consent, and many Members of Congress also objected to the notion that multilateralization of the treaty was a good thing. So, we had two fights on our

hands simultaneously. I'm particularly proud of this chapter because I think it was a good example of congressional oversight essentially unraveling an overreach by the U.S. Administration. Frankly, I think what Congress did during that period helped unravel the treaty itself.

One of the most amusing things I ever did in government was to embark on an exchange of letters with President Clinton about the ABM Treaty. This exchange of letters really laid the groundwork for some legal work that Doug Feith did subsequently. The first question we asked the President was okay, you claim there's this treaty that the U.S. is a party to—we have to live up to this treaty—who else is a party to this treaty? What other countries? This was actually a very complex legal question and it took the Administration six months to figure out what its answer was. The Administration finally wrote back, the letter signed by President Clinton. It said basically, It's unsettled who the treaty partners are, and that's why it's so critically important that the Senate give its advice and consent to the multilateralization agreements that we negotiated.

BY THE LAST DECADE OF ITS EXISTENCE, THE ABM TREATY WAS NOT THE CORNERSTONE OF ARMS CONTROL, IT WAS THE PRINCIPAL IMPEDIMENT TO PROGRESS ON ARMS CONTROL.

That was not a very satisfactory answer, so we wrote back again and said, You can't really have a treaty with just one party. There has to be mutuality of obligations. The second letter was co-signed by Benjamin Gilman, chair of the House

International Relations Committee, and Senator Jesse Helms. It said, If you can't identify some other country that's also party to this treaty, then we're just going to have to conclude that this treaty no longer exists, because a treaty can't have just one party. Then, President Clinton thought about it for a couple of months and wrote back and said, Well, you're right, and so, a change of position: We now think it's crystal clear that Russia is a party, and we think maybe Ukraine, Kazakhstan, Belarus are also parties, but we don't really have to decide that and we're not sure, and you ought to ratify this memorandum of understanding (MOU) on succession that we've negotiated to settle this area of the law.

Then we wrote back again: This is very interesting; you're saying Russia's a party, but you're saying maybe these other countries too, so let's talk about that. If maybe Ukraine is party to the ABM Treaty with the U.S., then what kind of treaty is this? Have we multilateralized it automatically? Or do we have a series of bilateral treaties between the U.S. and each of these countries? Because the ABM Treaty had some specific provisions, such as each party is permitted to defend its capital with 100 missile defense interceptors. Can Ukraine defend its capital with 100 interceptors, while Russia is doing the same for Moscow? That would be quite a strange way to really change the bargain from the point of view of the U.S. Is that what happened? We sent that letter to the President.

At that point the members of the Administration gave up. They just never responded. The questions became too hard. It was about this point that people like Doug got involved and started looking into these questions more seriously, and

Doug produced a memorandum of law basically asserting that the ABM Treaty had died upon the collapse of the Soviet Union; there was no successor at all.

There's this other rogue organization, called The Heritage Foundation, that commissioned a study on the same issue by David Rivkin—he did legal work parallel to what Doug did—and John Norton Moore at the University of Virginia did a third study of this issue. A lot of scholarship was done, all reaching the conclusion that, in fact, the treaty had already died because there were no parties to it on the other side.

The political battle between Congress and the President over multilateralization got resolved because, similar to what had happened with the demarcation agreements, the Senate took the position that it wouldn't ratify the Conventional Armed Forces in Europe (CFE) Treaty (the Flank Agreement)—which was another important arms control agreement that came up—unless the Administration backed down on multilateralization and agreed that the MOU would have to be approved by the Senate. Eventually, the Administration agreed to that, and of course there was zero chance the Senate was ever going to approve the multilateralization MOU.

As a result of all this effort and the legal scholarship of people like Doug Feith, when the Bush Administration took office, it inherited from the Clinton Administration a legal hash, a treaty that a lot of people contended was no longer in force; that if it was in force, it needed to be multilateralized, but of course that was not going to happen because there was no way the Senate was going to approve the multilateralization. And, the Clinton Administration proved

unable to even answer the question of who the treaty partners were in the absence of Senate approval of multilateralization. It was quite a mess that these guys walked in to deal with on day one, which I believe probably made the task of ending it a little bit easier, because even the Russians had to recognize that this treaty had become a crippled legal instrument by the beginning of the Bush Administration.

When I joined the Bush Administration, I became responsible for arms control. I realize this is a room full of people that by and large probably aren't fond of arms control, but I can't help commenting on the notion that the ABM Treaty was the cornerstone of strategic stability, which was, of course, the main argument that its supporters made for decades. The notion was that without the ABM Treaty, arms control would collapse and we would face a new arms race.

If you look back on it, it's quite clear that people that made that argument had it exactly backwards. By the last decade of its existence, the ABM Treaty was not the cornerstone of arms control, it was actually the principal impediment to progress on arms control. It's no mystery why in eight years President Clinton and his Administration were unable to produce an arms control agreement. By contrast, the first Bush Administration, which came before, produced two strategic arms control agreements with the Russians, START I and START II.

Clinton, of course, tried to negotiate START III. He was not able to do that, nor was he able to bring into force START II. Even though the U.S. Senate approved entry into force of START II, the Russian Duma wouldn't go forward, and it all had to do with the ABM Treaty. Both the

failure of START II and the failure of the Clinton Administration's efforts to negotiate START III are attributable to their desperate effort to keep the ABM Treaty alive and the political gridlock that resulted from that.

It was only once the Bush Administration eliminated the ABM Treaty that strategic arms control was able to go forward. Five months after the announcement of termination, the Bush Administration concluded the Moscow Treaty, which was the first arms control treaty between the U.S. and Russia in nine and a half years, and it provided for a two-thirds reduction in deployed strategic forces. *The New York Times* editorialized about how a new arms race was inevitable, but in retrospect it's quite clear that the obstacle to progress on arms control was the ABM Treaty, not the threat of withdrawal from the ABM Treaty.

Mark Groombridge

Vice President, Global Communicators, and former Advisor to the Under Secretary of State for Arms Control

I'm going to give a view from the trenches, if you will, because it was my job, when I was working for Under Secretary John Bolton, to deploy essentially a lot of the arguments that John Rood and Bob Joseph had crafted, and implement them in the State Department, which was not necessarily the easiest task, as I think most of us here would agree. But I do want to also take away from this experience a few lessons, building a little bit on some of Bob's earlier comments about what that means for the present day as well.

The first sort of lesson learned, at least that was instilled in me very clearly, is that personnel is policy. It had to be top-down from Bob and John to the State Department because it was very, very clear that

the State Department was not going to come up with this idea on its own. And so I think a testament to both Bob and John is: They are Exhibit A in the argument that personnel is policy, and it's not just you need political appointees, you need, frankly, the right kind of political appointees and the ones who are really going to do the legwork.

The second point I would make, then, is that you have to get the process right. I kind of chuckled when John Rood was saying he had a safe full of documents basically debunking all the various myths and arguments about it. It was important to do that because John Bolton isn't known for being terribly chit-chatty, but he did sit me down the first day I got there and said, "Mark, if there's one thing I want to instill in you, it's: Get the process right. Because that way people are forced to engage you on substance"—and that was absolutely one of the most important things I learned, not just with respect to this argument or the ABM context, but also with many other arguments as well.

It really was critical, then, to have that safe full of documents that we could deploy, and one of the techniques that we in the trenches would use was: No, this is from the White House (we wouldn't say the NSC, we'd say this is from the White House). Because occasionally, the State Department would rejoinder back to us that, well, the President is just one man. They actually used that line once in a meeting with me. But then they would come up with a slew of arguments, too, saying, well, if the President understood the full context, he wouldn't have arrived at this particular decision.

Some of the constant arguments that we always heard at the State Department were the "other

equities" arguments: Once the myths about arms control were pretty well debunked by this stream of papers coming from the White House, we then had to confront the regional bureaus on other equities—Russia won't cooperate with us on counterterrorism, or the Chinese aren't going to like this for whatever reason. All of those arguments proved to be false, obviously. I mean, China will cooperate with us on counterterrorism when it's in China's interest to do so. It has nothing to do with the ABM Treaty.

**AS WE RIGHTLY CELEBRATE THE
DEMISE OF THE ABM TREATY, WE
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So it was important, then, to have this slew of arguments, and I hope they're archived someday—I don't know if you still save them, John, or where they are—hopefully at some point they'll be in a time capsule. The argument about the arms race was proven false. The argument that it will not work, "they'll just develop decoys and fool the system," that was also proven false.

And then the third argument is the one that the State Department would constantly make that still boggles my mind. It said: Well, careful what you ask for, because if you do develop a successful missile defense system, then they'll just produce suitcase bombs or something like that; they'll use other means to attack us. To which the argument was: Well, so in the absence of missile defense, then, we'll just let them develop a ballistic missile capability and get a free ride in that way. State

didn't really have much of a response to that one either. Fortunately we were able to deploy the stream of talking points in the argument, and I think the history of the last 10 years has clearly shown that all arguments against ballistic missile defense have been essentially proven false.

What was interesting from my perspective, for the first term I was primarily John Bolton's advisor on Asia, so most of the work I did focused on Asian countries. Interestingly, we did actually find some allies within the State Department. I had never heard the word "deliverable" before I joined the State Department, but the State Department loves deliverables. Whenever there's a meeting with the President or a high-level official, we have to deliver some type of good. In essence, that meant that in terms of cooperating with other countries on missile defense, we had deliverables to give them. That helped a lot in the Japan context and Doug did a lot of work in the India context helping—Defense Department policy in many ways was the driving force on some of the cooperative efforts with India, and the State Department loved some parts, other parts not so much. That's a tale for a different time.

In any case, the alliance-building aspects of missile defense have proven to be quite important, and even at that time there were some groups within the State Department that were at least receptive to this when they felt that, Ah, now we have something we can deliver to Tokyo in the context of some type of summit.

My final point would be—I really want to reinforce a point Bob made—that the battle isn't over. There are still concerns. Consider Kim Holmes's point about the Wiki leaks and about the Obama Administration perhaps being

receptive to some form of new ABM Treaty. It still stuns me that some within the arms control community, after North Korea's failed missile test a couple months ago, took the view that: Well, this shows that we don't really need missile defense because it wouldn't really work against Russia or China anyway. And North Korea can't even get a missile off the ground, so why should we even bother with missile defense because it's so grotesquely expensive.

The point is that, as we are rightly celebrating the demise of the ABM Treaty here today, we still need to remain vigilant and wary of those who would essentially roll back the gains we have made, and essentially try to reinstate the views of the old world, which clearly have proven not to work.

Panel 2—What the Industry Can Do

Rebecca Heinrichs (moderator)
Visiting Fellow, The Heritage Foundation

The next panel is particularly important to the discussion of missile defense, 10 years since the withdrawal of the ABM Treaty. When President Reagan announced his desire to build a comprehensive missile defense system, he was criticized. The news media in one instance criticized him for "raising the remote possibility of a sci-fi defense against Soviet missiles." But in 2001, President Bush said, "We recognize the technological difficulties we face and we look forward to the challenge. Our nation will assign the best people to this critical task; we will deploy missile defenses to strengthen global security and stability."

National leaders have made missile defense a national security necessity, but it has been industry that has proven that it is technically

possible and has made it a reality. Our panelists today are eminently qualified to speak to the wonders that the industry has been able to provide for missile defense architecture.

Mira Ricardel is the vice president of business development at Boeing Strategic Missile and Defense Systems, which delivers ICBM support and conventional strike and integrated missile defense solutions. Mira has had a distinguished career in the development of the country's national security programs and policies, serving as acting Assistant Secretary of Defense for International Security Policy. She was awarded the Department of Defense Medal for Distinguished Public Service on July 14, 2005. During Mira's career, she also served as the Foreign and Defense Policy Advisor to Senate Republican leader and presidential candidate Bob Dole. Prior to her time on Capitol Hill, Mira was Deputy Director of Congressional Affairs at the U.S. Arms Control and Disarmament Agency.

Alison Fortier is vice president of missile defense at Lockheed Martin's Washington operations. She joined Lockheed in 1996. Alison is a former Special Assistant to the President and Senior Director for Legislative Affairs at the National Security Council, and was Director of Congressional Affairs at the U.S. Arms Control and Disarmament Agency. Alison began her career in Washington, D.C. as a professional staff member of the House Foreign Affairs Committee.

Mira Ricardel
Vice President, Business Development, Strategic Missile and Defense Systems, The Boeing Company

One little-known connection is that Alison was my first boss in the

Reagan Administration, which is where I got my start in the executive branch. I'd like to thank The Heritage Foundation for bringing us together on this occasion, because a lot has happened over the last 10 years, and we should take the time to look back and appreciate all the challenges that we've faced across the board. I'm going to talk a little bit about what industry did, even though, as I was recalling with Doug Feith earlier, I was actually in Moscow with him and J. D. Crouch on September 11, talking about missile defense cooperation with the Russians. A great deal has happened in the past 10 years.

We heard a lot this afternoon about the ABM Treaty prohibiting homeland defense. In 1998, Boeing became the lead system integrator for the national missile defense test bed, which was the precursor to the Ground-based Midcourse Defense (GMD) system. At that time, due to the treaty, you could only test in a limited way, and program activities received oversight from the Pentagon and an interagency compliance review process—which was quite onerous. For those of you who were there and had to sign off on it—Bob Joseph was at the State Department, I believe, at that time—you know that every single test activity was scrutinized for whether it would lead to realistic or effective missile defenses. And, of course, deployment was prohibited.

So, things changed dramatically when the President put out his National Security Presidential Directive 23 on December 16, 2002. It was very clear that the intent of the President was to deploy missile defense capabilities to defend the homeland by 2004. When you think about it, that was a two-year goal, a challenging goal, and we took it seriously.

So today what do we have? Today, our nation is defended by the Ground-based Midcourse System. Today, GMD is the only defense against long-range ballistic-missile attack. It provides 24/7, 365-days-a-year coverage. We, Boeing, are the industry team leader, and as you'll see, it's a large industry team with a great deal of capability. There are interceptors, radars, command and control systems that span much of the globe, and, we use hit-to-kill technology— which is one of those sensitive technologies that has been discussed by some in the context of how we might cooperate with Russia. There's been some of that in the news raising serious concerns. We have interceptors, in Fort Greely, Alaska, and at Vandenberg Air Force Base, California.

A few facts in terms of the complexity of the system and its geographic distribution: The software lines of code are massive. There are components located across 11 time zones, seven different sensor systems that are integrated with two distributed fire control centers. I mentioned the launch complexes in Alaska and California. There's been extensive international cooperation with respect to the GMD system, as well; we have a radar in Thule, Greenland, for example. In fact, John Rood and I spent some time in Denmark talking about upgrading that radar during the Bush Administration—a successful negotiation. There is also the Fylingdales radar in the U.K.; we had the support from the British early on to use that as part of the GMD system. And, of course, as with any system, it's constantly evolving through flight tests and intercept tests, and we expect the program and the system to continue to evolve over time.

This is just to give you a snapshot. Missile defense involves a significant

part of the defense industrial base. One of the things we maybe haven't appreciated is that when industry was brought into this—missile defense being such a massive undertaking—we developed capabilities deep across the country, across many different companies. We have created a genuine core competency within the defense industry with respect to missile defense, which is something that we've done in a very short time, going from a technology, test-bed environment, and theater defenses to the massive, geographically distributed GMD system. Just look at some of the major GMD sites across the country.

Now, a little bit about how we got here. Alaska was clearly geographically the right place to have an interceptor complex, but it was a remote location and a very harsh environment—the coastline so large, the seismic activity and extreme temperatures. The government made the decision, for reasons of physics and geometry, that Alaska was where we were going to, and so we did. With a team of over 300 subcontractors, we delivered a missile field on schedule in under two and a half years, in 2004.

If you look at some of the infrastructure, it is really impressive that the site could be built in that short a time. There was really nothing there. In just two and a half years we were placing initial interceptors. Of course, you can't build the whole year around, so that was also another challenge, and yet we did this on schedule.

By 2004, we met the presidential directive. We had our first interceptors and Missile Field 1, as well as the Beale and Cobra Dane upgraded early-warning radars on line; we had integrated the Aegis system as a sensor. Additionally, we had begun 24/7 operations and preparations at

Vandenberg for another interceptor site.

Today, you can see that the GMD is an important element of the entire ballistic missile defense system, from sensors, to command and control. We heard earlier a little bit about the SBX radar, and some of the other radars that we integrate, as well as truly advanced technology that is being used and is constantly improving and evolving.

THERE IS RECOGNITION AROUND THE WORLD THAT IT'S NOT JUST THE U.S. THAT NEEDS MISSILE DEFENSES; OTHER ADVANCED MILITARIES RECOGNIZE THAT THEY NEED THEM, AS WELL.

Now, one of the other things that came out of the ABM Treaty was the opportunity to expand international cooperation. Certainly a lot of that has gone on; a lot has gone into building missile defense cooperation up with different countries. Another benefit for industry is to be able to share technology and work with other countries. If you look at some of the Missile Defense Agency's international partners, withdrawal from the ABM Treaty was not an action that isolated the U.S. You can see that a number of countries wanted to participate with their industries, too, and in fact, if you look at the annual international conference on missile defense sponsored by the American Institute of Aeronautics and Astronautics (AIAA) and the Missile Defense Agency, they include about 20 countries.

In fact, this year, Lockheed had the privilege of hosting it in Berlin; Boeing was the industry sponsor last year in Copenhagen. A lot of companies from many different

countries were represented, reflecting that there's a great deal of interest in evolving technology and capabilities to meet the proliferating threat. There is recognition around the world that it's not just the U.S. that needs missile defenses; other advanced militaries recognize that they need them, as well. That's what we're seeing with that kind of participation at conferences and in industrial and government-to-government partnerships.

One of the things we're proud of at the Boeing Company is being part of the Arrow weapon system, which is the national missile defense system for Israel. Together with Israel Aerospace Industries, we have co-produced and co-developed the Arrow II interceptor and are now co-developing and co-producing the Arrow III interceptor for the government of Israel. Israel is in a situation where layered missile defenses are essential, and they're deployed. There's a lot we can learn from the Israelis in terms of how to do things very quickly, very affordably, and with the right attitude toward testing. You test to learn. When they have a test that doesn't go well, they just go back at it, and fix it; they don't have the kind of political situation that we sometimes have where a failed test can mean a cancelled program. Their government is fully committed to continued deployment of missile defenses.

I think as we look back, despite all the naysayers, missile defense technology was never really the issue. It wasn't about "could America develop the capability?" I think it was really a policy question. We have coverage today of the U.S. against limited ballistic missile attack because of the decisions the government made. But I think there are also some lessons here that may not really be fully

appreciated. One of the reasons we could deploy a national system so quickly was because there was true alignment across the U.S. government and across industry. We had clarity of direction, and we heard from the legal panel of how sometimes things that seem so clear can be completely convoluted if certain legal arguments take hold. There was a clear alignment whether it was the legal folks in the interagency, the acquisition plan, the policy, the funding, congressional support and then industry capability. So all these things brought together really made it possible for us to build a national missile defense system in record time, and to improve it, and now 10 years later we have the protection that we have today.

Alison Fortier

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It has been fascinating to hear Bob Joseph, John Rood, Doug Feith, and Steve Rademaker discuss their involvement in bringing the ABM Treaty to an end. The insights that they provided about the issues that they had to address, as well as the process and the communication of a new policy, shows that it was quite a fight but—more importantly—quite an achievement. It is good to be part of the 10th anniversary commemoration of the United States withdrawal from the ABM Treaty.

I am going to give an industry perspective of what the ABM Treaty withdrawal has meant for missile defense over the past 10 years. I will focus on Aegis ballistic missile defense. It is certainly true that within the last 10 years, missile defense has moved well beyond the constraints of the ABM Treaty with its limit of one radar and one missile field, its prohibition on the forward

basing of sensors and shooters, and further limits on information-sharing among different systems.

Today, we are able to maximize the probability of intercept through engagement coordination, sensor netting, and the higher velocity and divert abilities of interceptors. In particular, I'm going to talk about this as it relates to Aegis ballistic missile defense. As John Rood mentioned, Article 5 of the ABM Treaty prohibited the development, testing, and deployment of sea-based anti-ballistic-missile systems or components. So, in effect, under the ABM Treaty there would have been no Aegis ballistic missile defense (BMD). Instead, 10 years later, we have 23 U.S. Navy Aegis BMD ships that are deployed, three more ships are in process, and there is a plan to have up to 32 ships by 2014. So this is quite a capability.

In addition to the ships with the Aegis BMD weapon system and radar, there are more than 120 SM-3 interceptors deployed. We have created, over these past 10 years, a missile defense capability that is globally deployed and effective. I'd like to say that Aegis ballistic missile defense is a successful, proven system with a track record of 23 intercepts out of 28 tests. We have seen the practical benefits of having the system deployed. For example, when North Korea decides to launch ballistic missiles that have the effect of raising great anxiety in the Pacific region, U.S. Aegis BMD ships and Japanese Aegis BMD ships have deployed to the region to defend the population and territory of friends and allies, as well as of the United States.

We also now have two Aegis BMD ships deployed in the Mediterranean. The Obama Administration made a commitment, as part of the first phase of the phased-adaptive

approach architecture, to have one Aegis BMD ship in the Mediterranean in 2011. The first one, the USS *Monterrey*, deployed on schedule; it was relieved by the USS *The Sullivans*, and now the USS *Vella Gulf* has relieved *The Sullivans*. And, there is the good news story of the Aegis BMD ship, the USS *Cole*, which many of you may remember as badly damaged by a terrorist attack. The *Cole* was repaired; it is now deployed in the Mediterranean as an Aegis BMD ship.

UNDER THE ABM TREATY, THERE WOULD HAVE BEEN NO AEGIS BALLISTIC MISSILE DEFENSE.

In looking at the ABM Treaty and the limits that it placed on missile defense and on Aegis ballistic missile defense in particular, it is important to recognize that it was not just interceptors that were limited, it was also sensors. The Agreed Statement D stated that a sensor system that would be used to provide coverage beyond the field of view of the single ground-based radar at the single ABM site, which was to have been in an ICBM field in the United States, would be illegal unless specifically permitted. We've heard today about some of the difficulties of trying to negotiate what was permitted and what was not permitted. So, some of the sensor netting that is part of the overall ballistic missile defense system architecture today would most certainly not have been allowed under the ABM Treaty.

We are actually moving toward a system based on any sensor to any shooter. That's the ideal. One example of that was the successful Aegis-BMD intercept test known as FTM 15 that occurred on April 15, 2011. This

test was with the first-generation Aegis BMD weapon system and the first-generation SM-3 interceptor. It demonstrated what is referred to as launch on remote. In FTM-15, we actually took fire-control quality data from a land-based X-band radar to provide information of sufficient quality to the Aegis BMD weapon system in order that the missile, the SM-3 interceptor, could be launched before the organic sensor onboard the ship acquired the target to be intercepted.

Now, why is this important? It's extremely important because the farther away you can see a threat, the greater probability of a kill. It gives you the opportunity for shoot-look-shoot; you can fire, if you need to, multiple interceptors; you can assess whether you've intercepted with the first and then decide whether to fire additional interceptors. So something as simple as this, making an existing system more effective, was precluded under the ABM Treaty. And eventually we will go beyond launch on remote to engage on remote in follow-on tests. We will actually conduct an intercept based on off-board sensors.

This initial test last year was with a land-based sensor. But the hope is to integrate space-based sensors, whether it's the space-based infrared system (SBIRS) or other space-based sensors, such as the system that is currently being developed by the Missile Defense Agency, the precision-tracking space system (PTSS). The plan is to incorporate space-based sensors into not just the Aegis system but into the overall ballistic missile defense system.

Mira, in her presentation, referred to the issue of "circumvention." We assume that we will cooperate with our allies on issues of great mutual importance and issues of mutual

security. However, the ABM Treaty termed international cooperation on missile defense "circumvention." Article 9 and Agreed Statement E prohibited the transfer of ABM systems, components, or blueprints to other states. What we consider today to be close cooperation was not permitted under the ABM Treaty. This prohibition would have included the transfer of Aegis BMD capability to Japan. Fortunately, Japan does have four Aegis BMD ships. The SM-3 IIA, that is part of the Aegis system, is a joint development program between United States and Japanese industry; it's a 50-50 share. The U.S. Aegis ships and the Japanese Aegis ships communicate together, cooperate during international concern over actions by North Korea and deploy for mutual benefit.

Other cooperative missile defense programs include United States efforts with Israel. The Israeli cooperative programs are playing a big role today in helping Israel deal with what is a very dangerous situation in the Middle East. In addition, there is also a great deal of international interest in the Terminal High Altitude Area Defense (THAAD) system. The United Arab Emirates is the first international customer for THAAD; there will be others. Again, these nations will be able to defend themselves, and the United States doesn't always have to be the first to respond.

One of the other issues that I'd like to mention in terms of the ABM Treaty is that only one ground-based interceptor (GMD) site was permitted and that was at Grand Forks. Of course, today we have two GMD sites, one in Alaska and one in California. But now we will not only have the GMD sites, we are going to have the land-based Aegis Ashore sites as well. The first one will be at Kauai in

Hawaii at the Pacific Missile Range Facility (PMRF); the second one will be in Romania in 2015; the third site will be in Poland in 2018. So we will have five land-based sites to help defend both our allies and the United States. As part of the fourth phase of the phased-adaptive approach, the SM-3 IIB will be in Poland. Poland is the right geographic location for the physics in order to intercept an ICBM threat from Iran headed toward the U.S. East Coast. The SM-3 IIB is slated to be deployed around 2020. This is an extremely important aspect for the development of missile defense.

I also found—I thought this was very interesting—that under the ABM Treaty, the U.S. had to declare test ranges, and we only had two declared test ranges, one at White Sands, New Mexico, and the other at Kwajalein Island. An ABM component could not be located at other test ranges without prior agreement by Moscow, so this would have precluded not only an Aegis Ashore site at PMRF, but it also would have precluded the test facility at PMRF, which is one of the busiest and most

important missile defense test ranges we have today—not only for Aegis, but also for THAAD.

We talked a little about demarcation earlier. When you look through the language of the demarcation agreements, it was very precise. It precluded any ballistic missile interceptor with a velocity exceeding three kilometers per second that was intended to defend against ballistic missiles with velocities exceeding five kilometers per second and a range greater than 3,500 kilometers. In other words, it precluded the development of any defense against ICBMs. In fact, 3,500 would even be considered an intermediate-range ballistic missile (IRBM) class threat. In FTM-15, which I mentioned earlier, Aegis BMD did test against a threat-representative target that had a range greater than 3,500 kilometers. That test would not have been possible were we still under the ABM Treaty.

I suppose that 15 to 20 years ago, it was impossible to foresee that today we would be approaching the time when there would exist ballistic

missiles in Iran and North Korea of the range that could threaten the United States homeland. The fact that the United States has not been under the constraint of the ABM Treaty these past 10 years has allowed us to proceed with developing defenses for the continental United States, which, as many of our speakers noted this morning, is something that is absolutely critical.

I would say in closing, that the bottom line of the ABM Treaty and its restrictions was flatly to prohibit deploying a defense of the entire United States. Yet, this is today a realistic goal. We have GMD, we have the Aegis system, and with the SM-3 IIB that is currently under concept development, we will have an important underlay for the defense of the East Coast of the United States as well as a sea-based ICBM killer capability. This latter has been the missing link in U.S. missile defenses for a long time. It will give us great capability to meet new and emerging threats that we might not assume will exist 10 to 20 years from now.