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THE REAGAN ADMINISTRATION POSTURE TOWARD THE ABM TREATY--  
POSSIBLE IMPLICATIONS



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## ABSTRACT

The Reagan Administration is preparing for a mandatory ABM (Anti-ballistic Missile) Treaty Review Conference with the Soviets within the next year; this five-year review appears to be critical to the future of the ABM Treaty.

This report examines Reagan Administration pronouncements and actions regarding the ABM Treaty and assesses prevalent competing U.S. perspectives as to what the Administration posture means for U.S. adherence to the treaty. It concludes that the available evidence does not justify a hard conclusion that the Administration intends to modify or withdraw from the Treaty but that important groundwork is in place to support such a decision. Any such decision, however, will depend upon a variety of political and strategic pressures for and against future participation in the ABM Treaty.

This report is based in large part on work done previously for Senator William Proxmire.



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THE REAGAN ADMINISTRATION POSTURE TOWARD THE ABM TREATY--  
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THE ABM TREATY--BACKGROUND, COMPETING U.S. PERSPECTIVES AND POSSIBLE OPTIONS

The 1972 Treaty on the Limitation of Anti-Ballistic Missile (ABM) Systems between the United States and the Soviet Union severely limits the number and quality of ABM systems that can be deployed. It also constrains development and testing of new ballistic missile defense technologies. It was intended that various mechanisms, such as verification, provisions against interference with verification, and establishment of a body (the Standing Consultative Commission) to promote the Treaty's objectives and facilitate its implementation, would ensure that the Treaty's constraints against ABM systems would be preserved over time.

For some, the ABM Treaty has come to represent a keystone of U.S.-Soviet relations. The Treaty remains the only major bilateral arms control treaty between the two superpowers. They argue that the Treaty has effectively foreclosed an expensive and dangerous nuclear arms race of offensive and defensive weapons on earth and in space. Preservation of the ABM Treaty is therefore viewed as critical to continued progress in nuclear and space arms control and in U.S.-Soviet relations. Some observers fear that the Reagan Administration has eroded confidence in arms control generally and the ABM Treaty specifically. Some also fear that without the political will to strengthen the ABM Treaty, the pace of progress in ballistic missile defense technologies will erode the Treaty itself.

Others, however, view the ABM Treaty as a relic of the failed policy of detente and an obstacle to U.S. national security. Many of these observers cite Soviet violations of certain provisions of the Treaty and charge Moscow with preparing to deploy a nationwide defense of the Soviet Union--in contradiction to the stated, central objective of the ABM Treaty. These observers believe that the Reagan Administration's SDI program holds the key to U.S. security and therefore argue that the ABM Treaty must be amended or put aside in order to pursue SDI.

Both side's agree the paramount value is nothing less than the security of the United States. The issue, however, is how best to achieve that objective; whether to continue to adhere to the ABM Treaty or modify or abandon it.

While the ABM Treaty is of unlimited duration--it has no expiration date--it does contain provisions relating to its periodic review, amendment, and withdrawal. The Treaty specifies that either party may propose amendments (Article XIV, 1). Indeed, the Treaty was amended in 1974 when both sides agreed to limit deployment of permitted ground-based ABM systems to one instead of two sites. The Treaty also requires that at five year intervals, "the Parties shall together conduct a review of this Treaty" (Article XIV, 2), although an agenda is not specified. Two such reviews have occurred, one in 1977 and the other in 1982. In each instance, both sides reaffirmed their commitment to the objectives of the Treaty. The ABM Treaty also states that

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

While it is left unstated exactly what might constitute grounds for amending or withdrawal from the Treaty, some key indications were made by the



U.S. delegation. Shortly before the ABM Treaty was signed, Gerard C. Smith, the Chief U.S. negotiator, read the following important statement to the Soviet delegation, which later became part of the Treaty as a Unilateral Statement:

The U.S. Delegation has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective retaliatory forces. The USSR Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreements would be steps toward the achievement of more complete limitations on strategic arms. If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years [1977], U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty. The U.S. does not wish to see such a situation occur, nor do we believe that the Soviet Union does. It is because we wish to prevent such a situation that we emphasize the importance the U.S. Government attaches to achievement of more complete limitations on strategic offensive arms (Unilateral Statement A).

In other words, the United States believed that an agreement limiting defensive (ABM) systems would require a follow-on agreement limiting offensive strategic nuclear weapons. The concern was that in the absence of "more complete limitations on strategic arms," the survivability of U.S. retaliatory forces could become threatened. It should be noted that the ABM Treaty prohibited extensive deployment of ABM systems, which could be used to defend those retaliatory forces. Therefore, if such strategic arms limitations were not achieved, then U.S. security could be jeopardized, it was argued. This point was reaffirmed by others in the delegation.<sup>1</sup>

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<sup>1</sup>According to John Rhinelander, the legal adviser of the U.S. SALT delegation when the ABM Treaty was concluded: "By its terms the treaty commits the U.S. and USSR to continue negotiations for limitations on strategic offensive arms in order to replace the Interim Offensive Agreement [the SALT I Treaty] with a comprehensive agreement." See Willrich, Mason and John B. Rhinelander, eds. SALT: The Moscow Agreements and Beyond. New York, The Free Press, 1974. p.126.

As noted earlier, two ABM Treaty Review conferences have been held, in 1977 and in 1982, with no changes made to the Treaty. In 1977, both sides agreed that the Treaty served their security interests and they reaffirmed their commitment to the Treaty's objectives and provisions.<sup>2</sup>

A Protocol was signed at the 1982 ABM Treaty Review Conference in which the United States and the Soviet Union each "reaffirmed its commitment to the aims and objectives of the Treaty, and to the process of consultation within the framework of the Standing Consultative Commission" to implement the Treaty's provisions. The Soviets added a unilateral statement saying it believed the Treaty was operating effectively, served mutual security interests, and required no amendment at that time, while the United States noted that it "proposed no amendments to the Treaty at this time."<sup>3</sup>

Thus far, there has been little public discussion of the upcoming ABM Treaty Review Conference. The official response of the Administration regarding the Review Conference is:

The United States has informed the Soviets that the ABM Treaty Review should occur as required by the Treaty between October 1987 and October 1988. We have told the Soviets that the United States will discuss the time and venue for the Review in diplomatic channels. Plans for the Review are under consideration within the Administration. No decisions regarding specific dates or issues to be considered at the Review have been made at this time.<sup>4</sup>

Some have considered the upcoming Review Conference as a key opportunity for the Reagan Administration to seek to modify or withdraw from the ABM Treaty. They see evidence that the Administration is preparing a public

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<sup>2</sup>Protocol on the First Review of the ABM Treaty, signed at Geneva, November 21, 1977.

<sup>3</sup>See "Protocol on the Second Review of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missile Systems" and the associated U.S. and Soviet Statements, December 15, 1982.

<sup>4</sup>U.S. Department of State. Telephonic response. Washington, September 8, 1987.

rationale for such action based upon several points: (1) the Soviet Union is violating the ABM treaty; (2) U.S. national security interests are being jeopardized by continued U.S. adherence to the Treaty; and (3) the United States can't pursue the SDI program fully under the constraints of the ABM Treaty.<sup>5</sup>

Others dispute such evidence and point out that the official position of the Administration is to comply with and support the ABM Treaty. They also note that any decision to amend or withdraw from the Treaty would have to take account of a number of factors, such as the reaction of the Congress, U.S. allies, and the Soviet Union, and the impact that such a decision might have on arms control negotiations underway, for example.<sup>6</sup>

After examining Administration statements and activities regarding the ABM Treaty as it prepares for the review conference, this report concludes that the available evidence does not lead to a hard conclusion that the Reagan Administration intends to make a near-term decision to modify or withdraw from the ABM Treaty. Nonetheless, in the event that a decision to modify, withdraw from, or otherwise break out of the Treaty's restrictions could be forthcoming, the Administration has laid (intentionally or otherwise) important political, legal, and diplomatic groundwork over the past several years to support such a new policy.

#### REAGAN ADMINISTRATION CRITICISM OF THE ABM TREATY

The official position of the Administration toward the ABM Treaty was stated by the State Department in 1986:

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<sup>5</sup>Personal interviews conducted with U.S. Government officials. Washington, January-July 1987.

<sup>6</sup>Ibid.

Our obligations under the ABM Treaty remain unchanged. The President has made it clear that U.S. programs are, and will continue to be, in compliance with our obligations under the ABM Treaty.<sup>7</sup>

Nonetheless, the Administration has leveled much criticism against the ABM Treaty since 1981. Even before President Reagan's so-called 'Star War's' speech in 1983, key Administration officials were reportedly saying in private that the ABM Treaty was "an historical mistake" because "it tied our hands forever." Such statements led one close observer of the Administration's arms control policymaking process to speculate that the Administration was "looking for a way out of the ABM Treaty from the moment it entered office."<sup>8</sup>

Prior to the five-year ABM Treaty Review Conference in 1982, Richard Perle, Assistant Secretary of Defense, told a congressional panel: "I am sorry to say that it [the ABM Treaty] does not expire." He added that were we to conclude that the only way we could defend our strategic forces was by deploying ABM defenses not permitted by treaty that we would not hesitate to renegotiate the treaty and, failing Soviet acquiescence in that renegotiation, if "the President decided that it was essential to our security to withdraw from the Treaty, we would find sufficient support for that step."<sup>9</sup> Perle added later in the year that the imminent Treaty Review was:

an appropriate occasion to raise some questions about the underlying logic of that treaty because the preclusion of strategic defense as that treaty entails is, in my judgment, destabilizing. It was a mistake in 1972 and the sooner we face up to the implications of recognizing that mistake the better.<sup>10</sup>

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<sup>7</sup>U.S. Department of State. Special Report, No. 147, May 27, 1986.

<sup>8</sup>Cited in Talbott, Strobe. Deadly Gambits. New York, Alfred Knopf, 1983. p. 317-321.

<sup>9</sup>Perle, Richard. Testimony before U.S. House. Armed Services Committee. February 23, 1982. Hearings on Military Posture, Strategic Programs. Report No. 97-33. p. 66, 74.

<sup>10</sup>Perle, Richard. Testimony before U.S. Senate. Armed Services Committee. March 22, 1982.

For the most part, the 1982 Review Conference received scant public attention. Reagan officials, however, apparently viewed the Review as a key opportunity to address some important ABM Treaty issues with the Soviets. U.S. negotiators were reported to have stressed to their Soviet counterparts the importance the U.S. government attached to the commitment of a follow-on offensive nuclear arms reduction accord after the ABM Treaty had been signed in 1972. At the time of the 1982 Review, Soviet officials apparently read these U.S. efforts as a threat that the United States might withdraw from the ABM Treaty if there were insufficient progress in the Strategic Arms Reduction Talks (START) underway in Geneva. U.S. officials sought to convey the point that the status of the ABM Treaty was an open question and that the United States considered review of the Treaty open-ended.<sup>11</sup>

Since the announcement of President Reagan's Strategic Defense Initiative, various Administration officials have continued to voice opposition to the ABM Treaty. Secretary of Defense, Caspar Weinberger for example, said on a national news broadcast in 1984 that he had "never been a proponent of the ABM Treaty" nor a proponent of the strategy of "mutual assured destruction [MAD]." He felt that, "the real problem with [MAD] is, among other things, that the Soviets haven't adhered to the basic concept. They are doing a very great deal to try to defend themselves." When questioned whether we should just renounce the treaty now and go ahead with SDI deployments, Weinberger suggested instead that the time was not at hand--the systems were not ready, and that the treaty could be revised at some later point.<sup>12</sup> In 1986, Weinberger said that he "would be very much opposed to anything that gave up our right to withdraw" from the Treaty, when he stated his opposition to a Soviet offer for a 15-20

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<sup>11</sup>Talbott, *Deadly Gambits*, p. 320-321.

<sup>12</sup>This Week with David Brinkley, April 8, 1984.

year period during which neither side could withdraw from the ABM Treaty.<sup>13</sup> He thus established a Department of Defense position favoring eventual modification or U.S. abrogation of the ABM Treaty.

Others in the Administration have argued that the ABM Treaty may have outlived its usefulness. Ambassador Paul Nitze, Special Assistant to the President and to the Secretary of State, said that "on the whole, I regard the ABM Treaty as a useful and equitable accord. Unfortunately, its value has been eroded over the last 13 years."<sup>14</sup> Richard Perle concluded that he was now "prepared to replace the Treaty with a weapons system [SDI]."<sup>15</sup> Nitze and Perle, key arms control decisionmakers in the Administration, had made it clear that the ABM Treaty was under critical review.

Beyond this sort of general criticism of the ABM Treaty, the Reagan Administration has made some more specific charges against it, and in so doing, has raised the question of whether the Treaty should be modified or set aside. These specific criticisms, which could be used to justify a decision to modify or withdraw from the ABM Treaty, tend to fall into three categories: the Soviets are violating the Treaty; U.S. national security interests may be jeopardized by continued U.S. adherence to the Treaty; and the Treaty stands in the way of the SDI program. These specific criticisms and the issues they raise are treated in the following sections.

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<sup>13</sup>See Arms Control Reporter, June 17, 1986: 603.B.88.

<sup>14</sup>Commencement address before the Johns Hopkins School of Advanced International Studies (SAIS) on May 30, 1985.

<sup>15</sup>Remarks at Time magazine conference, Washington, DC, June 3, 1986.

Soviets Violating the ABM Treaty

Over the past several years, the Reagan Administration has pressed the case of Soviet violations of the ABM Treaty. In pursuing these concerns, it has, among other things, laid a foundation to abrogate the Treaty or to pursue a proportionate response to Soviet violations on grounds of material breach of the central Treaty purpose: to prevent the development of a territorial ABM defense of one's country.

The principal charge against the Soviets concerns their construction of a large phased-array radar complex at Krasnoyarsk, which some argue is the key link in the development of a nationwide Soviet ABM system prohibited by Treaty. On a number of occasions, the Administration has denounced the Soviet radar facility as a violation of the ABM Treaty. In 1985, the State Department formally charged:

The ABM Treaty expressly banned the construction of such radars at such locations as one of the primary mechanisms for ensuring the effectiveness of the Treaty. The Soviet Union's activity with respect to this radar is in direct violation of the ABM Treaty.<sup>16</sup>

According to the Administration, the Krasnoyarsk radar is a violation of the ABM Treaty in terms of its siting and location. In addition, it is asserted that the radar facility violates the Treaty's central purpose to prevent deployment of nation-wide ABM systems or to build a base for the territorial defense of one's homeland. This has been a frequent theme in the Administration's dealings with the Soviet Union.

President Reagan has added to the charge, stating that the Soviets have been conducting SDI-type research for a long time, and that "they already have far beyond anything we have, and we believe in violation of the ABM Treaty with

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<sup>16</sup>See, for example, U.S. Department of State. Special Report No. 129. The Strategic Defense Initiative. 1985

that kind of defense."<sup>17</sup> Similarly, Secretary of State George Shultz responded on Meet the Press that the Soviets "are not observing and have violated" the ABM Treaty.<sup>18</sup> Shultz also said:

In the ABM Treaty we also assumed that we had set up critical barriers that would prevent any breakout, that is, any sudden and significant expansion of ABM systems in violation of the treaty. In fact...the Soviets have taken full advantage of the deployments allowed by the treaty. And some Soviet activities are clear violations, such as the large radar at Krasnoyarsk, which raise a question of whether the Soviets might be planning a nationwide ABM system, negating the treaty entirely.<sup>19</sup>

The Administration has accompanied charges that the Soviets are violating the Treaty with suggestions of two ways in which they might choose to deal unilaterally with these violations in the future. The first way might take the form of a proportionate response, or a violation-in-kind. The Administration has stated on several occasions that the United States "reserves the right" to disregard some of the provisions of the ABM Treaty in response to Soviet ABM Treaty violations.<sup>20</sup> While unspecified, this might mean an expansion of currently prohibited SDI tests and development, or deployment of space-based BMD sensors, for example. It might (or might not) also mean adoption of the new interpretation of the ABM Treaty to permit such testing and development.

The second way in which the Administration has indicated it could respond to Soviet ABM Treaty violations is by withdrawing from the Treaty itself on the

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<sup>17</sup>Interview with New York Times correspondents, February 11, 1985.

<sup>18</sup> NBC, Meet the Press, September 9, 1984.

<sup>19</sup>George Shultz, "Arms Control, Strategic Stability, and Global Security," address before the North Atlantic Assembly, San Francisco, California, October 14, 1985.

<sup>20</sup>See, SDIO, SDI Report to Congress, 1985, p. B-2. The report adds that the "United States must guard against permitting a double standard of compliance, under which the Soviet government would expect to get away with various violations of arms agreements while the United States continues to abide with all provisions." This language regarding proportionate response is repeated in the 1986 and 1987 SDI Reports to Congress.



grounds that no nation is bound to an agreement that is being violated by contracting partners in central provisions. According to one report, U.S. negotiators placed certain qualifications on a U.S. arms control proposal at Geneva in 1986; the proposal called for continued U.S. and Soviet adherence to the ABM Treaty for a period of ten years while strategic offensive nuclear weapons would be cut by 50%. Reportedly, the U.S. negotiators were instructed to tell the Soviets that the United States reserved the right to withdraw from the ABM Treaty if there were "material breaches" of that treaty or a major change had occurred in the strategic environment that endangered the nation's "supreme interests."<sup>21</sup> More recently, the Arms Control and Disarmament Agency reported that at the Geneva negotiations the United States has preserved the right to withdraw from the proposed treaty on Defense and Space weapons "for reasons of supreme national interests or material breach of this treaty, START or the ABM Treaty."<sup>22</sup>

#### National Security Interests Jeopardized

Another rationale that the Administration could use to justify a decision to withdraw from the ABM Treaty is that "U.S. supreme interests" were jeopardized, which, according to the ABM Treaty "would constitute a basis for withdrawal from the ABM Treaty [ABM Treaty, Unilateral Statement 3-A]." Indeed, the Reagan Administration has suggested that U.S. security interests might be jeopardized in two ways, through Soviet development and deployment of ballistic missile defenses and through Soviet strategic nuclear modernization efforts. One Administration report points out this concern succinctly, noting

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<sup>21</sup>Gordon, Michael, R. "U.S. Ideas on Arms Offered in Iceland Are Being Refined." New York Times, November 2, 1986. p. 18.

<sup>22</sup>ACDA, "Nuclear and Space Talks: U.S. and Soviet Proposals," June 16, 1987.

the destabilizing relationship between offensive and defensive forces that the ABM Treaty sought to prevent:

Soviet offensive forces are designed to be able to limit severely U.S. and allied capability to retaliate against attack. Soviet defensive systems in turn are designed to prevent those retaliatory forces which did not survive an attack from destroying Soviet targets.<sup>23</sup>

On several occasions, the Administration has drawn attention to its concern over the effectiveness of the U.S. nuclear deterrent--the basis of U.S. national security--<sup>24</sup> and has said on several occasions that as a result of Soviet ABM and offensive strategic nuclear activities, U.S. supreme interests may be at risk. In 1981, Richard Perle asserted that despite the best efforts of detente:

Unhappily, we did not halt the momentum of the Soviet strategic buildup, and we need to recognize that reality. If we cannot find a solution short of revision or withdrawal from the ABM Treaty, then I would hope we would have the courage to go to the country and say that is what we need.<sup>25</sup>

Later, Secretary Shultz observed:

When the ABM Treaty was signed, it was assumed that offensive weaponry would be reduced by further negotiations. In fact, offensive weapons proliferated....We see the Soviet heavy ICBMs with a first-strike potential....They are developing two new varieties of [mobile ICBMs]....If we fail to respond to these trends, at some point in the future they could undermine the military balance on which deterrence is based.<sup>26</sup>

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<sup>23</sup>U.S. Department of Defense. Soviet Strategic Defense Programs. 1985. p. 4.

<sup>24</sup>President Reagan said at a national news conference, February 21, 1985, that if SDI research panned out, "then I would be willing to come forth before any deployment and negotiate and discuss the deployment and the use of that weapon in such a way that it would be used to rid the world of the nuclear threat." The ABM Treaty "should then be accompanied by realistic reductions of nuclear weapons. And all there has been since the treaty was passed was tremendous increases in those weapons. [Boldface added]"

<sup>25</sup>Testimony before U.S. House. Armed Service Committee. October 6, 1981.

<sup>26</sup>"Arms Control, Strategic Stability, and Global Security," address before the North Atlantic Assembly, San Francisco, California, October 14, (continued...)

More directly, Richard Perle has charged that "the Soviets may even now be in the process of breaking out of the ABM Treaty," even though he admitted there was ambiguous intelligence evidence.<sup>27</sup> The Director of the SDI program also warned: "I must underscore Soviet efforts in the ballistic missile defense area. Were they to deploy the fruits of this program unilaterally, the consequences to our national security would be exceedingly grave."<sup>28</sup>

In this regard, Secretary Weinberger, in recent Senate testimony, cited withdrawal from the ABM Treaty as one possible option in which to deal with these Administration concerns. When asked why the government did not just give six months notice and withdraw from the ABM Treaty, as opposed to adopting a new interpretation of it, Weinberger responded:

Well, that is clearly an option that is in the Treaty, and one that has to be in anytime. The national interest of the United States always must permit us to get out of obligations of that kind if they do go directly against the interests of the United States....That is one way to proceed.<sup>29</sup>

#### The ABM Treaty: An Obstacle to SDI

A major challenge for the Reagan Administration since 1983 has been how to conduct SDI tests that were sufficiently realistic to demonstrate technological

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<sup>26</sup>(...continued)  
1985. The 1987 ACDA Report to Congress reiterated the "importance the U.S. government attaches to achieving agreement on more complete limitations on strategic offensive arms following agreement on an ABM Treaty and the Interim SALT Agreement." U.S. supreme national interests, the report says, could be jeopardized if more complete arms reductions were not achieved, which could constitute a basis for withdrawal from the ABM Treaty. See, Report to Congress, Fiscal Year 1987 Arms Control Impact Statements, Joint Committee Print, Senate Print 99-147, April 1986.

<sup>27</sup>Testimony before U.S. Senate. Armed Services Committee. March 26, 1986.

<sup>28</sup>See, Aviation Week and Space Technology, April 30, 1984.

<sup>29</sup>Testimony before U.S. Senate. Committee on Appropriations. Subcommittee on Defense. May 19, 1987.

realization of the concepts pursued (and to gain political support), yet remain within the constraints imposed by various treaties, such as the ABM Treaty which were intended to prevent such technological development.

Available evidence indicates that the Administration has concluded that the ABM Treaty handicaps or obstructs the SDI program, but it has not decided how or when to deal with the ABM Treaty in order to proceed with the SDI program. There appear to be two major options that the Administration has prepared.

One such avenue is through the new (or "broad") interpretation of the ABM Treaty as opposed to the ("narrow") interpretation largely understood and practiced by both parties. Administration spokesmen say that the ABM Treaty can be legally reinterpreted and thus allow more realistic SDI testing and development.<sup>30</sup> Essentially, some Administration officials have posed a choice between two U.S. policy choices:

- (1) adopt the new interpretation of the ABM Treaty in order to conduct a realistic SDI testing and development program; or
- (2) withdraw from the Treaty much sooner than anticipated if the Administration does not adopt or is prohibited from adopting the new ABM Treaty interpretation.<sup>31</sup>

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<sup>30</sup>In Senate testimony, Weinberger was asked when adoption of the new interpretation of the ABM Treaty might be required for SDI testing. He said even though some of those tests might be a couple of years away, planning and preparation for them can take a year or so itself. He said that such plans and preparations raise "great legal questions as to whether you can do them or not. Probably you cannot. And that means the whole program is set back." "We believe that the proper interpretation will permit us to do a great many things leading right to deployment without that step that many people worry about of stepping outside the Treaty." Testimony. U.S. Senate. Committee on Appropriations. Subcommittee on Defense. May 19, 1987.

<sup>31</sup>While Perle has supported the broad interpretation of the ABM Treaty, he has said he opposes abrogating the ABM Treaty because he believes the Treaty remains intact under the new interpretation. Only if the Administration were not able to pursue the new interpretation he says would it have to determine when the SDI program would require the Treaty to be abrogated. Testimony before U.S. House. Defense Policy Panel. March 15, 1987. See Defense Daily, March 16, 1987: 82.

At one point, the Administration gave what some viewed as a veiled threat when it implied that insufficient political support for large SDI funding requests might compel the Administration to adopt prematurely the new ABM Treaty interpretation.<sup>32</sup>

The second avenue available is to abandon the Treaty altogether, regardless of the outcome of the ABM Treaty interpretation issue. Reagan Administration officials have already acknowledged that at some point the ABM Treaty will have to be renegotiated, modified, or withdrawn if SDI weaponry is to be deployed.<sup>33</sup> Because the ABM Treaty limits deployment to 100 ground-based missile interceptors, no one really makes a case that SDI weapons could be deployed under the current terms of the ABM Treaty.

Short of deployment, Secretary Weinberger was asked in an NBC interview whether the United States might "dump" the ABM Treaty at some point to develop SDI. He responded:

We would have to face, at that point--this question: Do we want to let a treaty which the Soviets are not observing and have violated stand in the way....of our ability to develop a thoroughly reliable

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<sup>32</sup>The FY1986 ACDA Report to Congress reads: the U.S. might have to reconsider its commitment to the traditional interpretation of the ABM Treaty. It says the traditional interpretation will continue "as long as the program receives the support needed to implement its plans." If adequate support is not forthcoming, the Administration may have to "restructure" the program and adopt the new interpretation of the Treaty.

<sup>33</sup>At a news conference in Madrid, Spain, immediately following the President's SDI address to the nation, Weinberger indicated that at some point the U.S. might have to amend or abrogate the ABM Treaty if an SDI system were deployed, but he did not envision that at that time for at least five to ten years. See, New York Times, March 24, 1983; Shultz has said that it "remains to be seen" whether the United States would have to renegotiate or abrogate the ABM Treaty to proceed with the development of Star Wars defense systems. NBC, Meet the Press, September 9, 1984; Under-Secretary of Defense Fred Ikle said that deployment of SDI "would require withdrawal from the Treaty, which is provided for, or an agreed amendment which would be renegotiated." Quoted in High Frontier, v. 4, November 10, 1987: 3; ACDA Director, Ken Adelman, said: "Eventually some modifications [to the ABM Treaty] may be warranted to permit more definitive demonstrations" of exotic SDI technologies. "If so, these would need to be addressed mutually with the Soviet Union." Speech before Boston World Affairs Council. See New York Times, May 31, 1985: A3.

system of defense which can render their nuclear missiles impotent?  
And my answer to that would be very simple.<sup>34</sup>

Similarly, George Keyworth, the President's Science Advisor at the time, urged Congress not to allow previous or future treaty obligations to interfere with development of the SDI program for space-based weapons and other space weapon activities. Keyworth warned that we should not allow our "options" to deploy space weapons to be "blocked by a previous patchwork of treaty obligations."<sup>35</sup>

An Administration decision on whether to adopt a new interpretation of the ABM Treaty has not been made. Such a decision to proceed with SDI and the new

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<sup>34</sup>NBC Reports, "The Real 'Star Wars': Defense in Space," September 8, 1984. Others have made similar remarks. General Abrahamson, for example, said: "There clearly will come a time [in the 1990s] when we enter the development phase and ... require much more direct testing [of SDI components] that we will have to have a modified Treaty in some way in order to proceed." SASC testimony, October 30, 1985. See also, Washington Post, November 18, 1985: 1; Abrahamson also said, Without any treaty restrictions, he told Senate Armed Services Committee, that "we could go directly to the most convincing tests," which would also be the "most cost-effective...[saving] both money and time and gain a higher confidence in the results." Washington Post, March 26, 1986. On another occasion, Abrahamson said the primary goal of SDI is to ensure sufficient testing to convince the public that initial deployment is warranted. Otherwise, "we would have to abrogate the Treaty to do the testing we need to see if an SDI works, and no president is going to abrogate the ABM Treaty just to do SDI testing." See Washington Post, February 10, 1987: 11. Secretary Shultz too has said that technological advances offer the possibility of defense against ballistic missiles, offers a new hope as a possible counter to the growing Soviet offensive threat, and offers a new balance of power based upon not the power of retaliation, but of a defensive system that "would vastly complicate any aggressor's first-strike planning and frustrate any temptation to consider launching an attack." "Arms Control, Strategic Stability, and Global Security," address before the North Atlantic Assembly, San Francisco, California, October 14, 1985. Shultz also told the Senate Armed Services Committee, immediately after an NSC meeting regarding the ABM Treaty reinterpretation issue, that despite considerable SDI progress, Reagan was unlikely to face a decision on whether to start deployment before 1988. But, he added, the 1972 ABM Treaty should not stand in the way of a U.S. space-based defense if a reliable and cost-effective systems is developed. Shultz also acknowledged that such a deployment would not be consistent with the Treaty, and therefore it would have to be modified or abrogated. SASC testimony, February 3, 1987. See also, Washington Post, February 4, 1987: A9, and Boston Globe, February 4, 1987.

<sup>35</sup>Testimony before U.S. Senate. Foreign Relations Committee. April 25, 1984. p. 21.

ABM Treaty interpretation is likely to depend in part on the outcome of pending policy decisions regarding phased deployment of strategic defenses. Secretary Weinberger is now weighing a decision whether to permit SDIO to proceed to the demonstration and technology validation phase (i.e., to start component integration and testing) of the major weapons acquisition process for some SDI programs. In preparation for this decision, the Defense Science Board (the senior scientific advisory group to the Secretary and Joint Chiefs of Staff), reported:

If a Strategic Defense System is deployed, we will in time have to withdraw from the ABM Treaty. The point in the development process when such a withdrawal is necessary depends, of course, on the interpretation of the meaning of the treaty; the narrower the interpretation the sooner a withdrawal is required if progress is to continue. The activities that must be carried out over the next couple of years however should not be seriously affected even if the United States adheres to the narrow interpretation.<sup>36</sup>

The Administration has made it clear on many occasions that "the ABM Treaty was not meant to be locked in concrete."<sup>37</sup>

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<sup>36</sup>The report is cited in Congressional Record, Daily Edition, July 14, 1987. p. H6292-H6294.

<sup>37</sup>Paul Nitze also said: "When we and the Soviets were crafting the agreement, we envisaged a living accord--that is, one that would make allowance for and adapt to future circumstances. This was particularly so, given that the treaty was to be of unlimited duration. Provisions were developed and incorporated into the Treaty that allow for its modification. This was in part due to the fact that the sides, even in 1972, foresaw the possibility of changes in the strategic situation--including the possibility of new defense technologies in the future." The treaty provides that "possible changes in the strategic situation...[such as] changes in defense technologies that might reverse some of the basic technological assumptions on which the treaty and the offense-defense relationship were based" provides for possible amendment to the Treaty, which "was intended to be adaptable to new circumstances, and not to lock the United States and Soviet Union into a strategic relationship that might be less stable and less desirable than other possibilities that might emerge in the future." SDI is therefore not inconsistent with the Treaty and might "usefully be incorporated into the strategic balance." Commencement address before the Johns Hopkins School of Advanced International Studies (SAIS) on May 30, 1985.

THE SALT II EXPERIENCE

Those who believe the Administration is preparing the groundwork for modifying or withdrawing from the ABM Treaty point to a parallel development that occurred with the SALT II arms control agreement. Among other things, the Reagan Administration argued for several years, before it announced in May 1986 that it would no longer be bound by the SALT agreements, that the Soviets were violating SALT II and that SALT II jeopardized U.S. national security interests. In addition, some would argue, SALT II simply stood in the way of the Reagan Administration strategic arms buildup.

A parallel between this progression of events with actions bearing on the ABM Treaty could be argued. As with SALT II, the Administration has determined the Soviets are violating the ABM Treaty and has expressed concern that national security interests may be jeopardized. The president's SALT II announcement, and the specific mention of Soviet non-compliance with the ABM Treaty in that decision, could be viewed as suggesting a pattern and precedent for an Administration decision to withdraw from the ABM Treaty at some point. Indeed, some, such as former Secretary of Defense Harold Brown, have asserted that the ultimate objective of the Reagan Administration is to withdraw from the ABM Treaty, and that the idea is "to take things one at a time," by abandoning the SALT agreements and eroding confidence in the ABM Treaty.<sup>38</sup>

The SALT II and ABM Treaty analogy has limitations that bear noting, however: SALT II was an agreement never ratified by the United States and had it been ratified would have expired at the end of 1986. It was adhered to by both sides between 1979 and 1986 on the basis of unilateral, conditional statements. The ABM Treaty has been fully in force since 1972.

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<sup>38</sup>Quoted in New York Times, June 3, 1986: A8.



CONCLUSION

The available evidence does not demonstrate that the Administration has yet made a decision as to the future of the ABM Treaty. The Administration does face the mandatory ABM Treaty Review Conference this Fall. As it prepares for this required five-year review with the Soviets, the Administration will weigh its interests with respect to the ABM Treaty and related concerns regarding the SDI program and other questions. A formal U.S. position and strategy will presumably be prepared on such policy issues as:

- (1) whether to raise unresolved Treaty issues;
- (2) how or whether to seek to resolve such issues;
- (3) whether to continue adherence to the traditional interpretation of the ABM Treaty; or
- (4) whether to begin the process of withdrawal from the ABM Treaty at the Review or soon thereafter.

A number of factors and pressures are likely to influence the Administration's upcoming decision on the ABM Treaty, such as:

- (1) the status and progress of the Geneva talks, including prospects of an INF Treaty;
- (2) the views of U.S. allies toward the ABM Treaty;
- (3) the status of U.S.-Soviet relations, including prospects for and timing of a Reagan-Gorbachev summit meeting in the United States;
- (4) near-term concerns over the strategic balance and U.S. vulnerabilities, including prospects for deployment of the MX-rail garrison ICBM or development of the Midgetman ICBM program; and
- (5) the political and technological status of the SDI program, including funding prospects.

At this point, it is not clear from the public record what the final decision of the Administration will be. However, if the Administration does determine to begin the process of withdrawing from the ABM Treaty, important legal, political, and diplomatic groundwork is in place to that end.