

Testimony of Robert G. Joseph
Before the Senate Committee on Governmental Affairs
Subcommittee on International Security, Proliferation, and
Federal Services
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Mr. Chairman, distinguished Members, thank you for the opportunity to testify today. I am honored to be able to present my views on the need for national missile defense -- and specifically on ABM Treaty issues associated with the pursuit of effective defenses against the growing threat we face. This is a subject of fundamental importance to our nation's security.

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

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

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

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

Designed in the bipolar context of the Cold War confrontation with the then Soviet Union, the express objective of the Treaty was to prohibit defenses so as to preserve the credibility of offensive deterrent forces. In other words, by ensuring the vulnerability of our societies to nuclear attack, the Treaty was seen as promoting strategic stability. Few would advance this same deterrent concept today for states such as North Korea or Iran. Yet, the Treaty does not provide an exception for what is often referred to as a light territorial defense against these and other ballistic missile threats.

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

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

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

This leads to two further observations. The first is on timing. Given the stated Russian goal of retaining the ABM Treaty without change, and given fears that any U.S. deployment program will provide the base for a robust national missile defense that could threaten the viability of their nuclear arsenal, any negotiation can be expected to be long and difficult. Such negotiations will not be successful unless the United States has a clear deployment objective and a perceived resolve to move forward to meet the threat from rogue states, even if that requires withdrawal from the Treaty under the supreme interest clause of the Treaty. In light of the pace of missile programs in countries such as North Korea and Iran, we simply do not have the luxury to devote years to the renegotiation of the ABM Treaty.

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

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

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

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

In 1992, following the Gulf War and the attempted coup in the then Soviet Union, the Bush national security team put forth both a deployment plan and an arms control initiative to support this deployment. The concern was twofold: a rogue state armed with a small number of ballistic missiles able to strike American cities, and an accidental or unauthorized launch, perhaps from a breakaway military commander.

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

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

- First, the elimination of restrictions on the development and testing of ABM systems. These restrictions both directly and indirectly had impeded our ability to field effective strategic and theater defenses, just as they do today.
- Second, the elimination of restrictions on sensors. Disagreements in this area had for years dominated the contentious compliance debate. Moreover, it was recognized that no missile defense architecture that would permit even a limited territorial defense could be deployed without Treaty relief on sensors. This also remains the case today.
- Third, the elimination of restrictions on the transfer of ABM systems and components to permit cooperative relationships on missile defenses with other countries, including Russia. And
- Fourth, the right to deploy additional ABM interceptor missiles at additional ABM deployment sites.

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

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

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

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

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

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

Yet, the future of defenses is far from certain. Neither the Korean launch nor the recent legislation that makes it the policy of the United States "to deploy defense as soon

as technologically possible" may be sufficient to change policies and programs in a way that permits the United States to move forward with effective defenses.

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

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

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

The most recent arms control example of Russia pursuing its own interests in the context of changing strategic realities is also perhaps the most instructive. When the breakup of the Soviet Union led Russia to conclude that the legal limits on deployed forces in its flank regions -- as established in the Conventional Armed Forces in Europe (CFE) Treaty-- were no longer in its interests, its approach was straightforward: it insisted that the Treaty be changed. The United States and the other parties accommodated the Russian demand in the 1996 Flank Agreement. Since then, citing further changes in its security environment, I understand Russia is again insisting on additional changes to the CFE Treaty.

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

In terms of longer-term objectives, I believe that we should substitute a threat-based approach for establishing both our offensive and defensive force deployments to meet our security requirements. The Russians, according to almost all assessments, will

be compelled by economics to go to much lower levels of offensive forces, independent of arms control outcomes.

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

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

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

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

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

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

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

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

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

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

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

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

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