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Last Updated: 04/10/2023

APPENDIX B

ABM TREATY RATIFICATION RECORD

This part of the ABM study collects portions of the ABM Treaty ratification record relevant to the treatment of future ABM systems. The memorandum sets forth verbatim the references pertinent to this issue as contained in (A) the Message of the President transmitting the ABM Treaty and the Interim Agreement to the Senate; (B) the hearings before the Senate Foreign Relations Committee; (C) the hearings before the Senate Armed Services Committee; (D) the hearings before the House Foreign Affairs Committee; (E) the hearings before the House Armed Services Committee; (F) the hearings before the Senate Appropriations Subcommittee; (G) the hearings before the House Appropriations Subcommittee; (H) the Report of the Senate Foreign Relations Committee; (I) the Report of the House Foreign Affairs Committee; (J) the Senate and House floor debates on SALT I; and (K) the Resolution of Ratification.

A. Letter of Submittal

Secretary of State Rogers submitted the ABM Treaty and the Interim Agreement to the President on June 10, 1972. His letter of submittal, which was included in the President's June 13, 1972, Message transmitting the agreements to the Senate, addressed the issue of ABM technology at several points. In describing the Treaty generally at the outset, Secretary Rogers noted:

In order to assure the effectiveness of these basic provisions of the Treaty, a number of detailed corollary provisions were also agreed:

Development, testing and deployment of ABM systems or ABM components that are sea-based, air-based, space-based or mobile land-based are prohibited;

Deployment of ABM systems involving new types of basic components to perform the current functions of ABM launchers, interceptors or radars is prohibited....

The ABM Treaty and Interim Agreement and Associated Protocol, Executive L, 92d Cong., 2d Sess. vi (1972).

In his sectional analysis, Secretary Rogers discussed the limitations on ABM systems in some detail. He focused on Articles II and III of the Treaty in a subsection entitled "Deployment":

Article II defines an ABM system as "a system to counter strategic ballistic missiles or their elements in flight trajectory". It indicates that such systems currently consist of ABM interceptor missiles, ABM launchers and ABM radars. ABM interceptor missiles are interceptor missiles constructed and deployed for an ABM role, or of a type hereafter tested in an ABM mode. ABM launchers are launchers constructed and deployed for launching ABM interceptor missiles. (A launcher associated with an interceptor missile that is hereafter tested in an ABM mode falls within the definition of an ABM launcher.) ABM radars are radars constructed and deployed for an ABM role (including target tracking or missile control, but not early warning), or of a type hereafter tested in an ABM mode.

The second paragraph of Article II makes it clear that the ABM system components listed in the first paragraph of the Article include not only those which are operational, but also those under construction, undergoing testing, undergoing overhaul, repair or conversion, or mothballed.

Article III prohibits the deployment of any ABM systems or their components except as provided therein. Under Article III, the Parties may deploy only systems consisting of ABM interceptor missiles, ABM launchers and ABM radars....

In each of these deployment areas a Party may deploy no more than 100 ABM launchers and no more than 100 ABM interceptor missiles at launch sites. These totals would include any deployments within such areas for training purposes and, as indicated in Article II(2), would not be confined to those in operational status. In view of Article V(1), discussed

below, only fixed, land-based ABM components may be deployed.

The restrictions on ABM radars covers radars of both existing types: phased-array radars (a modern type which scans by electronic means, a capability especially useful for ABM purposes) and mechanical-scan radars (an older type).

Id. at vii-viii.

Secretary Rogers discussed Articles IV and V of the Treaty in a subsection entitled "Development, Testing, and Other Limitations":

Article IV provides that the limitations in Article III shall not apply to ABM systems or ABM components used for development or testing, and located within current or additionally agreed test ranges....

Article V limits development and testing, as well as deployment, of certain types of ABM systems and components. Paragraph V(1) limits such activities to fixed, land-based ABM systems and components by prohibiting the development, testing or deployment of ABM systems or components which are sea-based, air-based, space-based, or mobile land-based. It is understood that the prohibitions on mobile ABM systems apply to ABM launchers and ABM radars which are not permanent fixed types.

Id. at ix.

Subsections (3) and (4) of the letter of submittal dealt with "Future ABM Systems" and "Modernization and Replacement":

(3) Future ABM Systems

A potential problem dealt with by the Treaty is that which would be created if an ABM system were developed in the future which did not consist of interceptor missiles, launchers and radars. The Treaty would not permit the deployment of such a system or of components thereof capable of substituting for ABM interceptor missiles, launchers, or radars: Article II(1) defines an ABM system in terms of its function as "a system to counter strategic

ballistic missiles or their elements in flight trajectory", noting that such systems "currently" consist of ABM interceptor missiles, ABM launchers and ABM radars. Article III contains a prohibition on the deployment of ABM systems or their components except as specified therein, and it permits deployment only of ABM interceptor missiles, ABM launchers, and ABM radars. Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system, provided that such devices were not capable of substituting for one or more of these components. Finally, in the course of the negotiations, the Parties specified that "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty." (As explained below, Article XIII calls for establishment of a Standing Consultative Commission, and Article XIV deals with amendments to the Treaty.)

(4) Modernization and Replacement

Article VII provides that, subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried [sic]. Modernization or replacement of present ABM systems or components is constrained by the various limitations and prohibitions in the Treaty. (See paragraph 2 of Article I, Article III, Article V, and Article VI.)

Id. at x.

B. Hearings before the Senate Foreign Relations Committee

The Senate Foreign Relations Committee held seven days of hearings on the ABM Treaty and the Interim Agreement, beginning

June 19, 1972, and concluding July 20, 1972. As the first witness, Secretary Rogers highlighted significant provisions of SALT I and drew special attention to the ABM Treaty's limitation on future ABM systems:

The heart of the treaty is Article III, which spells out the provisions under which each of the parties may deploy two limited ABM complexes, one in an ICBM deployment area, and one at its national capital. There can be no more than 100 ABM launchers, and 100 associated interceptors, at each complex -- a total of 200.

....

The treaty provides for other important qualitative limitations. The parties will undertake not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based. They have also agreed not to develop, test or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher; nor to modify launchers to provide them with such a capability; nor to develop, test or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers; nor to develop, test, or deploy ABM missiles with more than one independently guided warhead.

Perhaps of even greater importance as a qualitative limitation is that the parties have agreed that future exotic types of ABM systems, i.e. systems depending on such devices as lasers, may not be deployed, even in permitted areas.

Strategic Arms Limitation Agreements: Hearings Before the Senate Committee on Foreign Relations, 92d Cong., 2d Sess. 5-6 (1972).

Senator Aiken raised questions about future ABM systems in the context of lasers, to which Secretary Rogers and ACDA Director Gerard Smith responded:

Senator AIKEN. I have been reading lately in several places about the effectiveness of the laser guided bombs in wiping out SAM's in North Vietnam. If a laser can be used in wiping out the SAM's, could the laser also be effective in the ABM system?

If the laser had come three years ago, one would have voted against the ABM system when it was first proposed.

Secretary ROGERS. Under the agreement we provide that exotic ABM systems may not be deployed and that would include, of course, ABM system[s] based on the laser principle.

Senator AIKEN. Is the ABM system getting somewhat obsolete?

Secretary ROGERS. Excuse me?

Senator AIKEN. Is the ABM system getting obsolete? If the lasers can be used to knock out the SAM's, wouldn't they be effective against other types of missiles also?

Mr. SMITH. Senator Aiken, I think it is an entirely different problem with respect to the use of lasers to help guide offensive missiles and from their use to guide defensive missiles, but we have covered this concern of yours in this treaty by prohibiting the deployment of future type technology. Unless the treaty is amended, both sides can only deploy launchers and interceptors and radars. There are no inhibitions on modernizing this type of technology except that it cannot be deployed in mobile land-based or space-based or sea-based or air-based configurations. But the laser concern was considered and both sides have agreed that they will not deploy future type ABM technology unless the treaty is amended.

Id. at 20.

When Senator Pell subsequently asked whether there were any conflicts between the ABM Treaty and the Seabed Arms Control Treaty, Ambassador Smith focused on the ABM Treaty's limitations on deployment:

Secretary ROGERS. No, there are not, but I would be glad to have Ambassador Smith comment on this.

Mr. SMITH. I agree with the Secretary;

there is no conflict at all. This treaty does not permit the deployment of an ABM system except on the continental territory of both countries and one cannot have sea-based ABM systems under this treaty.

Id. at 21-2.

In written questions for the record, Senator Percy asked Secretary Rogers about the clarity and significance of the understandings and statements accompanying the Treaty, which included the Agreed Statement pertaining to future ABM systems:

9. Question. One area of disagreement within the press and among some public figures has been the impact of the so-called "secret clauses" to the SALT agreements; those understandings, interpretations and unilateral statements and safeguards, made available to this Committee by the Administration when it forwarded the treaty for consideration. What will prevent differing interpretations of these "clauses" from causing a major misunderstanding and hinder the successful implementation of the agreements?

Answer. These materials were intended to avoid misunderstanding of the underlying agreements and to facilitate successful implementation of such agreements. The clarification provided by these interpretations and statements is believed to far outweigh whatever risk there may be that they, in turn, might become subject to differing interpretations.

10. Question. Would it be safe to say that these clauses are really another form of safeguard particularly since they deal with such crucial areas as concealment, ABM technology advances, and missile modernization?

Answer. Yes, they do constitute a form of safeguard against misunderstandings in these crucial areas.

11. Question. Will these clauses, other than the unilateral statements, have exactly the same force as if they were included in the text of the agreements?

Answer. The agreed interpretations will clearly be binding on both parties.

Id. at 53.

Future ABM systems again received attention on June 28, the fifth day of the hearings, when two witnesses referred to this aspect of the ABM Treaty. Dr. Donald Brennan, Senior Fellow on the Professional Staff at the Hudson Institute, pointed out the restrictions on future ABM systems:

It is possible to make a technical case -- I personally do not believe it -- that it would be unwise to use currently available ABM technology in conjunction with cuts in offensive forces to begin to move away from a MAD posture. However, there is no such technical argument to be made about all possible future systems of missile defense, of whatever effectiveness and other characteristics, yet all future systems are prohibited by the treaty.

Id. at 188.

Dr. Edward Teller, Associate Director of the Lawrence Radiation Laboratory, noted briefly in his testimony that "relocatable ABMs are ruled out," id. at 221, and in his prepared statement focused specifically on future ABM systems:

In the understandings which accompany the treaty, a most doubtful point is a limitation placed under implementation of novel ABM ideas, should they develop in the future. It is indeed a mistake to limit the use of systems which do not exist as yet and may not even be imagined at present.

Id. at 225. (Dr. Teller made the same statement before the House Foreign Affairs Committee. See Agreement on Limitation of Strategic Offensive Weapons: Hearings Before the House Committee on Foreign Affairs, 92d Cong., 2d Sess. 97 (1972).

On June 29, the sixth day of the hearings, Senator Kennedy drew attention in a general way to the limitations contained in Article V of the ABM Treaty:

First, the ABM Treaty prohibits not only a nationwide antiballistic missile system but also the upgrading of an air defense system to perform an ABM role.

Second, the treaty also prohibits the development, testing and deployment of ABM systems or components which are sea based, air based, space based and mobile land based.

The only exceptions are made for a National Capital Site and for the protection of a single ICBM site. Total launchers for these two sites are limited to 200 interceptors; the sites must be separated by at least 1,300 kilometers, and the deployment of ABM radars is strictly controlled to avoid any dual use for an areawide purpose.

Id. at 247.

Senator Buckley, in his testimony, focused on future AB systems and, in fact, indicated that he would vote against ratification of the ABM Treaty in part because of the manner in which such systems were dealt with in the Treaty:

I will say at the outset that I will vote against ratification of the ABM Treaty for the reason that I have strong misgivings as to both the prudence and the ultimate morality of denying ourselves for all time, or denying the Russians, for that matter, the right to protect our civilian populations from nuclear devastation. I am not suggesting that we have the technical means to do so at the present time, but I challenge the morality of precluding the possibility of developing at some future date new approaches to antiballistic missile defenses which could offer protection to substantial numbers of our people. I question, in short, the basic doctrine which requires us to dismantle our defenses before agreement is reached on dismantling the weapons of mass destruction.

....

... Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space-based ballistic missile defense systems. This clause, in Article V of the ABM Treaty, would have the effect, for example of prohibiting the development and testing of a

laser-type system based in space which could at least in principle provide an extremely reliable and effective system of defenses against ballistic missiles. The technological possibility has been formally excluded by this agreement.

There is no law of nature that I know of that makes it impossible to create defense systems that would make the prevailing theories obsolete. Why, then, should we by treaty deny ourselves the kind of development that could possibly create a reliable technique for the defense of civilians against ballistic missile attack? Why should we not at least be in a position to deploy such a system with the least possible delay in the event that we should find it necessary to terminate the agreement under the conditions allowed in Article XV or should we fail to negotiate a satisfactory successor agreement to SALT I?

Id. at 257-8. See also Senator Buckley's prepared statement, Id. at 262-3.

In response to a question from Senator Sparkman, Senator Buckley elaborated:

We have allowed a doctrine to develop over the years, and this is not new; this has been the doctrine for the last decade or so, a doctrine which maintains that we will deliberately be naked, hopefully in the expectation that the Soviets will oblige us by undertaking to be naked themselves, and that in this matter we have our best chances of avoiding a strike, the mutual terror argument.

Now, on the basis of existing technology, I can see the reasoning for this, although there is question about the effectiveness of available ABM technology; but I do question the morality of deciding now for all time that we will preclude ourselves from developing new concepts which at a later date could mean that the city of Washington or New York or San Francisco or Detroit could not be meaningfully protected either from attack by

the Soviet Union or from an attack from some other nation which has the capability of launching a weapon.

Id. at 268.

Former Senator Joseph Clark, who testified after Senator Buckley, placed in the record of the Foreign Relations Committee hearings the June 30, 1972, issue of Defense Monitor, published by the Center for Defense Information. That issue provided an analysis of the SALT accords containing the following:

In addition to these basic provisions, the two countries agree to ban sea-based, air-based, space-based or mobile land-based ABMs; not to deploy ABM systems of new kinds without prior discussion; not to convert air-defense or other systems to an ABM role; not to build radars for early warning of strategic ballistic missiles except along the edges of the country facing out; not to transfer ABM systems to other states or deploy them overseas.

....

The ABM treaty bans the kind of ABM system which could be most de-stabilizing -- a nation-wide or major regional defense of population and industry. Such a system, undertaken by either country, could threaten the other's deterrent and cause it to respond with additional offensive buildup. The complex restrictions on ABM sites should convince each side the other is not developing an ABM for defense of large areas. The treaty rules out a US ABM for population defense against China, which this country once planned but later abandoned.

Id. at 275-6.

Later that day Dr. James Dornan, Jr., a member of the Board of Policy of Liberty Lobby, noted and generally endorsed Senator Buckley's position concerning future ABM systems:

I have a few remarks in my statement about the ABM Treaty and again I would be repeating

much of what Senator Buckley said. I simply endorse his remarks about the moral problem that he finds with that treaty, particularly the implications that we will forbear in the future to construct a defensive system should the technology become available to protect the population of the U.S.

If I were in the Senate I doubt whether I would vote for that treaty myself on those precise grounds.

Id. at 311. See also id. at 309, and Dr. Dornan's prepared statement, id. at 317.

Dr. Dornan elaborated in response to a question from Senator Sparkman:

Mr. DORNAN. Let me put it this way: Certainly the technology for an effective missile defense does not presently exist, so the kind of objections raised by Senator Buckley this morning are moot or contingent on future developments. I would be opposed to the treaty, would vote against it were I a U.S. Senator, unless it contained an escape hatch, one much more clear than it presently contains, an escape hatch that would enable us to withdraw from the treaty should at some future point in time technology be available to protect our population.

....

I don't think, therefore, that the Soviets could possibly interpret U.S. development of an effective ABM capability as a prelude to an effective preemptive first-strike capability of the U.S. So without that escape hatch I would --

Senator SPARKMAN. Let's get through with the treaty. The treaty does not at the present time contain that escape hatch that you recommend?

Mr. DORNAN. Right.

Id. at 318-9.

On July 20, the final day of hearings before the Senate Foreign Relations Committee, Dr. Richard Garwin of the IBM Watson Laboratory also noted the provisions of the ABM Treaty concerning future systems:

Thus the ABM treaty promises the permanent absence of effective ABM capability, either locally or nationwide. To enforce such an important promise, it has provisions to limit systems which act like ABMs or look like ABMs. Most importantly, it recognizes the use of national technical means of verification, and it includes the undertaking not to use deliberate concealment measures nor to interfere with the national technical means of verification of the other party. Finally, it establishes a standing consultative commission to consider various questions, including details of compliance, et cetera. Furthermore, the agreed interpretations further limit ABM systems and specify, among other things, that specific limitations on ABM systems based on other physical principles and on their components, would be subject to discussion and agreement. Among the articles of the treaty, Article V is an undertaking "not to develop, test or deploy ABM systems or components which are sea based, air based, space based, or mobile land based." It is my judgment that this treaty and the auxiliary documents provide a firm, safeguarded an[d] verifiable elimination of the ABM as a threat to the effectiveness of our ICBM and SLBM force.

Id. at 351-2.

Dr. Wolfgang Panofsky, Director of the Stanford Linear Accelerator Center, described the Treaty's restraints on technology in these terms:

The Moscow treaty contains many important restraints on the growth of military technology. The treaty not only forbids deployment of ABM systems in excess of the numbers of interceptors and the numbers and sizes of radar specified, but it also precludes such items as testing of air-defense systems in an ABM mode, and prevents deployment of ABM systems using physical principles different from those now employed. Thus the treaty begins to demonstrate to the

world man's willingness to control the growth of technology in directions which are considered undesirable to the overriding interests of humanity.

Technical products evolve through a long chain starting from new results in basic research -- that is, research not motivated by applications but by man's fundamental curiosity about the functioning of nature -- and leading on through development, test and, finally, production and deployment. ... Now, the ABM treaty has provided highly meaningful controls deep into the technological chain all the way through. For instance, it prohibits the development of an ABM multiple-warhead and prohibits adaptation of non-ABM systems to ABM use. These are similar provisions as to testing and broader provisions as to deployment. The treaty also prohibits transfer of ABM technology to other countries.

Id. at 358-9.

In connection with his testimony, Dr. Panofsky submitted for the record a table describing constraints on "ABM Technology, Deployment and Transfer." Columns headed "Development," "Test," and "Deployment" included references to the Article V prohibitions. Under the column headed "Deployment," it was noted: "ABM system based on new physical principles not to be deployed." Id. at 367. A second table listing items of security benefit to both the U.S. and the Soviet Union contained the entry: "'New technology' ABM is prevented from deployment." Id. at 368.

C. Hearings before the Senate Armed Services Committee

The Senate Armed Services Committee held hearings on the military implications of the ABM Treaty and Interim Agreement on ten days from June 6 through July 25, 1972. Administration witnesses and Senators addressed the issue of future ABM systems on several occasions in the course of the hearings.

On June 6, the first day of the hearings, Secretary of Defense Laird commented generally on ABM technology in his opening statement:

Although ABM deployments will be limited to two sites -- Grand Forks, N. Dak., and the National Capital area -- we can and must continue permitted ABM research, development, test, and evaluation programs in order to preserve future options and to stay abreast of ABM technology.

We will continue the site defense program, making modifications to accelerate its development and testing....

We will vigorously pursue a comprehensive ABM technology program. This program will provide knowledge of ABM technology potential that will help us understand better Soviet ABM developments, help us insure adequate penetration capability for U.S. offensive missiles, and examine ABM development options that might be exercised if permitted by future agreements, or if otherwise necessary.

Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms: Hearing Before the Senate Committee on Armed Services, 92d Cong., 2d Sess. 5 (1972). (Secretary Laird made a virtually identical statement in testimony before several other committees. See Supplementary Hearings on Defense Procurement Authorization Relating to SALT Agreement, House Committee on Armed Services, No. 92-45 Supplement, 92d Cong., 2d Sess. 12098.5 (1972); Department of Defense Appropriations for Fiscal Year 1973: Hearings Before a Subcommittee of the Senate Committee on Appropriations, 92d Cong., 2d Sess. 18 (1972); Department of Defense Appropriations for 1973: Hearings Before a Subcommittee of the House Committee on Appropriations, 92d Cong., 2d Sess. 361-2 (1972).)

Secretary Laird and Senator Jackson subsequently focused more specifically on ABM research, development and testing:

Senator JACKSON. Do I understand that there is no prohibition in any of the understandings -- I can't find it in the treaty -- on research, tests, and development for the ABM?

Secretary LAIRD. Yes, in the Safeguard and site defense programs, Senator Jackson. I have been concerned about the statements which you made about a laser contract canceled under my direction. I can assure you that there has been no such contract canceled as far as the Army is concerned.

....

Senator JACKSON. Then would you answer the question on this other point. I take it your answer is that there is nothing in the SALT agreements or understandings or interpretation that prohibits any kind of research, test and development work in connection, first, with the ABM?

Secretary LAIRD. There are no other understandings or agreements that control research, development, test and evaluation on ABM other than the written treaty and the interpretative statements.

Senator JACKSON. And what does that provide?

Secretary LAIRD. It provides that research and development can continue, but certain components and systems are not to be developed.

Senator JACKSON. Can continue?

Secretary LAIRD. Yes.

Senator JACKSON. What about an offensive system?

Secretary LAIRD. The same.

Senator JACKSON. So there is no prohibition?

Secretary LAIRD. On research and development?

Senator JACKSON. Yes.

Secretary LAIRD. No, sir, not for offensive systems.

Senator JACKSON. In other words, none of the Moscow accords or agreements or related understandings, or agreed statements prohibit any
--

Secretary LAIRD. Nor in the defensive area.

Senator JACKSON. Defensive or other areas?

Secretary LAIRD. In the defensive area, it is spelled out in the language of the agreement. And one provision that you could apply to research and development has to do with the multiple destructors for ABM launchers that could launch more than one ABM missile at a time, and mobile ABM's. There is language in the agreement that you cannot go forward with multiple destructors and mobile ABM's -- I can read the article.

Senator JACKSON. That is a part of the research effort now underway. That is one kind of solution.

....

Secretary LAIRD. I can put in the record at this point the provisions on the agreement and the treaty that are applicable indirectly to your question. But there is nothing indirect or direct that applies to research and development outside of the agreement, the protocol, and treaty that have been released by the President.

Senator JACKSON. Will you supply all of that for the record?

Secretary LAIRD. Yes.

(The information follows:)

The following provisions of the ABM Treaty apply to research and development.

[quotes Articles IV, V and VII, and Agreed Statements D and E to the ABM Treaty and Agreed Statement D to the Interim Agreement]

Id. at 30-2.

Later that day Secretary Laird and Senator Dominick engaged in the following exchange:

Senator DOMINICK. The next question is: Is the U.S.S.R. restricted in further R. & D. in MIRV, FOBS, lasers, and all other new weapons of capabilities not expressly forbidden?

Secretary LAIRD. The answer is no.

Senator DOMINICK. In your opinion, does SALT impede satellite-based counterforce system developments which, Senator Goldwater says, to me is not only the way we should be on, but the way of the future.

Secretary LAIRD. I will supply the exact language for the record at this point.

(The information follows:)

There are no specific provisions in the Interim Offensive Agreement which impede Satellite-based counterforce system developments. However, as you know, the Treaty on Outer Space between the U.S. and USSR explicitly prohibits the placing in orbit of weapons of mass destruction. The ABM Treaty specifically prohibits space-based ABM systems. The exact language is as follows.

Article V

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.

Secretary LAIRD. This applies to defensive, but not offensive systems, and I assume that your question applies to both.

....

Secretary LAIRD. Could I add, in answer to Senator Goldwater's question, it does have an effect on the defensive systems, but not on the offensive systems.

(The information follows:)

No. Space-based ABM systems are prohibited by Article V of the ABM Treaty which states in part:

"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."

Id. at 38-9, 41.

A question submitted for the record by Senator Goldwater in connection with the first day of the Armed Services Committee hearings elicited the following answer from the Department of Defense:

Question. The ABM bit does not bother me too much, although I have not seen the fine print. For my money, we should have long since moved on the space-based systems with boosting phase destruction with shot, nukes, or lasers. I have seen nothing in SALT that prevents development to proceed in that direction. Am I correct?

Answer. With reference to development of a boost-phase intercept capability or lasers, there is no specific provision in the ABM treaty which prohibits development of such systems.

There is, however, a prohibition on the development, testing, or deployment of ABM systems which are space-based, as well as sea-based, air-based, or mobile land-based. The U.S. side understands this prohibition not to apply to basic and advanced research and exploratory development of technology which could be associated with such systems, or their components.

There are no restrictions on the development of lasers for fixed, land-based ABM systems. The sides have agreed, however, that deployment of such systems which would be capable of substituting for current ABM components, that is, ABM launchers, ABM interceptor missiles, and ABM radars, shall be subject to discussion in accordance with article XIII (Standing Consultative Commission) and agreement in accordance with article XIV (amendments to the treaty).

Id. at 40-1.

On June 20, the second day of the hearings, the subject of future ABM systems was again addressed. At the outset of

the session, Chairman Stennis submitted for the record the transcript of the May 26, 1972, White House Press Conference of National Security Adviser Henry Kissinger and ACDA Director Gerard Smith. In that press conference, Ambassador Smith directly addressed the issue of future ABM systems:

Now, Article II defines what we are talking about and has a very important bearing on the whole question of what we call future ABM systems. This treaty has as a most significant aspect that it not only limits the present situation, but has a choking off effect on future systems which, under the terms of the treaty as we have reached understandings, futures will not be deployable unless this treaty is amended.

Id. at 99.

At a later point in that second day of hearings Secretary Laird and Senator Thurmond took up the subject of lasers:

Senator THURMOND. Mr. Secretary, the proposed ABM seems to preclude any serious effort to protect major segments of our civilian population centers either now or at any time in the future. I understand we have had R. & D. programs, such as the development of the laser-type ABM system.

Is there a good reason why we should forever preclude the possibility of developing a truly effective defense of our cities if our technology should make one available?

Secretary LAIRD. The research and development programs in these areas will go forward and it is most important, I believe, that we carry out an adequate research and development program so that we can maintain our ABM technology. The treaty, of course, does make such deployments contingent upon treaty amendment, but it does permit research and development on the ongoing technology which we have in these fields.

Senator THURMOND. Would the agreement prohibit us from developing an ABM laser type weapon, for instance, on tanks?

Secretary LAIRD. No, it would not apply to weapons that did not have an ABM capability --...

Id. at 171.

On June 22, the third day of the hearings, future ABM systems -- in particular laser technology -- were again the focus of attention in several exchanges. Dr. John Foster, Jr., Director of Defense Research and Engineering, addressed the issue first in an exchange with Senator Smith:

Senator SMITH. ... Mr. Secretary, would you tell the committee what progress is being made in the research and development of the laser [deleted].

Dr. FOSTER. Certainly, Senator Smith.

The United States today has a research and development effort in lasers that totals a little above [deleted].

Senator SMITH. Thank you, Mr. Secretary.

Is there anything in the agreements that would prevent us from continuing our effort along this line?

Dr. FOSTER. There is nothing in the agreements, Senator Smith that prevents us [deleted]. The agreement does forbid the replacement of the currently allowed defense, that is, interceptor missiles, by a laser system.

Senator SMITH. In other words, the laser, if it was developed to the ultimate, could not be used at one of the two sites?

Dr. FOSTER. Yes, its deployment would be prohibited by the treaty. A laser could be used as part of an auxiliary designator system but it could not be used in substitution for a prime detector, that is, the ABM radar, or interceptor missile component.

Senator SMITH. But that will not slow us up or slow us down on continued research and development of the laser, will it?

Dr. FOSTER. No, Senator, it will not.
[Deleted.]

Id. at 222.

Dr. Foster subsequently returned to the subject of lasers in an extended exchange with Senator Jackson:

Senator JACKSON. ... I want to -- before we conclude here -- is there anything in these agreements that impinge on our right to research those areas that bear on both our defense and on defense capability? Specifically, there is a limitation on lasers, as I recall, in the agreement and does the SAL agreement prohibit land-based laser development?

Dr. FOSTER. No, sir; it does not. [Deleted.]

Senator JACKSON. [Deleted.]

Dr. FOSTER. [Deleted.] What is affected by the treaty would be the development of laser ABM systems capable of substituting for current ABM components.

Senator JACKSON. I am saying offense and defense, now.

Article 5 says each party undertakes not to develop and test or deploy ABM systems or components which are sea based, air based[,], space based or mobile land based.

Dr. FOSTER. Yes, sir; I understand. We do not have a program to develop a laser ABM system.

Senator JACKSON. If it is sea based, air based, space based, or mobile land based. If it is a fixed land-based ABM system, it is permitted; am I not correct?

Dr. FOSTER. That is right.

Senator JACKSON. What does this do to our research --

I will read it to you: section 1 of article 5 -- this is the treaty: "Each party undertakes

not to develop" -- it hits all of these things -- "not to develop, test or deploy ABM systems." You can't do anything; you can't develop; you can't test and finally, you can't deploy. It is not "or".

Dr. FOSTER. One cannot deploy a fixed land-based laser ABM system which is capable of substituting for an ABM radar, ABM launcher, or ABM interceptor missile.

Senator JACKSON. You can't even test; you can't develop.

Dr. FOSTER. You can develop and test up to the deployment phase of future ABM system components which are fixed and land based.

My understanding is you can develop and test but you cannot deploy. You can use lasers in connection with our present land-based Safeguard system provided that such lasers augment, or are an addendum to, current ABM components. Or in other words, you could use lasers as an ancillary piece of equipment but not as one of the prime components either as a radar or as an interceptor to destroy the vehicle.

Senator JACKSON. The way I read this -- but I may be wrong; it depends upon the interpretation here -- but it says 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.

Dr. FOSTER. That is correct.

Senator JACKSON. Now, it could well be read into this that even though you are conducting research you have not deployed it, that you cannot do that either. The way I read this, Mr. Chairman -- you might take a look at it -- I think it raises a real question here whether you can actually engage in research.

(The information follows:)

Article V prohibits the development and testing of ABM systems or components that are

sea-based, air-based, space-based, or mobile land-based. Constraints imposed by the phrase "development and testing" would be applicable only to that portion of the "advanced development stage" following laboratory testing, i.e., that stage which is verifiable by national means. Therefore, a prohibition on development -- the Russian word is "creation" -- would begin only at the stage where laboratory testing ended on ABM components, on either a prototype or bread-board model.

Dr. FOSTER. No.

Senator JACKSON. I gather that the problem on lasers is sometimes difficult. [Deleted.]

(Colloquy deleted.)

Id. at 274-5.

At the conclusion of the session, Dr. Foster commented on the exchange with Senator Jackson on lasers as follows:

Dr. FOSTER. ... I think I have covered the major points I wanted to make. I welcome an opportunity to review the record and add I would particularly like to clarify the discussion with Senator Jackson regarding the laser program. I think we can clear that up.

The CHAIRMAN. Yes, sir. I didn't get to hear all of it, but your testimony today was very informative. You made some things very clear; you went into your particular part of it with great clarity. I appreciate it.

Id. at 280.

On June 28, the fifth day of the hearings, Ambassador Smith touched upon future ABM systems in his prepared statement:

The development and testing, as well as deployment of sea, air, space-based, and land-mobile ABM devices is prohibited. Of perhaps even greater importance, the parties have agreed that no future types of ABM systems based on different physical principles from present

technology can be deployed unless the treaty is amended.

Id. at 287.

Senator Smith questioned Ambassador Smith on his statement:

Senator SMITH. Mr. Ambassador, you say that the treaty prohibits the development of other ABM systems. Would this affect a development of a laser ABM system by the United States?

Mr. SMITH. Senator Smith one of the agreed understandings says that if ABM technology is created based on different physical principles, an ABM system or component based on them can only be deployed if the treaty is amended.

Work is [sic] that direction, development work, research, is not prohibited, but deployment of systems using those new principles in substitution for radars, launchers or interceptors, would not be permitted unless both parties agree by amending the treaty.

Id. at 295.

Senator Goldwater, too, questioned Ambassador Smith about the laser:

Senator GOLDWATER. ...

One, under this agreement are we and the Soviets precluded from the development of the laser as an ABM?

Mr. SMITH. No, sir.

Senator GOLDWATER. Well, now, there is a point of confusion, because I have been told that we are precluded from the development of the laser. I have read that the orders have come down from the Secretary of Defense to stop the development of the lasers for ABM purposes.

Now, this points up why it is hard for this one Senator to make up his mind whether or not

this is a good agreement. I am glad to have that answered.

Id. at 306.

On July 18, the sixth day of the hearings, Senator Jackson returned to the subject of future systems in the context of Soviet technology:

Senator JACKSON. ... [I]sn't it a fact that the Soviet technology in the area of antiballistic missiles is somewhat limited and that the Soviets have only confined themselves in this agreement to the limit of their technology at this time? Isn't that a fair statement?

Mr. SMITH. Well, this treaty is of indefinite duration; it placed no limitation on the technology, the development of technology of radars, launchers, and interceptors. It does place limits on the technology of systems using other physical principles, but it would be fair to say it does not limit them to the present state of their art.

Id. at 371.

Later in that session, Senator Jackson probed on the meaning of "develop" in Article V of the Treaty:

Senator JACKSON. In article V of the treaty, the term "develop" appears in connection with an undertaking not to "develop, test or deploy" certain ABM systems or components. How do you define the term "develop" as it is used in article V?

Mr. SMITH. We have given a good deal of analysis to this question; and it is a technical question and I would ask you if I could not submit to you in writing our interpretation of what that term means. I think we can do that very quickly.

Senator JACKSON. Will you also take into account the further question as to whether there is any other meaning of the term "develop" associated with its use in other provisions of the accords?

Mr. SMITH. Yes, sir.

(The information follows:)

Article V of the ABM Treaty and an Agreed Interpretive Statement (F) obligate the U.S. and USSR "not to develop, test, or deploy" mobile ABM systems, rapid reload devices, or ABM interceptor missiles for delivery of more than one independently guided warhead.

The SALT negotiating history clearly supports the following interpretation. The obligation not to develop such systems, devices or warheads would be applicable only to that stage of development which follows laboratory development and testing. The prohibitions on development contained in the ABM Treaty would start at that part of the development process where field testing is initiated on either a prototype or breadboard model. It was understood by both sides that the prohibition on "development" applies to activities involved after a component moves from the laboratory development and testing stage to the field testing stage, wherever performed. The fact that early stages of the development process, such as laboratory testing, would pose problems for verification by national technical means is an important consideration in reaching this definition. Exchanges with the Soviet Delegation made clear that this definition is also the Soviet interpretation of the term "development."

Consequently, there is adequate basis for the interpretation that development as used in Article V of the ABM Treaty and as applied to the budget categories in the DOD RDT&E program places no constraints on research and on those aspects of exploratory and advanced development which precede field testing. Engineering development would clearly be prohibited.

No. The term "development" appearing in Article IV of the Treaty is used in the same sense as the term "develop" in Article V.

Id. at 376-7.

On July 19, the seventh day of the hearings, General Bruce Palmer, Jr., Acting Army Chief of Staff, touched briefly in his prepared statement on the need for new ABM components:

The interim agreement on strategic offensive weapons, although a significant first step, does not remove the serious potential threat to our land-based retaliatory capability. To provide the assurance that our strategic defense of these forces could be quickly and efficiently increased, should the ABM treaty and offensive agreement lapse for any reason, development of new ABM components -- such as those of the site defense system -- can and should continue.

Id. at 426.

General Palmer, General John Ryan, Air Force Chief of Staff, and Lt. General W.P. Leber, Safeguard System Manager, engaged with Senator Goldwater in an extended discussion of research, development, and deployment of laser systems:

Senator GOLDWATER. ...

I have one more question, General Ryan, and also of General Leber. It applies to our R. & D.

I seem to remember, immediately after the announcement of the SALT talks, Secretary Laird's announcing that there would be no more R. & D. in laser development that might be used for antiballistic missiles. That appeared in the press, and when Ambassador Smith was here, I asked him if this were true. Surprisingly, he answered and said that it was not true, that we were allowed to continue with laser research and development. Is that your understanding?

General RYAN. Yes, sir.

Senator GOLDWATER. Is it yours, too, General?

General PALMER. My understanding is in the defensive area, R. & D. on such systems is basically prohibited.

Senator GOLDWATER. Prohibited?

General PALMER. Basically prohibited.

Senator GOLDWATER. Here is another point that we have trouble on, a very simple point.

General PALMER. Talking about the defensive, now.

Senator GOLDWATER. Ambassador Smith didn't delineate between the two: Offensive or defensive. I am interested in not particularly offensive because I think for our purposes we have made progress in this field, but I am thinking of the extent of research on laser that could result in a perfect ABM weapon.

General RYAN. Your question to me was development of laser, and we do have an ongoing program on development in the general generic term of "laser."

Senator GOLDWATER. I was interested -- again, you might be able to answer it -- if anyone acquainted with laser can see its application as we progress in the science to ABM use in a very perfect way, an inexpensive way compared to what we are doing. It was my interpretation of the Secretary's remarks we would no longer engage in such development.

General PALMER. I would like to correct my statement.

I was referring to the deployment of such systems. There is no limit or understanding of a limit on R. & D. in the futuristic systems, but would require an amendment of the treaty or further agreement to deploy such a system.

Senator GOLDWATER. Then what you are saying, if the Army or any of our research and development agencies suddenly came along with a breakthrough that would enable us to get the power to develop the optical mechanism, would it mean that we couldn't deploy the antiballistic missile capability?

General RYAN. That's correct.

General PALMER. That's correct.

Senator GOLDWATER. Do you both believe that?

General PALMER. Without further agreement.

Senator GOLDWATER. Again, Mr. Chairman, I think this is indicative of the great misunderstanding, and this one point alone is going to keep me from voting for the SALT until I find out what we can do. I don't like the idea that what has been the world's great technological Nation, which it no longer is, can't develop something of its own inventive necessity where we can have a literally foolproof antiballistic missile system; I don't think it is around the corner; I don't think it is near. The men in the blue suits have been talking about it.

General RYAN. The development, when you speak of the development, is not banned. The development --

Senator GOLDWATER. Bad?

General RYAN (continuing). Is not banned, such as Hardsite defense. The development --

Senator GOLDWATER. But the deployment?

General RYAN. The deployment of these systems is banned.

....

General LEBER. Senator, I think we have been over this ground before when Dr. Foster was before the committee, and if I may I will try to expand and hopefully clarify it.

The only limitation in the treaty, and it is in the ABM treaty; it is not in the interim offensive agreement at all, is that either side, the Soviets or the United States, would not use a laser device to substitute for any other component part of the ABM system. You could use laser technique to improve any of your existing components -- radar, interceptor -- those are the

main components, but if you propose to substitute, for example, a laser device for the interceptor, that would be prohibited, an amendment to the treaty would be required for deployment.

That is a very narrow area now that we are talking about; it has nothing to do with ICBM's, nothing to do with the defense systems in general. The only restriction is that you would not substitute a laser device for one of the components of your ABM system.

Id. at 437-9.

Senator Jackson pursued the issue in the context of inspection and verification:

Senator JACKSON. Without some sort of onsite inspection, we can't monitor "development," can we?

General LEBER. I think we can detect testing of laser devices in an ABM mode; I think we can without onsite inspection.

Senator JACKSON. Testing, yes; but development, how are you going to monitor that?

General LEBER. It is possible to do certain development work in a laboratory that would not be detectable other than by on-site inspection.

Senator JACKSON. Administration spokesmen have told us that all of this is going to be handled under the agreement by national means and that we have adequate means of doing that very thing. I am just pointing out here the very important area General Ryan has emphasized -- research and development. But here is an area of development. I am not talking about testing. We can do certain things to detect tests, but I am talking about development in a laboratory.

How are you going to monitor that without some kind of on-site inspection?

General LEBER. There is no argument that that could go on.

Senator JACKSON. Here, again, I think people are surprised; they don't know what is in this agreement. Have you gentlemen been consulted about this?

General LEBER. No.

Senator JACKSON. How is it going to be done?

Senator DOMINICK. Would the Senator yield?

There isn't any ban, as I understand it, on research and development on either side?

General RYAN. That's right.

Senator DOMINICK. So, therefore, the onsite inspection is no different; the offsite inspection is no different now than it was before?

Senator JACKSON. Yes, but under article V of the ABM treaty "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."

Senator GOLDWATER. Fixed based.

Senator JACKSON. The fixed-base ABM is exempt.

Senator GOLDWATER. Fixed based.

Senator JACKSON. The fixed-baseve [sic].

Senator GOLDWATER. We could then replace the Sentry with the laser if it became effective?

Senator JACKSON. The prohibition runs to sea based, air based, space based, or mobile land based ABM's.

Senator GOLDWATER. Not fixed land?

Senator JACKSON. That's right. That is exempt. I am just pointing this out. In those other areas, it is prohibited and, development is also prohibited. How are you going to handle that? Tests can be detached. There are certain

national means available to check on testing and deploying, but I am underlining, Senator Dominick, the key word, "development." And I just cite that as an illustration. As I understand it, the Joint Chiefs have no knowledge of the means of monitoring "development," except that, later, there will be consultations under the agreement.

General PALMER. Let me try to clarify that, Senator Jackson.

The treaty, as you have just read, does limit radars[,] launchers and missiles; it does not limit R&D on futuristic systems. We could not deploy such a new system, however --

Senator JACKSON. Can I read this? You tell me what it means: "Each party undertakes not to develop." What does that mean as you understand its [sic]? As I read it, there is a prohibition on development. What does "develop" mean, as you understand it? This is very important.

The Army has the ABM responsibility and I want to find out what the Army really knows about it.

General PALMER. I would interpret that, to mean both sides have agreed not to go to multiple warheads. A rapid reload capability, or sea, sir [sic], or mobile land-based modes.

Senator JACKSON. ... Let's talk about the first paragraph. Let me read it to you again because I am amazed that we meet here with the top military people and they don't know what is in this agreement. This is what I have been saving for a long time. It is really disturbing. It ought to be distressing. Let me read it. Article V, paragraph 1:

"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."

Tell me what it means.

General LEBER. Your question on what does "develop" mean has not been spelled out in the treaty, as you have said there; it does go on to cover testing which we believe we could detect.

Senator JACKSON. Let's take these one at a time now, "Develop" -- what do you understand that to mean?

General LEBER. Well --

Senator JACKSON. What does that mean? Were you consulted on that one?

General LEBER. No, sir.

Senator JACKSON. I thought we were told from the press accounts that the Joint Chiefs were kept completely informed. I am inclined to go through each item in the treaty and find out where you were not consulted, since we were told you were consulted on everything. I was amazed when you said you were not consulted on that.

General LEBER. No, sir.

Senator JACKSON. It is pretty important.

Senator GOLDWATER. Let's nail this down.

Senator JACKSON. That's right.

Senator GOLDWATER. You were never consulted but were any members of the Chiefs? Was the Chairman of the Joint Chiefs ever brought into this whole question of research and development of a laser or any other additions or subtractions of the weapon system?

General RYAN. My interpretation of the paragraph which you just read, Senator Jackson, is that each party undertakes not to develop, test, or deploy ABM systems or components which are sea based, air based, meaning in the atmosphere, space based, outside of the atmosphere, or mobile land based.

Senator JACKSON. Yes sir.

General RYAN. It doesn't mean that fixed, land based cannot be developed.

Senator JACKSON. Yes, I said that. Now, what I am saying, General Ryan, is that you are prohibited from developing a system that is sea based, air based, space based, or mobile land based?

General RYAN. That is correct.

Senator JACKSON. That is right.

General RYAN. But you can --

Senator JACKSON. I ask you, what do you mean by "develop"?

General RYAN. Well, for a fixed --

Senator JACKSON. AS I said, we have national means to monitor testing. But tell me, how do we monitor development work in a laboratory?

General RYAN. Senator, as you well know, there is no way we could.

Senator JACKSON. Well, that is what I am trying to nail down here, and as I say, I am amazed that the Joint Chiefs were not consulted on this.

General Leber, I take it that development really means the laboratory work and can include basic research, and applied research until the product is ready to test. Is that right?

General LEBER. That's correct....

....

My point is this development is a very major undertaking; it is not something that you can complete in a laboratory. True, some of the first work with radars and some of the first work with components of the interceptor went on in laboratories but early in the development they

started testing interceptors, they started testing components of radars, putting them on the air. Those are the kinds of things that you can observe and detect.

In the case of our site defense program, we are now in the early stages of a prototype demonstration where we are going to develop a system and test it out in the Pacific before we know whether it would be a system we could deploy. This is what development means to me, not just the beginning work in the laboratory but the whole program, leading to a decision on whether or not you not [sic] have a system.

Senator JACKSON. Obviously, once you start to develop something you are going to test it and then --

General LEBER. If you are ever going to deploy it, you had better test it.

Senator JACKSON. That's right; and if it is going to be usable you have to develop it and test it and then you will deploy it?

General LEBER. That's right.

Senator JACKSON. That is what it says here, but I am talking about that part of the prohibition relating to development.

This is what I want to get from the Joint Chiefs here, because I want this record to be complete. There have been many statements made as to what you gentlemen have agreed to. I want to ask you, are you opposed to provisions that cannot be monitored?

General RYAN. Yes, sir.

Senator JACKSON. Pardon me?

General RYAN. Yes, sir.

Senator JACKSON. You are opposed to provisions that cannot be monitored, so that in this instance, where you cannot monitor the laboratory work, I assume you are opposed to that provision?

General RYAN. You are putting words in -- the general has explained his idea of development.

But you can't without onsite inspection; you cannot go into the laboratory and find out what they are doing in a laboratory.

Senator JACKSON. That's right.

If you had been consulted, what would you have advised on this point? We had the impression the Joint Chiefs were consulted on everything regarding these agreements. That is what was given to the press. I want to find out in these hearings if that is true.

General RYAN. I can't say that we were consulted on everything. Let's say that I was not aware of this particular semantic interpretation of the term.

....

General PALMER. On the question of the ABM, the facts are that when the negotiation started the only system actually under development, in any meaningful sense, was a fixed, land-based system. As the negotiations progressed and the position of each side became clear and each understood the other's objectives better, it came down to the point where to have agreement it appeared that -- this is on the antiballistic missile side -- this had to be confined to the fixed, land-based system. The Chiefs were consulted. I would have to go to a closed session to state precisely the place and time. They were consulted on the question of qualitative limits on the AB side and agreed to the limits that you see in this treaty.

Senator JACKSON. Even though it can't be monitored?

General PALMER. Yes.

Senator JACKSON. I just wanted that; so the Chiefs went along with the concept here that involved --

General PALMER. A concept that does not prohibit the development in the fixed, land-based ABM system. We can look at futuristic systems as long as they are fixed and land based.

Senator JACKSON. I understand.

General PALMER. The Chiefs were aware of that and had agreed to that and that was a fundamental part of the final agreement.

....

The CHAIRMAN. This word "develop," gentlemen, in article V, "Each party undertakes not to develop, test or deploy." As we have used the term "develop" in the R&D section of the defense authorization bill I did not understand it to refer to antecedent beginning of basic research and all, but rather "develop" was something moving more in the tangible field of materials and testing and finally deploying. That is the way I understand it. That is the way we have used it in the committee.

My question is, does the word "develop" in this article V have a meaning different from what it ordinarily means in research and development discussions and items?

General PALMER. Mr. Chairman, I understand it to mean the total creation of a system.

The CHAIRMAN. From beginning to end?

General PALMER. Yes.

(The information follows:)

Based on further research with regard to Article V of the ABM Treaty and the implications arising from the undertaking not to "develop, test and deploy" certain ABM systems, I have since been advised by my Staff that there are some understandings which evolved during the negotiations in the use of these terms. I also understand that a more complete answer to a similar question raised yesterday in the

Committee's hearings with the negotiating team members is being provided. The obligation undertaken by Article V is applicable only to that stage of development which follows laboratory development and testing. Research in these areas is therefore permitted. Exchanges with the Soviet delegation, I am told, made clear that this definition was also the Soviet interpretation of the term "development."

The CHAIRMAN. So that encompasses everything. That is a new slant on the word as I have understood it. If that is correct, why would you use the word "test" or "deploy"? If "develop" means everything from beginning to end, why would you bring in these other words "test" and "deploy"?

General LEBER. Sir, I think it is clear that the deployment is different from development. We never use the word "development" to include deployment. There is another reason to single out testing. As you recall, one of our main appropriations is RDT&E.

The CHAIRMAN. Yes.

General LEBER. And this stands for research, development, test and evaluation, so testing has been singled out as a phase. Research, development, test and evaluation. This could be the reason they had singled out testing. In any case, deployment is a different phase and not part of development.

The CHAIRMAN. That is a consummation of everything.

General LEBER. That is going out and putting it in.

The CHAIRMAN. Yes.

General LEBER. As we started to do with Safeguard.

The CHAIRMAN. It is your idea, then, that this word "develop" does include the concept that it cannot be monitored in a laboratory, correct?

General LEBER. Yes, sir; that is my understanding.

The CHAIRMAN. All right.

General LEBER. It can include some work in a laboratory which could not be detected but other work which could be necessary to develop fully an ABM system could be detected.

The CHAIRMAN. You made that clear.

Senator JACKSON. If I might add to the confusion, I am informed that in the Russian text, in connection with develop, two different Russian words are used.

Senator GOLDWATER. Do you know what they mean?

Senator JACKSON. No. We may want to check that.

Id. at 439-44.

On July 21, the eighth day of the hearings, Admiral Elmo Zumwalt, Jr., the Chief of Naval Operations, was questioned by Senator Jackson about the conditions that would justify withdrawal from the Treaty or agreement. In a statement provided for the record, Admiral Zumwalt observed:

To summarize, Senator, it is my view that Soviet actions which would provide reasons for U.S. consideration and execution of withdrawal from the Treaty or Interim Agreement fall into basically five categories:

1. Failure of Soviet compliance with the wording and intent of the Treaty and the Agreement. This could constitute overt acts of non-compliance by exceeding number limits or covert acts (cheating). Such acts might include:

Deployment of ABM systems with multiple launchers, rapid reload, multiple warhead interceptors, or sea/air/space-based ABM systems.

Id. at 530.

D. Hearings before the House Foreign Affairs Committee

The House Foreign Affairs Committee held hearings to consider the Interim Agreement on four days beginning July 20, 1972, and concluding August 9, 1972. The subject of future ABM systems received only minimal attention.

Testifying in the opening session of the hearings, Secretary Rogers again outlined the principal provisions of the ABM Treaty. He described the qualitative limitations on ABM systems in these terms:

The commitment to low ABM levels is further enhanced by several important qualitative limitations. We and the Soviet Union have agreed not to develop, test, or deploy:

1. ABM systems or components that are sea based, air based, space based, or mobile land based....

....

Such undertakings are important. It may be of even greater importance that both sides have agreed that future types of ABM systems based on different physical principles, for example, systems depending on such devices as lasers, that do not consist of ABM interceptor missiles, launchers, and radars, cannot be deployed even in permitted areas. So there is a limitation on what may be employed in the ABM systems now in operation and it prohibits the deployment of new esoteric systems in these areas.

Agreement on Limitation of Strategic Offensive Weapons:
Hearings Before the House Committee on Foreign Affairs, 92d
Cong., 2d Sess. 5 (1972).

Later in the session, in an exchange with Ambassador Smith on the issue of MIRV's, Congressman Zablocki noted briefly "the agreement not to develop certain phases of ABM's and interceptor missiles...." Id. at 16.

E. Hearings before the House Armed Services Committee

The House Armed Services Committee held hearings related to SALT I on five days beginning June 6, 1972, and concluding

July 27, 1972. In the June 6 session the Committee heard from Secretary Laird, who engaged in the following exchange with Congressman Stratton in the context of questions about the cancellation of laser contracts:

Mr. STRATTON. My understanding was one area where we did not get any limitation was in the field of R. & D., that we are free to continue that, isn't that true?

Secretary LAIRD. That is correct, except for certain limitations in the ABM treaty, Congressman Stratton.

Supplementary Hearings on Defense Procurement Authorization
Relating to SALT Agreement, House Committee on Armed Services,
No. 92-45 Supplement, 92d Cong., 2d Sess. 12098.38 (1972).

In the July 25 session a staff memorandum on the SALT Agreements prepared for members of the House Armed Services Committee was inserted into the record. The memorandum summarized and commented on the ABM Treaty as follows:

The Treaty defines an ABM system as one to counter ICBM's in flight trajectory and one consisting of ABM interceptor missiles, ABM launchers and ABM radars. (Article 2)

....

No ABM system or component shall be sea-based, space-based, air-based or mobile.

Neither side shall develop, test or deploy launchers for launching more than one missile at a time, nor develop or deploy automatic, semi-automatic or similar systems for rapid reload of ABM launchers. (Article 5)

....

Modernization and replacement of ABM systems and components is allowed. (Article 7)

....

Following are some significant points about the agreements and interpretations that have been issued.

....

The parties agreed that in the event an ABM system based on other physical principle[s] with components capable of substituting for interceptor missiles, launchers and ABM radars is created in the future, limitations on such systems would be subject to discussion in accordance with Article 18.

Full Committee Hearings on the Military Implications of the Strategic Arms Limitation Talks Agreements, House Committee on Armed Services, No. 92-68, 92d Cong., 2d Sess. 15074-6 (1972).

Testifying before the Committee, Ambassador Smith drew attention to the qualitative limitations in the Treaty:

ABM radars are an essential element of an ABM system and are the long-lead-time item in development of an ABM system. The question of limitations of radars -- a highly complex subject -- occupied a great deal of time in the negotiations. Specific limitations on ABM radars are spelled out in the treaty. In addition, there are limitations on the deployment of certain types of non-ABM radars in order to preclude the possibility of their use as elements of an ABM system.

In order to assure further that there would be adequate restraints on ABM capabilities, the treaty provides for significant qualitative limitations on ABM systems.

The very low quantitative limitation of 200 ABM launchers for each side cannot be circumvented through qualitative changes. The two sides have agreed not to develop, test, and deploy ABM launchers for launching more than one interceptor missile at a time, not to modify launchers to provide them with such a capability, nor to develop, test or deploy automatic or semiautomatic or other similar systems for rapid reload of ABM launchers.

An additional important qualitative limitation is the prohibition on the development

and testing, as well as deployment, of sea, air, space-based and land-mobile ABM systems and components.

Of even greater importance as a qualitative limitation is the prohibition on the deployment of future types of ABM systems that are based on physical principles different from present technology.

On this point, Mr. Chairman, there is an agreed interpretation with respect to ABM systems based on different physical principles, and including components capable of substituting for those components used at present -- that is, launchers, missiles and radar components. If such new systems are developed, and one or the other side wants to deploy them under the limitations of this treaty, there would have to first be a discussion of the question in the Standing Consultative Commission we are proposing to establish under this treaty, and then the treaty would have to be amended before such novel ABM systems could be deployed.

Id. at 15086.

In the July 27 session, Admiral Thomas Moorer, Chairman of the Joint Chiefs of Staff, engaged in a colloquy with Congressman Whitehurst about future ABM systems:

Mr. WHITEHURST. When Ambassador Smith was here a couple of days ago, I was interested in his remarks, particularly related to the ABM sites. There cannot be any quantitative improvement by either side, can there?

Admiral MOORER. That is correct, not beyond that specified in the treaty.

Mr. WHITEHURST. Suppose there were a qualitative improvement -- perhaps I am just fishing here and I wish I had his testimony before me -- that would change the balance on this. Is there anything in the agreement that declares there cannot be a change qualitatively?

Admiral MOORER. Well, there is a limit on the capability of radars, which is highly technical....

....

Mr. WHITEHURST. ... This obviously will go on with ABM R. & D. I am thinking about some kind of technical breakthrough, perhaps something beyond Spartan or Sprint in the state of the art. Is this possible? What would this do to this agreement?

Admiral MOORER. If I could just read one paragraph here that deals, I think, with your question, Mr. Whitehurst. It states as follows:

In order to insure fulfillment of the obligations not to deploy ABM systems and their components, except as provided in Article III of the Treaty, the parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars, are created in the future, specific limitations on such systems and their components would be subject to discussions in accordance with Article VIII and agreement in accordance with Article XIV of the Treaty.

Mr. WHITEHURST. That is exactly what I am referring to.

Admiral MOORER. Yes, sir.

Mr. WHITEHURST. You have no means of surveillance, though. For example, if we achieved this technically, then we would be obliged to advise the Soviets that we have this capability?

Admiral MOORER. Only if we deployed it in the configuration of an ABM weapons system. But there is no restraint on research and development.

Mr. WHITEHURST. OK. Thank you.

Id. at 15124-5.

F. Hearings before the Senate Appropriations Subcommittee

In hearings on the Department of Defense Appropriations for Fiscal Year 1973, held before a Subcommittee of the Senate

Appropriations Committee, some attention was also focused on restrictions contained in the ABM Treaty. On June 13, 1972, Senator Young engaged in the following exchange with Secretary Laird and Admiral Moorer:

Senator YOUNG. Mr. Secretary, in your memorandum of May 26, 1972, to the Secretary of the Army, you instructed him to take certain actions, one of which was "suspend all ABM and R. & D. which are prohibited by the ABM treaty."

Secretary LAIRD. There are only a few areas in which there is any limitation of R. & D. on ABM's and for all intents and purposes that does not shut off any programs that we have.

Senator YOUNG. Which programs are prohibited?

Secretary LAIRD. We can give you the exact language of the prohibition as far as the ABM treaty is concerned, but it does not apply, as we interpret it at the present time, to any of our ongoing programs. We can give you the exact language.

Senator YOUNG. I was not aware there was [a] prohibition on the research and development on any of these programs.

Are there any more besides this?

Secretary LAIRD. We could give you the exact language. It is in article 5 of the treaty.

Very few, but I think we ought to put these paragraphs in the record.

Senator YOUNG. What other major research and development programs are prohibited by the treaty?

Secretary LAIRD. Article 5 prohibits the development, test and deployment of ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, or the modification of deployed launchers to provide them with such a capability. It also prohibits development[,] testing, and deployment of automatic or semiautomatic or other similar systems for rapid reload of ABM launchers. The

parties agree that this article includes the obligation not to develop, test, or deploy ABM interceptor missiles for the delivery by each interceptor missile of more than one independently guided warhead.

Also included in article 5 is the prohibition against mobile ABM systems.

I will put that in the record.

. Senator YOUNG. Yes.

[Articles IV, V, VI and VII of the ABM Treaty are then quoted for the record.]

Senator YOUNG. Are there any other military programs where there is a limitation or prohibition on research?

Secretary LAIRD. Not on research and development; only these that I have cited to you.

Senator YOUNG. Only this one.

....

Earlier we had a question in which there was a limitation on ABM research and you agreed that there was a limitation.

Secretary LAIRD. But only in certain areas, and it does not affect any of our current ongoing programs in the ABM field to any substantial degree at all.

We have placed in the record earlier this afternoon the articles of the treaty that could be interpreted as a limitation on our development and test program.

Admiral MOORER. There are two limitations, Senator Young. First, only one warhead and rocket per missile and only one missile on a launcher. You cannot make an automatic missile launcher and you cannot have a multiple warhead on an antiballistic missile.

The other limitation is no sea-based, no air-based, space-based, or mobile land-based ABM systems.

Department of Defense Appropriations for Fiscal Year 1973: Hearings Before a Subcommittee of the Senate Committee on Appropriations, 92d Cong., 2d Sess. 13-18 (1972).

At a later point in the hearings, on September 12, 1972, General J.A. Kjellstrom, Director of the Army Budget in the Office of the Army Comptroller:

We are continuing permitted ABM research, development, test, and evaluation programs to preserve options for later possible needs and to stay abreast of ABM technology. The site defense prototype demonstration program is being continued with, as I shall describe later, provision for undertaking full engineering development.

Id. at 170.

G. Hearings before the House Appropriations Subcommittee

ABM technology received some attention in hearings before a Subcommittee of the House Appropriations Committee. General G. Mayo, Jr., the Deputy Safeguard System Manager, observed in his statement to the Subcommittee on July 18, 1972:

After ratification of the Treaty, we can and must continue permitted ABM Research, Development, Test and Evaluation programs in order to preserve options and to stay abreast of ABM technology. The Site Defense program will be continued, making modifications to return its development and testing to a more normal schedule.

Department of Defense Appropriations for 1973: Hearings Before a Subcommittee of the House Committee on Appropriations, 92d Cong., 2d Sess. 604 (1972).

In response to a question from Congressman Addabbo, General Mayo referred to ABM modernization in these terms:

The proposed Site Defense program for fiscal year 1973 is intended to develop and preserve the option to deploy, at a time near the expiration date of the interim agreement, a strategically significant terminal defense of our ICBM force. To delay the development in expectation of new technology or of lessened international tensions

would risk the survivability of our Minuteman, particularly when we consider that future improvement in accuracy of Soviet warhead systems could, by itself, reduce surviving Minuteman to an inadequate level. Therefore, the Army is continuing its development programs including those advanced programs which are designed to insure that emerging technology would be used to modernize ongoing ABM systems, like site defense.

Id. at 636-7.

In response to questions from Congressman Mahon, General Mayo noted:

Both the revised Site Defense program and the ABM treaty have increased the emphasis on ABM research and development, and thus have increased the Advanced Ballistic Missile Defense Program requirements for support of Site Defense and development of advanced technologies.

....

With reasonable upgrading the system being installed at Grand Forks should not be obsolete for a number of years -- more specifically, as long as interceptors and radars remain the most effective way of accomplishing missile defense. The Army is currently conducting research and development on advanced technology which can be incorporated in ballistic missile defenses to counter more sophisticated enemy improvements and countermeasures.

Id. at 638-9, 640.

H. Report of the Senate Foreign Relations Committee

The Senate Foreign Relations Committee issued its Report on the ABM Treaty on July 21, 1972. See S. Ex. Rept. No. 92-28, 92d Cong., 2d Sess. (1972), reprinted in 1972 Documents on Disarmament 497-505 (United States Arms Control and Disarmament Agency). The Report quoted the description of the Treaty provided by Secretary Rogers in his testimony before the Committee, including the discussion of "qualitative limitations." However, the Report contained no other references to future ABM systems. Further, the Committee's separate Report on the Interim Agreement made no mention of such systems. See S. Rept. No. 92-979, 92d Cong., 2d Sess. (1972), reprinted id. at 506-14.

I. Report of the House Foreign Affairs Committee

The House Foreign Affairs Committee issued its Report on the Interim Agreement on August 10, 1972. See H. Rept. No. 92-1324, 92d Cong., 2d Sess. (1972), reprinted id. at 555-61. The Report referred to future ABM systems in its description of the ABM Treaty:

The two nations additionally agree to ban development, testing or deployment of sea-based, air-based, space-based or land-mobile ABM systems. Nor will they deploy ABM systems or components based on new technology without prior discussion and amendment of the treaty.

Id. at 557.

J. Congressional Debates

The ABM Treaty was considered in the Senate on August 3, 1972, and the resolution of advice and consent was passed on the same day. The Senate debated the Interim Agreement on sixteen days beginning August 3, 1972, and concluding September 14, 1972, when the resolution of approval was passed. In the House, the Interim Agreement was the focus of debate on four days from August 16, 1972, to September 25, 1972, when final approval was given. The issue of future ABM systems, however, received scant attention on the floor of either the Senate or the House.

On several occasions, Members of Congress inserted into the Congressional Record statements described above containing references pertinent to the issue of future systems. On June 30, Congressman Harrington inserted into the record the June 30 edition of Defense Monitor. See 118 Cong. Rec. 23873 (1972). That item was inserted into the record once again on August 1 by Congressman Aspin, and for a third time by Senator Church on August 14. See 118 Cong. Rec. 26344, 28063 (1972). On June 30, Senator Buckley inserted into the record his own statement before the Senate Foreign Relations Committee as well as the statement of Dr. Donald Brennan before that Committee. See 118 Cong. Rec. 23620, 23622 (1972). On July 20, Senator Cooper inserted into the record the statements made to the Senate Foreign Relations Committee by Dr. Wolfgang Panofsky and Dr. Richard Garwin. See 118 Cong. Rec. 24689, 24691 (1972). Similarly, Dr. Edward Teller's statement to the House Foreign

Affairs Committee was inserted into the record on August 18 by Congressman Ashbrook. See 118 Cong. Rec. 29119 (1972).

In addition to these various statements, three other articles with pertinent references were also made a part of the record. On June 30, Senator Buckley inserted an article by Dr. Brennan entitled "SALT Hits the Fan," in which it was simply noted that "both we and the Soviets undertake not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." See 118 Cong. Rec. 23625 (1972).

On July 27, Senator Fulbright inserted into the record an article by I. F. Stone entitled "The Big Build-Up Nixon is Putting Over on Us," in which it was stated:

Every person knowledgeable in arms knows the existing ABMs in these quantities are laughably ineffective and obsolete. The proof lies in another escalation the Pentagon is quietly asking: \$140 million to start work on a new Hard Site ABM system, which would ultimately cost \$25 billion. So we are going ahead with the development of a new ABM system right after signing a treaty in which we pledged ourselves not to deploy a new system, though we are allowed to develop one. This means pressure to opt out of the treaty as soon as the military finds a better ABM.

118 Cong. Rec. 25685 (1972).

Congressman Ashbrook inserted into the record for August 18 an article by A. H. Stanton Candlin and Gilbert S. Stubbs, entitled "SALT: Hanging by the Thread of a Soviet Promise." That article specifically noted Senator Buckley's concerns about future ABM systems:

Despite the lessons of history and logic the present SALT Treaty on ABM's embarks on the perilous course of attempting without inspection safeguards to prohibit the development, testing and deployment of "ABM systems or components which are sea-based, air-based or mobile land based". (Article V.) Senator Buckley, in his recent testimony on SALT, was particularly critical of this treaty clause, pointing out that it "would have the effect, for example, of prohibiting the development and testing of a

laser type system based in space which could at least in principle provide an extremely reliable and effective system of defense against ballistic missiles". Here the potential danger is not just the denial of a means of defense to the U.S., but also the possibility that the Soviets themselves will acquire such a defense unilaterally through their own covert efforts.

118 Cong. Rec. 29124 (1972).

Only days after signature of the ABM Treaty, Senator Jackson made reference on the floor of the Senate to an alleged cancellation of a laser research study:

I was greatly disturbed, for example, to learn only yesterday that Secretary Laird has ordered the cancellation of a theoretical study conducted by one of our research organizations of the application of laser technology to ballistic missile defense. Nothing in the agreements as they have been published would call for this action. Was this done under a private understanding with the Russians? It is perfectly obvious that there is no way in the world we can monitor Soviet adherence to a provision that reaches into the minds of scientists and prohibits them from speculating on the impact of some future technology on national security.

118 Cong. Rec. 19411 (1972).

On the Senate floor some weeks later, Senator Proxmire raised questions about the status of the Army's SAM-D air defense system. In that context, he discussed the provisions of Article II(1) of the Treaty as follows:

These are the reasons why I believe that further testing or deployment of SAM-D might violate the ABM Treaty.

First, article II(1) of the treaty defines an ABM system as any "system to counter strategic ballistic missiles" which includes interceptor missiles or radars "constructed and deployed for an ABM role, or of a type tested in an ABM mode."

SAM-D's ability to counter strategic ballistic missiles, however limited, appears to bring it within the treaty's definition of an ABM system. If it is such a system, several things follow.

Its further development, testing, or deployment would be in violation of article V(1)'s prohibition against mobile land-based ABM systems.

Its deployment in a nationwide bomber defense network would be a violation of article I(2)'s prohibition against the deployment of or laying a base for a nationwide ABM system.

Its deployment in defense of NATO would be a violation of article IX's prohibition against the transfer to other countries or the deployment outside the United States of ABM systems or their components.

Second, even if SAM-D is not in fact covered by article II(i)'s definition of an ABM system, it may be affected by article VI of the treaty.

Under provision (A) of article VI, the United States undertakes not to give non-ABM interceptor missiles or radars any ABM capabilities and not to test such missiles or radars in an ABM mode. It would appear that this provision was included in the treaty specifically to forestall argument that a system like SAM-D was not a true ABM system.

This interpretation is strengthened by Secretary of State Rogers' statement, in the official United States interpretation of the treaty, that this undertaking "would, for example, prohibit the modification of air defense missiles -- SAM's -- to give them a capability against strategic ballistic missiles."

Finally, deployment of SAM-D and its phased-array radar in Europe would appear to violate article VI's prohibition against the deployment of radars for early warning of strategic ballistic missile attack anywhere but on the borders of one's own nation.

letters Senator Proxmire sent to Secretary Rogers and Secretary Laird, reprinted at 118 Cong. Rec. 22615, 27230 (1972).

During the Senate debate on the ABM Treaty on August 3, five Senators addressed aspects of the Treaty relevant to the issue of future ABM systems. Senator Fulbright reviewed the salient features of the Treaty in these terms:

Second. Under the treaty neither party may deploy more than 100 ABM launchers or more than 100 ABM interceptor missiles at either of the two complexes. All of the components for any single complex must be within a radius of 150 kilometers. In addition, there are limits placed on the locations of the two large and 18 smaller ABM radars allowed within each complex.

Third. Each side is prohibited by the treaty from developing, testing, or deploying ABM systems based at sea, in the air, or in space, or mobile ABM launchers, ABM interceptor missiles with multiple warheads, or ABM launchers with a so-called reload capability.

Fourth. The treaty permits modernization and replacement within the present technology but does not permit the deployment of a system or component capable of substituting for ABM interceptor missiles, launchers, or radars.

118 Cong. Rec. 26682 (1972).

Senator Thurmond noted:

Under the treaty, we also give up the right to deploy any land-based ABM systems of a new type, should they be developed. At the same time we undertake "not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

....

If we sum up what this treaty does in strategic terms, the problem is even more complex.

It effectively prevents us from ever having the means to protect our population from a Soviet

first strike. While Safeguard was not intended to protect our population, the option of deploying a system to do so is given up.

It also prevents us from developing new kinds of systems to protect our population. The most promising type appears to be the laser type, based on entirely new principles. Yet we forgo forever the ability to protect our people.

118 Cong. Rec. 26700 (1972).

Senator Buckley voiced objections to the Treaty in terms similar to those expressed in his testimony before the Senate Foreign Relations Committee:

I will say at the outset that I will vote against ratification of the ABM treaty for the reason that I have strong misgivings as to both the prudence and the ultimate morality of denying ourselves for all time -- or denying the Russians, for that matter -- the right to protect our civilian populations from nuclear devastation. I am not suggesting that we have fully effective technical means to do so at the present time, but I challenge the morality of precluding the possibility of developing at some future date new approaches to antiballistic missile defenses which could offer protection to substantial numbers of our people. I question, in short, the basic doctrine on which the SALT accords have been constructed; a doctrine which requires us to dismantle our defenses before agreement is reached on dismantling the weapons of mass destruction.

....

Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space based ballistic missile defense systems. This clause, in article V of the ABM treaty, would have the effect, for example, of prohibiting the development and testing of a laser type system based in space which could at least in principle provide an extremely reliable and effective system of defenses against ballistic missiles. The technological possibility has been formally excluded by this agreement.

There is no law of nature that makes impossible the creation of defense systems that would make the prevailing theories obsolete. Why then should we by treaty deny ourselves the kind of development that could possibly create a reliable technique for the defense of tens of millions of civilians against ballistic missile attack? Why should we not at least be in a position to deploy such a system with the least possible delay in the event that we should find it necessary to terminate the agreement under the conditions allowed in article XV?

....

Maintaining a mad posture is a means of insuring for the rest of history if, indeed, such a concept as history could survive, that the consequences of the failure of deterrence would almost certainly be unlimited catastrophe. While technology and politics may for a time, leave us with no alternative, we should seek ways out of the posture rather than to institutionalize it permanently. However, the ABM treaty does in fact serve to permanently institutionalize this posture.

....

... To perpetuate by treaty, a system of defense that forever denies us the possibility to defend American citizens against nuclear attack is an abdication of a first duty of Government and is unacceptable.

Mr. President, our ultimate goal, always, should be the gradual reduction of offensive nuclear armament in a prudent and rational manner. But until the day comes when we can say with honesty that defense against attack is no longer needed, we must not, forever, by solemn treaty, turn our back on the means by which we could defend tens of millions of Americans.

I share with all Americans the desire for a peaceful and secure world in which nuclear blackmail and nuclear war are no longer international threats. But in all conscience I cannot support a treaty that enforces on the

American people as a permanent policy a doctrine which precludes the defense of our people from the possibility of mass destruction.

118 Cong. Rec. 26703-4 (1972).

Senator Fong described the treatment of future systems as being among the more important provisions of the Treaty:

The principal provisions of the ABM treaty may be summarized as follows:

First. Limits each side to one ABM site for the defense of its respective capital and one site each for the defense of an ICBM field.

Second. Limits each side to a total of 200 ABM interceptors, 100 at each site.

Third. Limits the number and the size of ABM radars at each site.

Fourth. Allows research and development on ABM systems to continue, but not the deployment of exotic or so-called future systems.

118 Cong. Rec. 26707 (1972).

Senator Kennedy's description of the Treaty was similar to that provided in his testimony before the Senate Foreign Relations Committee:

The ABM Treaty not only prohibits nationwide antiballistic missile system[s] but outlaws as well the upgrading of air defense systems to an ABM role. In addition, the treaty prohibits the development, testing, and deployment of sea-based, air-based, space-based, or mobile land-based ABM systems.

The only exceptions are made for a National Capital site and for the protection of a single ICBM site.

118 Cong. Rec. 26763 (1972).

During the House debate on the Interim Agreement on August 18, Congressman Morgan, Chairman of the House Foreign

Affairs Committee, provided a summary of the ABM Treaty which simply noted that "[t]he treaty also bans sea-based, space-based or land-mobile ABM systems." 118 Cong. Rec. 29096 (1972).

K. Resolution of Ratification

The resolution of advice and consent was adopted in the Senate on August 3 by a vote of 88 to 2:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic-Missile Systems (ABM Treaty), signed in Moscow on May 26, 1972 (Ex. L, 92-2).

118 Cong. Rec. 26684, 26770 (1972).

