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WEIGHING THE EVIDENCE: HOW THE ABM TREATY PERMITS A STRATEGIC DEFENSE SYSTEM

INTRODUCTION

The issue of exactly which Strategic Defense Initiative projects the U.S. is allowed by international treaty to pursue is once again being reviewed by the Reagan Administration. While the 1972 Anti-Ballistic Missile (ABM) Treaty limits strategic defenses, the extent of those restrictions is being closely scrutinized because of Strategic Defense Initiative--or SDI--experiments and because of the inherent legal weaknesses of the Treaty. Some of these experiments have been so unexpectedly successful that it is becoming essential to identify what precisely the ABM Treaty permits and what it bars. A close reading of the Treaty and of its negotiating and ratification record would justify a presidential decision in favor of the so-called broad interpretation of the ABM Treaty. This would be legally correct and, as important, would allow a more rapid and cost-effective investigation of SDI technologies.

SDI activities thus far have been conducted under the so-called restrictive ABM Treaty interpretation which allows research on all SDI technologies but limits development and testing to only those technologies in use when the Treaty was signed in 1972 and only to the extent allowed by Article V. To evaluate with confidence the capabilities of strategic defenses, however, it obviously is necessary to investigate those technologies developed in the past decade and a half. The broad Treaty interpretation, announced by the Reagan Administration in late 1985, permits crucial testing and development of such new technologies, as well as planning for a number of important longer-term projects.

SDI progress has been much quicker than expected. U.S. scientists and laboratories have been proving that they remain the world's most accomplished and creative scientific pioneers. The trouble is that the narrow ABM interpretation now is preventing these

scientists from building on their early SDI breakthroughs. The narrow interpretation forbids them to undertake realistic testing and development of nonland-based stationary ABM systems and components. This means, for example, that they cannot realistically test devices in space to identify and track enemy missiles and warheads. Nor can they experiment to develop a capability to discriminate between warheads and decoys or to track enemy missiles immediately after launch. Space-based Kinetic Kill Vehicles (SBKKV), or space rockets, could not be tested under real conditions in space. And no airborne optical sensor devices such as the Airborne Optical Adjunct (AOA) could reach full anti-ballistic missile (ABM) performance levels in tests since the restrictive interpretation prohibits the testing and development of airborne ABM systems or components.

SDI projects using post-1972 technologies are fully consistent with the terms of the ABM Treaty. Legally, the broad interpretation is, if anything, more reasonable than the restrictive reading of the Treaty. The reasons: 1) the Treaty text is at best ambiguous on the nature of limitations on SDI-related activities and clearly treats advanced technologies differently than traditional ones; 2) the Treaty provisions as a whole support the broad interpretation; 3) the statements made by U.S. officials at the time the Treaty was signed and ratified are imprecise at best and do not support the restrictive interpretation; 4) the Soviet view of key Treaty terms is itself unclear and was never offered in a legally decisive manner; and 5) by its actions, Moscow has been violating the letter as well as the spirit of the Treaty for years.

Since the broad Treaty interpretation is legally as correct as the narrow reading, the fundamental issue becomes one of policy. An effective and cost-efficient program to fully explore the technological possibilities for strategic defense can only be pursued by investigating advanced technologies. A number of important SDI projects will take considerable advance planning and this can only commence if the broad interpretation is adopted as a matter of policy. It is appropriate, therefore, for the Administration to conduct its SDI program in accordance with the broad interpretation of the ABM Treaty.

1. For further discussion on the legal and policy issues surrounding the ABM Treaty, see W. Bruce Weinrod, "Strategic Defense and the ABM Treaty," Washington Quarterly, Summer 1986; and on the legal issues, see Abraham D. Sofaer, "The ABM Treaty and SDI," Harvard Law Review, Vol. 99, 1986.

SDI AND THE RESTRICTIVE INTERPRETATION

Abiding as it has by the restrictive reading of the ABM Treaty, the Reagan Administration has pursued a vigorous research program since the Treaty clearly permits research on all types of technologies, including prototypes of anti-ballistic missile--or ABM--systems or components. This research program has primarily involved conceptual designs and laboratory testing of SDI technologies. It also has developed projects for "field testing" of fixed site land-based ABM components involving post-1972 technologies; this is also clearly allowed as long as other Treaty requirements are met. This field testing includes the High Endoatmospheric Defense Interceptor (HEDI) project, intended to measure the capability of fixed-site ground-based missiles to intercept strategic ballistic missile warheads in the atmosphere, and the Exoatmospheric Re-Entry Vehicle Interceptor Subsystem (ERIS) project, which seeks to establish the same capability for interception outside of the atmosphere.

Other fixed-site land-based testing projects include the Terminal Imaging Radar (TIR), which involves testing a fixed, land-based x-band ABM radar to guide an interceptor missile to its target, and the Long Wavelength Infrared (LWIR) Probe to assist in targeting enemy warheads.²

In technologies involving other than fixed-site, land-based technologies, the Administration also has developed SDI projects within the constraints of the narrow interpretation. Two kinds of activities are being pursued: 1) "research"³ on ABM systems and components and 2) "field testing" of ABM "subcomponents" or "adjuncts" such as the Airborne Optical Adjunct (AOA) tracking and discrimination system. Since subcomponents or adjuncts are not "ABM systems or components," and cannot substitute for them, the Administration correctly has concluded that field testing is permitted under the restrictive interpretation. The reason is that while a restrictive interpretation prohibits field testing of integrated ABM "systems" or "components," it allows such experiments if they include only individual subunits of such systems or components.

Following these guidelines, the Administration has devised projects involving tests to research technical feasibility and provide

2. The LWIR has been dropped from the immediate SDI project list but still is contemplated for the future.

3. "Research" is not defined in the Treaty; nor is the dividing line between research and "development."

data prior to the construction of prototypes of actual ABM systems or components. The Administration has thirteen such projects underway currently. Six of them are Directed Energy Weapon (DEW) related experiments and seven are Surveillance, Acquisition Tracking and Kill Assessment (SATKA) and Kinetic Energy Weapon (KEW) experiments.

SDI: IMPLICATIONS OF BROAD VS. RESTRICTIVE VIEW

While a number of useful and informative experiments can be conducted under a restrictive reading of the ABM Treaty, the most essential SDI projects could not be pursued. The broader interpretation, on the other hand, would permit most if not all of the most crucial SDI experiments to proceed. This is because the broad reading allows testing and development of SDI technologies not being utilized as of 1972.

As such, the broader interpretation would allow:

1) Realistic testing of devices in space that could identify and track booster rockets and warheads. By testing infrared and optical sensors in space against real launched space vehicles, the U.S. could determine whether an acquisition and tracking system really works. Such comprehensive acquisition and tracking experiments cannot be conducted on the ground or on the Space Shuttle. The "Delta 181" experiment planned for later this year to test space-based sensor capabilities for a kinetic energy and directed energy weapons, for example, could be performed much more realistically under the broad interpretation. Instead of a space-based sensor merely "observing" targets in orbit in space, which is required by the narrow interpretation, the space-based sensor actually could track ballistic missiles on their trajectory to intercept them in their boost-phase.

2) More realistic experiments with devices capable of discriminating between decoys and real warheads in space. Devices using neutral particle beams (super-accelerated beams of neutral hydrogen atoms) to perform mid-course discrimination missions in space could be tested in an ABM mode and have real ABM capabilities. Under the narrow interpretation, neutral particle beam discrimination devices would have to be kept to low power levels and not be able to acquire or track ballistic missiles autonomously. This would severely limit technical progress on discrimination devices. By contrast, the broad interpretation would permit realistic testing of the Airborne Optical Adjunct (AOA), which consists of long wave infrared sensor telescopes placed on a modified Boeing 767 aircraft to track and discriminate between decoys and targets in space. It would, for example, permit the AOA to be tested with a ground-launched interceptor missile such as the Exoatmospheric Reentry Interceptor Subsystem (ERIS). Under the narrow interpretation, the AOA device could not reach full ABM performance levels.

3) Testing of Space-Based Kinetic Kill Vehicles (SBKKV) under real conditions. The broad interpretation would provide far more reliable information on the feasibility of the SBKKV system than would the narrow interpretation. Under the narrow interpretation, SBKKV hardware for a space-based experiment would have to be limited to mere demonstration purposes. For example, no intercept of strategic ballistic missiles or their elements could take place in space.

4) Experiments on the Boost Surveillance and Tracking System (BSTS) at full capability. Since the broad interpretation would permit a BSTS experimental device to be tested in a realistic ABM mode in space, military planners would have a better idea of whether boost-phase surveillance devices could acquire and track Soviet missiles in their boost phase. The narrow interpretation would limit BSTS experiments merely to demonstrating the capability of such a system for early warning purposes.

5) Other more realistic tests of lasers in space and testing of ground-based lasers at full power with relay mirrors in space. Under the narrow interpretation, tests of lasers either would have to remain laboratory experiments using devices incapable of achieving ABM performance levels or they would have to be fixed, land-based experiments located at existing ABM test sites such as the White Sands Missile Test Range. Since the narrow interpretation prohibits the testing of air-based ABM systems or components, airborne sensor experiments would have to be limited to testing devices which are not prototypes or substitutes for ABM systems or components. Moreover, the narrow interpretation would put severe restrictions on so-called integrated experiments, which combine tests of air-based or space-based sensors and interceptor missiles. Integrated experiments are necessary to determine whether a system consisting of different elements actually works.

KINETIC KILL TECHNOLOGY AND THE TREATY

Some of the most promising technologies for shorter-term strategic defenses utilize "kinetic kill" mechanisms; these destroy warheads or missiles by impact. SDI projects utilizing such devices include space-based kinetic kill vehicles, or small conventionally armed rockets placed on platforms in space, and the Exoatmospheric Reentry Interception Subsystem (ERIS), a ground-based anti-missile missile capable of destroying warheads outside of the atmosphere.

Some SDI critics argue that the basic kinetic kill technology existed in 1972, and that the ABM Treaty therefore bans testing and development of all technologies utilizing kinetic kill mechanisms. This analysis is flawed. First, even though some kinetic kill devices were in use in 1972, they were so fundamentally different from the

kinetic kill technology planned for SDI that current kinetic kill devices must properly be considered as being based on the "other physical principles" mentioned in the ABM Treaty's Statement D. SDI contemplates developing advanced space-based rockets using advanced infrared sensor technologies which differ fundamentally from the nuclear-tipped, radar-guided ABM missiles of the late 1960s that are limited in ABM Treaty Article II and V.

Since the Treaty offers no guidance on how to distinguish a traditional from a technology utilizing "other physical principles," it is reasonable to conclude that the Treaty's Agreed Statement D, which cites "other physical principles," covers an integrated defensive system based on such clearly non-Article II advanced technologies as lasers, advanced infrared guidance sensors (instead of 1972-style ABM radars), and precision-guided non-nuclear rockets utilizing kinetic kill mechanisms whose method of destruction is direct impact (rather than nuclear explosion or the radiation of traditional ABM missiles). Such new integrated systems are qualitatively different from any systems limited by Articles II and V and in use as of 1972, and therefore may be tested and developed under the broad reading.

THE BROAD INTERPRETATION: LEGAL ISSUES

Many passages of the ABM Treaty are subject to more than one interpretation. Key terms are ambiguous or have been made unclear because of technological advances.

There are two important ways to determine the meaning of a treaty: 1) the treaty text itself; and 2) the intent of the parties as expressed in a legally meaningful manner. When evaluated by both of these criteria, the broad interpretation of the ABM Treaty is more plausible than is the restrictive view.

The Treaty Text

The restrictive view of the ABM Treaty basically asserts that all SDI-related technologies are treated the same. The broad reading concludes that so-called traditional technologies, mature in 1972, when the Treaty was signed, are more constrained than are the post-1972 "advanced" or "exotic," technologies.

When treaty terms are conclusively clear, then those terms are decisive. If, however, crucial terms are undefined or ambiguous, other means of interpretation are necessary.

The ABM Treaty is ambiguous on the key issue of technology restrictions. There are, nonetheless, compelling reasons to conclude that the Treaty treats advanced technologies separately and

differently from traditional technologies in terms of restrictions on development, testing, and deployment. The reasons include: 1) the Treaty contains a separate provision covering advanced technologies; 2) traditional technologies are clearly defined and illustrated, but there is no equivalent description of advanced technologies; and 3) the Treaty drafters easily could have included terminology making it clear that advanced technologies were subject to the same restrictions as traditional technologies but they did not do so.

Separate Provisions

The greatest difficulty with the Treaty is its two separate provisions limiting strategic defense efforts; Article V (combined with definitions in Article II) and Agreed Statement D contain different wording.⁴ Narrow interpretation advocates contend that Article V restrictions that limit SDI to research are the only relevant passages, while the language in Agreed Statement D merely affirms the Article V limits.

Yet it is undeniable that the Treaty includes a specific provision, Agreed Statement D, precisely to deal with advanced technologies. As such, the Treaty treats these technologies differently than it does technologies that were in use in 1972. If the intent were to treat advanced technologies exactly the same way as traditional technologies (such as limiting SDI to research only) there would have been no need for a separate section specifically addressed to them. And to ignore Statement D would violate a fundamental legal norm that force should be given to all treaty provisions.

Some advocates of the narrow reading of Article V argue that Agreed Statement D was an effort by the American negotiators to give the U.S. an option to develop advanced technology lasers for ground-based, fixed-site defenses. They contend that the United

4. The key provision of Article V states:

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.

Agreed Statement D reads:

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.

States did not want to mention lasers because this would tip off the Soviets as to U.S. laser plans. This view is refuted by Judge Abraham Sofaer, the State Department's top legal adviser. He reports that the ABM negotiating record is so replete with U.S. references to lasers that it is clear that there was no attempt to keep lasers secret from Moscow. The text, moreover, does not mention lasers and Moscow never agreed with this understanding of the Treaty provisions. Additionally, testing and development of fixed-site lasers is already permitted by Article V and does not require clarification.

Absence of Specificity

Article II of the Treaty provides definitions of the "ABM systems" to be limited under Article V. States Article II, Section 1:

For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: (a) ABM interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode; (b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and (c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

Advocates of the restrictive interpretation argue that the specific systems mentioned in this Article are to be viewed merely as examples and, that the Treaty covers all conceivable strategic defense technologies. But there are three significant reasons supporting the proposition that Article II's examples are fully inclusive and are a complete list of the systems limited by Article V to only research.

First, Article II offers very specific examples of the systems that it is restricting. These examples, moreover, include all of the relevant technologies which existed in 1972. If the intent were to make these merely examples, the Treaty easily could have stated that these were only examples and should not be construed as inclusive of all systems covered by the Treaty.

Second, there would be no need for Agreed Statement D, setting out standards specifically for advanced technologies, if such technologies were already covered by Articles II and V. Since Article II does not specifically discuss advanced technologies while Agreed Statement D exclusively focuses on them, it is reasonable to conclude that it is not the more restrictive language of Article II and V but the broader restrictions of Agreed Statement D, which permit

development and testing of post-1972 technologies, that are applicable to advanced technologies.

Third, a review of the text indicates that the drafters knew the difference between provisions applying only to deployment and those including testing and development. There are five provisions that refer only to deployment (Article I, Section 2; Article III, Section a; Article V, Section b; Article IX; and Agreed Statement D). It is clear that when the drafters intended to limit testing and development along with deployment, they said so. Had the drafters intended in Agreed Statement D to limit testing and development for advanced systems as well as deployment, they easily could have included the words testing and development as they do in Article V, Section 1 and Section 2, and Agreed Statement E.

Ambiguities Could Have Been Remedied

It would have been quite easy for the U.S. and Soviet negotiators to state clearly that advanced technologies were constrained if that were their intention. Agreed Statement D simply could have been omitted; why include it if there was no intent to treat advanced technologies separately and differently? Language could have been inserted in a number of places, moreover, to make clear that the Treaty treated all technologies the same.

Even Representative Stephen Solarz, the New York Democrat and an advocate of the narrow reading, has concluded that "at best, there are ambiguities...in Agreed Statement D which should never have been permitted in the first place...." And John Rhinelander, a member of the U.S. negotiating team for the ABM Treaty who asserts that the meaning of the text is "clear on its face," did not think the Treaty was so clear when it was negotiated. His 1972 memo to his fellow negotiators raised concerns about imprecision in its language. The fact that Rhinelander recently offered several "clarifications" on the Treaty is an acknowledgement that ambiguities exist.

The absence of clarity in the Treaty, along with the existence of Agreed Statement D, leads to a reasonable conclusion: that the ABM Treaty treats advanced technologies differently than it does traditional technologies and that the Treaty does not prohibit the testing and development of advanced SDI technologies.

5. There is a fourth reason, discussed later: Moscow specifically rejected U.S. efforts to add examples of advanced technologies to the list in Article II or to clarify Article V.

INTENT OF THE PARTIES

If a treaty's terms are ambiguous, it is sometimes possible to determine their meaning by reviewing evidence revealing the intent of the parties. Such intent must be expressed in a legally meaningful way. Example: offhand comments at a press conference by a mid-level official cannot be taken as a demonstration of intent for legal purposes. Well established juridical norms have identified relevant methods of interpreting a treaty's terms. In descending order of legal relevance they include: 1) treaty addenda; 2) parallel official statements at the time of the treaty; 3) subsequent official statements and practices.

In the case of the ABM Treaty, none of these methods provides definitive support for the restrictive interpretation of the Treaty. To the contrary. The ambiguities are merely reinforced.⁶

Treaty Addenda

Treaties often will be accompanied by annexes which define or clarify important terms or provisions. In the case of the ABM Treaty, the only relevant annex is Agreed Statement D. At best, it makes the Treaty ambiguous and, if reviewed closely, lends strong support to the broad interpretation.

Official Statements

If the heads of state of the parties to a treaty, at the time the treaty is signed or ratified, jointly or in a parallel fashion offer identical interpretations of a treaty's terms, then that understanding becomes the legally binding meaning. When Richard Nixon and Leonid Brezhnev signed the ABM Treaty on May 26, 1972 in Moscow, they issued statements with respect to technologies constrained by the ABM Treaty.

Subsequent Official Statements

Subsequent official statements can be useful adjuncts in understanding a treaty's terms, but only if they are clear and consistently made by each party and agreed upon by both parties. With respect to the ABM Treaty, U.S. official statements are ambiguous and

6. The ABM Treaty negotiating record certainly would help shed light on these questions between the parties. The actual record of the ABM negotiations is, however, secret. But State Department legal adviser Judge Abraham Sofaer, after examining the actual negotiating record, has concluded that it supports the interpretation that there was no meeting of the minds between the United States and the Soviet Union on the meaning of key terms in the Treaty. He also concluded that "a much stronger case exists in the record for the broader interpretation than for the restrictive one."

internally inconsistent, while Soviet statements are unclear or absent. Though some official U.S. comments could be read as supporting the restrictive interpretation, many others support the broad view.

Example: William Rogers, who then was Secretary of State, in a letter accompanying the Treaty's submission to the Congress wrote that "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." Rogers did not say, although he could have, that the Treaty would not permit development and testing of such a system. According to Rogers, it is only deployment which is barred. In his statement, moreover, he accepts that development, however defined, of advanced systems can occur.

Example: Gerard Smith, chief U.S. negotiator at the ABM Treaty talks, told the Senate Armed Services Committee at the Treaty's ratification hearings:

...one of the Agreed Understandings says that if ABM technology is created based on different physical principles; ABM systems or components based on them can only be deployed if the Treaty is amended. Work in 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.

Before the Senate committee, Smith had a clear opportunity to declare unequivocally that the Treaty and Agreed Statement D prohibited development and testing of advanced systems. Instead, Smith danced around the question and stated that "development work" is "not prohibited." Whatever Smith's own personal definition of "development," the term is not defined in the Treaty.

Moscow's position is even less clear. At the time of the agreement, the Kremlin did not offer any precise view of key Treaty terms. Moscow only began commenting substantively on these matters after Ronald Reagan unveiled the Strategic Defense Initiative in March 1983. At that point, Moscow began arguing that U.S. SDI activities would violate the Treaty. Even then, many of these Soviet pronouncements were in newspaper commentaries or speeches, media which do not constitute legally decisive ways of announcing official treaty interpretations.

There exists no single public official Soviet interpretation of the many unclear terms and provisions of the ABM Treaty. Moscow's views on a few of these issues can be inferred from certain scattered

semi-official statements but there is no support in the public record of Soviet statements that would remove completely doubts about the meaning of the treaty. And given Moscow's recent efforts to block even the U.S. research on strategic defense which is clearly allowed by the Treaty, its current pronouncements on the meaning of ambiguous terms must be viewed skeptically.

The negotiating record, in fact, reveals that on a very crucial point, Moscow specifically rejected wording in Article II or Article V that would have restricted advanced technologies in the same way as traditional technologies. The U.S. sought to include examples of advanced technologies, such as lasers, in the definition of ABM systems covered by Article II, but Moscow strongly rejected this and the U.S. withdrew its proposal.

Reports also indicate that the Soviets took a similar position concerning a classified 1978 Treaty Agreed Statement. This Agreed Statement covered what is meant by "testing in the ABM mode" with respect to potential upgrading of surface-to-air missiles. In this statement the Soviets agreed that if a system had an ABM capability without the use of radars, then that system would be based on "other physical principles," which would require that limitations on that system would be "subject to discussion"--the provision found in Agreed Statement D. Here Moscow therefore agreed to the principle that the development of such a system based on other physical principles was not constrained by the ABM Treaty. Moscow clearly did not want to limit the development of something that did not yet exist. There would have been no point in discussing development and testing limitations if such activities using advanced technologies were not allowed at all. This was the Soviet position throughout the ABM Treaty negotiations and is consistent with Moscow's position in this classified interpretative agreement on what testing in ABM mode means.

7. Restrictive interpretation advocates point to a Soviet negotiator's supposed statement in private that agreed with the restrictive view. Even if the account were true, this hardly binds anyone.

8. Moscow's unwillingness to agree that post-1972 technologies should be included in the Article V restriction of strategic defense technologies to research is further confirmed by ABM Treaty negotiator Gerard Smith in his book Double Talk. Smith writes that "the Soviets urged that including unknown matters like future ABM technology in a treaty would create endless arguments and suspicions....The sides could not discuss questions known to anyone. Our task [the Soviets argued] was to limit deployment of known ABM components....Systems that might be developed using other than current types of ABM components could be discussed....Accordingly, they considered defining and limiting post-1972 [i.e., specifically defining and limiting post-1972 technologies] not suitable for inclusion in the Treaty."

The Kremlin's general view of the ABM Treaty is also reflected in Soviet defense-related activities since the Treaty was signed. Violating the spirit and letter of the ABM Treaty, Moscow has been rushing to improve its own defenses. Moscow has deployed a series of modern phased-array battle management radars, is mass producing components of its ground-based ABM system, and has constructed a sizeable civil defense system for its elite. All of this may be legal but surely violates the Treaty's spirit. The Soviet radar installations at Krasnoyarsk and the testing of surface-to-air missiles in an ABM mode, meantime, violate the letter of the Treaty. Under generally accepted standards of international law, a material breach of the terms of a treaty by one party entitles the other party to respond by breaching that particular part by either suspending or terminating its assent to the Treaty. This means that no matter how the ABM Treaty is defined, narrowly or broadly, Moscow's actions regarding strategic defenses entitle the U.S. to take similar action.

CONCLUSION

There is no disagreement about whether the ABM Treaty allows the U.S. to develop and even deploy fixed land-based systems and components based on traditional technologies. The U.S. can. The question is whether the U.S. also can test and develop advanced technology SDI projects. Here the evidence--based on the Treaty and legally relevant practices--is clear: the U.S. can do so. The language of the Treaty and the statements by those who negotiated it treat the technologies existing in 1972 in one way and possible future technologies another way. The U.S. can proceed with the testing and development of advanced technologies because this is allowed by Agreed Statement D. This gives a green light to Ronald Reagan's program to protect the U.S. from nuclear attack. If opponents want to stop the Strategic Defense Initiative, they must do so by arguing about the substance of the program. They have no case if they argue that the ABM Treaty is a bar to SDI.

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