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NATIONAL MISSILE DEFENSE AND THE ABM TREATY

HEARING

BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES
OF THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
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THURSDAY, MAY 1, 1997

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:34 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Thad Cochran, Chairman of the Subcommittee, presiding.

Present: Senators Cochran and Levin.

OPENING STATEMENT OF SENATOR COCHRAN

Senator COCHRAN. The committee will please come to order. I apologize for the delay in commencing the hearing.

I would like to first welcome everyone to today's hearing of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services. Our topic for discussion today is "National Missile Defense and the Anti-Ballistic Missile Treaty." The administration's plan for national missile defense—the "3+3" program—appears to have serious problems, one of which is the possible conflict with provisions of the 1972 Anti-Ballistic Missile Treaty.

Legislation calling for the deployment of national missile defense has been criticized by the administration for allegedly requiring violation of the ABM Treaty. For example, commenting on the 1996 Defense Authorization Bill—which the President vetoed—former Secretary of Defense William Perry said it would have "put us on a pathway to abrogate the ABM Treaty . . ." Ashton Carter, former Assistant Secretary of Defense for International Security Policy, said the bill "obliges us to violate or ignore the ABM Treaty." And President Clinton, in explaining why he would veto last year's Defend America Act, said it would "violate the arms control agreements that we have made and that make us more secure."

The administration said that its "3+3" NMD plan contrasted sharply with past Republican proposals. The "3+3" plan, according to some administration spokesmen, was better because it could defend America from limited ballistic missile attack without violating the ABM Treaty.

Secretary Perry told the Senate that "There is nothing we are doing now or planning to do which would be in violation of the ABM Treaty." Lieutenant General O'Neill, then Director of the Ballistic Missile Defense Organization, said that "Within the confines

of the language of the ABM Treaty, we can and will build missile defenses to meet our national security needs."

And in an August 1995 letter to the editor of *USA Today* recommending a veto of the Senate NMD proposal, Robert Bell of the National Security Council staff said that the Pentagon's "3+3" plan "complies with the ABM Treaty and does not threaten to undo our strategic arms agreement. . . ."

Now the administration seems to be changing its story, by saying that only the development phase of the NMD program will be ABM Treaty-compliant, while the system ultimately deployed "might require modification of the Treaty." The recent DOD request for proposals for the "3+3" lead systems integrator contract states that "Treaty compliance of the deployed NMD system is not a requirement, and will not be evaluated as part of the source selection process."

Members of this Subcommittee were recently told by the Director of BMDO that, contrary to previous administration statements, all of the "3+3" options under consideration by the administration pose ABM Treaty problems.

These recent statements indicate the administration realizes that its own plan to protect America from ballistic missile attack, even a limited attack, could be in conflict with the 25-year-old ABM Treaty. In today's hearing, we will examine the extent to which "3+3" proposals are compatible with the ABM Treaty, and the administration's plan for addressing any incompatibilities.

If negotiations to modify the ABM Treaty are part of that plan, we would like to know what provisions have been made for these negotiations in the "3+3" program schedule. This is particularly important given the failure—after 3½ years of negotiations—to reach agreement on a clarification of the ABM Treaty regarding theater missile defenses.

Today, we are pleased to welcome to this hearing John Holum, Director of the Arms Control and Disarmament Agency. Mr. Holum heads the agency responsible for negotiating, implementing, and verifying the Nation's arms control agreements. We will benefit both from his expertise on treaty issues and his experience directing arms control negotiations.

Mr. Holum, thank you very much for your attendance at our hearing. We appreciate that very much. And we encourage you to proceed with your statement. We will make a point of including your entire statement in the record as it is submitted, and encourage you to make whatever comments or remarks in connection with that statement that you think would be helpful to the Subcommittee. Thank you.

**TESTIMONY OF HON. JOHN D. HOLUM, DIRECTOR, ARMS
CONTROL AND DISARMAMENT AGENCY**

Mr. HOLUM. Thank you, Mr. Chairman. My statement is quite short, so I will run through it quickly.

Since February of 1996, as you know, the administration has been committed to developing a system that could defend the United States against a potential limited strategic ballistic missile threat from rogue states and that would have some capability to

defend against a small accidental or unauthorized launch from more nuclear-capable states.

In response to the Chairman's invitation, I am pleased to have the opportunity today to present the administration's views on the prospects for negotiating amendments to the ABM Treaty, should that become necessary as a result of a future decision to deploy a National Missile Defense System.

I want to make it clear that I am not speaking on the programmatic aspects of NMD, NMD deployment decision criteria, or on OSD's procedures for determining the ABM Treaty compliance of any NMD system or its components. My colleagues in the Defense Department have the lead responsibility for those issues.

I want to stress at the outset that the administration is fully committed to the ABM Treaty as a cornerstone of strategic stability. President Clinton reaffirmed that commitment following the administration's review in 1993 of ballistic missile defense policy and the ABM Treaty.

Moreover, in February of 1996, following a thorough review of the U.S. ballistic missile defense program, when Secretary Perry announced the decision to establish a National Missile Defense deployment readiness, or "3+3" program, the administration stated that our commitment to the ABM Treaty remained unchanged. Finally, President Clinton repeated our commitment to the Treaty in the context of the Helsinki summit.

I believe it is premature to speculate on whether, or when, we may need to seek to negotiate changes to the ABM Treaty in the event of a future U.S. decision to deploy a national missile defense. It is even more premature to speculate hypothetically about specific changes to the Treaty that might be required to permit an NMD deployment that we might select.

Nevertheless, it is my understanding that the evaluation of Treaty issues within the Defense Department will be accomplished in a timeframe that is supportive of the DOD NMD program schedule. This should allow compliance analysis to be based on concrete system designs without delaying the program's schedule.

Our NMD policy is that our NMD development program will be compliant with the ABM Treaty. If there is a decision to deploy a NMD, we would determine whether the system we intend to deploy would comply with the ABM Treaty. If we determined that deployment of an NMD system required modifications to the ABM Treaty, we would seek agreement with our ABM Treaty partners. Indeed, the Treaty, as you know, contains a mechanism for its amendment.

Recognizing that the ABM Treaty is a "living" Treaty, we have stressed to the Russians and others that for it to remain viable, it must be adaptable to changing political or technological circumstances. For example, we have taken a cooperative approach to implementation of the Treaty in negotiations with Russia and other potential successors on demarcation between theater ballistic missile defense and ABM systems. We would view any future NMD negotiation in the same light.

However, proposing changes to the Treaty and conducting such negotiations now would be premature—we are now only in the early developmental phase of the program. At present, none of the so-called rogue states have the capability to attack the territory of

the United States with ballistic missiles. The Department of Defense has not selected a specific architecture for a system. Thus, no USG decisions have been made about whether it will be compliant with the Treaty and whether any, and what kind of, Treaty amendments it would necessitate.

We must expect, however, that any future negotiations with other treaty parties to amend the ABM Treaty would also be difficult. It is not possible at this point to predict what the reaction of Russia and the other states would be to proposals to amend the Treaty. During the TMD demarcation negotiations, both sides have been tough defenders of what they regard as their security interests. Russia has made clear the importance it attaches to the viability of the ABM Treaty and to continued U.S. compliance with the Treaty as a prerequisite for further negotiated reductions in Russian strategic forces.

At the same time, the Russians have also recognized the need to respond to the threat of ballistic missile proliferation, and agree with us on the need to develop and field effective systems to counter shorter-range ballistic missile threats.

Russia's willingness to accept any future proposed changes to the ABM Treaty to permit a National Missile Defense System against limited ballistic missile threats will in the first instance depend on their assessment of the compatibility of deployment of limited missile defense systems with their security and deterrence requirements.

In our dialogue with Russia, we continue to stress that our NMD programs are not directed against Russia's nuclear deterrent nor will our NMD programs provide the capability to threaten that deterrent. But Russian willingness to amend the Treaty would also depend on the commonality of interests, including cooperation and their assessment of the threat. The Russians might also want to reassess their own requirements in light of ballistic missile proliferation developments in their region.

In conclusion, Mr. Chairman, the administration is committed both to the ABM Treaty and the development of an NMD capability. If a rogue state missile threat emerges that requires deployment of an NMD system, such a system could require modifications to the ABM Treaty; however, it would not be incompatible with the central purpose of the ABM Treaty—that is, the preservation of strategic stability and the achievement of further strategic offensive force reductions as part of the START process.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Holum follows:]

PREPARED STATEMENT OF MR. HOLUM

Since February 1996, the administration has been committed to developing a system that could defend the United States against a potential limited strategic ballistic missile threat from rogue states and that would have some capability to defend against a small accidental or unauthorized launch from more nuclear-capable states. In response to the Chairman's invitation, I am pleased to have the opportunity today to present the administration's views on the prospects for negotiating amendments to the ABM Treaty should that become necessary as a result of a future decision to deploy a National Missile Defense system. I want to make it clear that I am not speaking on the programmatic aspects of NMD, NMD deployment decision criteria, or on OSD's procedures for determining the ABM Treaty compliance of any

NMD system or its components. My colleagues in the Defense Department have the lead responsibility for those issues.

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In conclusion, the administration is committed both to the ABM Treaty and the development of an NMD capability. If a rogue state missile threat emerges that requires deployment of an NMD system, such a system could require modifications to the ABM Treaty; however, it would not be incompatible with the central purpose of the ABM Treaty—that is, the preservation of strategic stability and the achievement of further strategic offensive force reductions as part of the START process.

Senator COCHRAN. Thank you very much for your statement.

In the first article of the ABM Treaty there is a provision as follows: "Each party undertakes not to deploy ABM systems for defense of the territory of its country." Last Friday, we were advised that the Department of Defense has awarded \$16 million worth of contracts for the "3+3" lead system integrator. The request for proposals for the lead system integrator says the NMD system will provide defense of all territory in the 50 States.

On its face, the ABM treaty seems to say that any system capable of protecting all of the United States, even if it is from a limited long-range ballistic missile threat, is prohibited by the treaty. In your view, is any NMD program, to include "3+3", fundamentally incompatible with Article I of the ABM Treaty?

Mr. HOLUM. Mr. Chairman, that is a question that we have not specifically determined. And the basic reason is that we do not have a system architecture. It is possible to imagine a national missile defense system that would clearly violate the treaty. There are others that would be closer questions.

And our approach to this—and it originates, as you know, in the Department of Defense in the Compliance Review Group—is to wait until there is a specific program architecture or until the details are sufficiently developed to make it possible to examine not only the compatibility with the treaty but, more specifically, what amendments to the treaty would be necessary, if any, in order to permit deployment to proceed. That would give us our negotiating instructions, our working papers for negotiations. But until we have that structure, we have not gone through the formal process to make a determination.

Clearly, you can say that if the system required more than 100 interceptors, based on the threat, or if the system required deployment at more than one site, that would violate the treaty and require an amendment to the treaty. But as you get to closer questions, we just have not made the assessment.

Senator COCHRAN. Yes. Well, in connection with the system architecture, what if we were to build a limited NMD system that could protect the entire territory of the United States, but was only capable of shooting down one incoming missile. Would such a system be permitted under Article I of the treaty?

Mr. HOLUM. It is conceivable. But I just do not know the answer, because I would have to know all of the details of the system and make a systematic analysis of the defensive system against all the provisions of the treaty to determine if it could go forward.

The key point, it seems to me, Mr. Chairman, is that what we will do, what our colleagues in the Department of Defense will do, is design a system as the threat emerges to answer the threat. The determinant of the character of that system will be the threat, not the treaty. But then once the system has been selected, once the architecture has been selected, we will assess specifically what amendments are required, and commence negotiations to adopt them.

And we certainly do not limit, as you indicated, the developmental work to systems that would clearly be in compliance with the treaty.

Senator COCHRAN. Has your agency, ACDA, attempted to re-search this in terms of getting an opinion from the ACDA general counsel, or exploring with the Russians what their reaction would be to the meaning of the language of Article I in connection with a limited national missile defense system?

Mr. HOLUM. We have not undertaken that type of a discussion with the Russians, no. We have continuous discussions internally, informally, on the meaning of the various articles of the treaty, but we do not have a formal conclusion.

Senator COCHRAN. I know there was a provision in the Helsinki summit statement that President Clinton and President Yeltsin issued that related to theater missile defense, trying to outline the content of future negotiations and a possible agreement on demarcation. But I do not recall whether there was any statement or suggestion about any negotiations in connection with a national missile defense system. Were there any such statements?

Mr. HOLUM. No, there was not. But I would emphasize, though, that there is one consistent thread running through our discussions with the Russians on theater missile defense, and that is that it is very important that the treaty be a living document that allows us to maintain the strategic stability benefits of the treaty but at the same time address emerging threats. That has been the theme of our negotiations on theater missile defense on the demarcation issue.

And we would carry that same principle into the context of national missile defense. It is quite conceivable to me that you can design a national missile defense against limited threats that would not in any way undercut the basic objectives of the ABM Treaty, that would in fact preserve its benefits for strategic stability and protecting the process of strategic offensive arms reductions. That would be our goal. And I think over time the Russians should come to accept that principle.

Senator COCHRAN. It does seem confusing if we start talking about a system to protect the entire territory of the United States, that we may be running head-long into the clear violation of Article I of the Treaty.

We know that there are later on two specific exceptions in the ABM Treaty. One permits the defense of the capital, and the other the defense of missile fields. And we have made a selection to defend the missile fields. The Russians have made a selection to defend the capital with a ballistic missile defense system.

Are there any other exceptions which allow ABM protection against any, or all, of the territory of the United States that are spelled out in the treaty, other than those two?

Mr. HOLUM. That would allow deployment of strategic defense?

Senator COCHRAN. Yes, deployment of strategic defense to defend the territory of the United States.

Mr. HOLUM. Not that I am aware of. If I have to correct this for the record, I will; but I do not know of any.

Senator COCHRAN. We had a briefing, incidentally, earlier in the week from the program manager of the "3+3" program on the request for proposals for the lead system integrator contract. And it suggests that the contractor study several national missile defense options.

Two of these—the so-called CI and CII architectures—anticipate that meeting the threat from a rogue Nation might require the NMD site to be located outside of the Grand Forks ICBM deployment area, possibly in Alaska. My understanding, based on these briefings, is that this might be required so that portions of Alaska and Hawaii are not left unprotected.

I know that the administration believes it is too early to make a decision to deploy an NMD system, but let us assume that we make that decision and the results of the BMDO work show that an interceptor site in Alaska is required to provide adequate protection for the territory or the citizens in Alaska and/or Hawaii. Does the ABM Treaty, in your opinion, allow such a deployment in Alaska; or would a decision to deploy an Alaskan ABM site be subject to a negotiated amendment to the treaty?

Mr. HOLUM. I think on a broad question like that it would fall into the same category as the ones I mentioned earlier; that if you need more than 100 interceptors, or more than one site, then you would require an amendment to the treaty. I think this one would fall into that category, as well.

But I hasten to add that I do not want to be in a position of making specific compliance determinations on hypothetical deployments. I think we need a specific system before we do that.

Senator COCHRAN. Do you think we could make a decision to change our selection? For instance, if we were under the authority of Article III in the treaty where we selected to defend the Grand Forks area, the missile field, and we decided to change that, do we need to go back then and negotiate any kind of modification with our treaty partner? Or can we just unilaterally change that designation of deployment area, to Alaska, for example?

Mr. HOLUM. Well, the first requirement would be that it be a deployment at an offensive missile site. So if it went elsewhere than a missile site—

Senator COCHRAN. We could change the area even though it could defend against a missile site, could protect a missile site from that new area?

Mr. HOLUM. Yes, you would either have to have a missile site there, or put the National Capital there, in order to—

Senator COCHRAN. Senator Stevens would probably go for that.

Senator LEVIN. Which one? Which capital?

Senator COCHRAN. Oh, I thought you were talking about the Capital. He will probably go for both of them.

I am going to yield to my good friend from Michigan for some questions. And I apologize to our good witness that we started this 30 minutes late. So I hope we are not going to keep you here until supertime or anything like that, so do not worry. Senator Levin.

Senator LEVIN. We reserve that just for the Attorney General.

Mr. HOLUM. I see.

Senator LEVIN. What is the relationship between the ABM Treaty and nuclear arms reductions?

Mr. HOLUM. Well, I think both in principle and in practice there is a very intimate relationship between the two. Obviously, in this field, as in most others, there is a relationship between offense and defense. As the number of defensive interceptors goes up that could potentially or arguably intercept an offensive missile, the offensive

side would begin to worry about the viability of its deterrent capability.

That is the basic relationship that the ABM Treaty established in 1972, recognized in 1972; that our prospects for strategic arms offensive limitations depended on and were supported by the limitation on defense. Now, that is in principle.

In practice, it is also the case that the Russian instrument of ratification for START I specifically relates to, or depends upon, the viability of the ABM Treaty. They have made it quite clear that their plans to go forward with START II ratification are also related to the ABM Treaty's viability. So I think in practice as well as in principle, the ABM Treaty remains a very important document for protection of strategic arms reductions.

And we have to always keep in mind that this is a threat that exists today. This is a concern that exists today. These are missiles in being that have the potential to rain devastation on the United States. It is not something we can set aside lightly.

Senator LEVIN. Now, are the reductions of offensive nuclear weapons by the Russians in our interest?

Mr. HOLUM. Absolutely so, Mr. Levin. I recall—and I am sure you recall better than I do—the discussions in the 1970s and the 1980s about the Russian SS-18 heavy missiles, the most devastating weapons ever aimed at the United States, opening a window of vulnerability to a potential first strike because each one had 10 independently targetable reentry vehicles on 300-and-some missiles that could strike an ICBM silo and disable weapons in a first strike.

It has been a lead negotiating priority of the United States for years to eliminate those SS-18 missiles and other land-based multiple independently-targetable reentry vehicles. The START I and START II treaties, in combination, do that.

We are not even contemplating a national missile defense of a kind that could do that. I have no idea what it would cost, or whether it is feasible. The treaties are doing that—verifiably, certainly, and without a shot being fired. That is indisputably in the U.S. national interest. It is a leading goal of our national security strategy.

Senator LEVIN. Now, S. 7, which is the National Missile Defense Act of 1997, requires deployment of a national missile defense system by the year 2003, whether or not such a deployment would violate the ABM Treaty. Do you believe that the adoption of that commitment to deploy would make it more likely, or less likely, or have no effect, on reductions of nuclear missiles by Russia?

Mr. HOLUM. I think it would make the reductions less likely, based on the earlier answer of both the principle and the practice of the relationship between the ABM Treaty and strategic reductions. I think it is indisputable that we would encounter problems very early on.

I have several problems with S. 7, several that are more appropriately addressed by my colleagues in the Department of Defense, relating to locking us in to an architecture or to a technology earlier than we need to be, based on the emergence of the threat.

What I am most concerned about from the standpoint of the U.S. Arms Control and Disarmament Agency is protecting the process of

strategic arms offensive reductions, and the time table for negotiating an amendment to the treaty to allow this within a period of about a year. It seems to me that that sets a clock ticking—and would in the minds of the Russians—toward abrogation of the ABM Treaty, because we have only a year to complete it.

Senator LEVIN. We would only have a year to complete it under that bill.

Mr. HOLUM. Under that bill. And that would, in itself, I think raise problems for the strategic arms reduction process. Now, that is not to say that over time we cannot successfully negotiate with the Russians to allow deployment of a limited national missile defense. But I think we need to know what kind of defense that is, what the specific elements of it are, and what amendments to the treaty are needed in order to commence those negotiations.

Senator LEVIN. Does the “3+3” approach allow for that?

Mr. HOLUM. Yes, it does.

Senator LEVIN. Now, tell us about START III. What are the discussions underway about the next stage, assuming START II is ratified by the Russians?

Mr. HOLUM. That is an important point, because the negotiations will not commence until the START II Treaty has been ratified. But President Clinton and President Yeltsin have agreed that we will, upon that action, be prepared to begin negotiating further reductions and limitations down to a level of 2,000 to 2,500 deployed warheads. In addition, we will look at new steps in the area of transparency and irreversibility, including reviewing the actual dismantlement of the warheads themselves.

We are very interested, obviously, in beginning those negotiations. They will not begin until START II is ratified.

Senator LEVIN. Relative to theater ballistic missile defenses, TMD's, does the ABM Treaty restrict the development of current TMD's, the ones that are currently being developed?

Mr. HOLUM. No. Five of the six systems that are currently being developed are covered and protected under the demarcation agreement relating to slower fliers, those with interceptor velocity of 3½ kilometers per second or less. The sixth system, the Navy theater-wide, is clearly compliant with the principles established for the Part II negotiation covering faster fliers, which in essence allows us to make our own compliance determination, which we have done.

Senator LEVIN. We are allowed under the agreement to make our own determination relative to that sixth system?

Mr. HOLUM. That is right.

Senator LEVIN. And we have already made that determination?

Mr. HOLUM. That is right. We would agree, and I emphasize that the summit principles are not yet formalized in an agreement. But with regard to faster flying systems, we would use the same flight testing limitations that we have agreed to for slower systems. That is, they could not be tested against target missiles of a velocity of 5 kilometers per second or greater, or with a range of 3,500 kilometers or more.

Senator LEVIN. Thank you, Mr. Chairman.

Senator COCHRAN. I thought it was interesting the way you changed your reference to that agreement, saying that it is not

really an agreement yet. But you are referring to the statement that was issued by President Yeltsin and President Clinton?

Mr. HOLUM. That is right.

Senator COCHRAN. Contemplating that an agreement might be reached——

Mr. HOLUM. That is right.

Senator COCHRAN [continuing]. That would make the TMD systems treaty-compliant.

Mr. HOLUM. Well, we have, independently of the Helsinki agreement, made a determination that the Navy theater-wide system is compliant.

Senator COCHRAN. But that has not been the subject of any agreement that has been reached, or any amendment to the treaty that has been decided upon between the two principals?

Mr. HOLUM. No.

Senator COCHRAN. Now, one thing that we discussed when we had our briefing with the Defense officials this week was that one of the ingredients or elements, options, that the contractor was to consider under this request for proposals was the use of forward-based radars to help detect missile launches, and otherwise make an overall national missile defense system workable.

If there were a forward-based radar, on the West Coast of the United States for example, outside the immediate area of a deployed national missile defense system, would that be consistent with the treaty, or would that be in violation of the treaty?

Mr. HOLUM. You are getting me into an area of technical analysis that I do not feel prepared to pursue. For example, it may depend on whether the radar faced in only one direction or not.

Senator COCHRAN. Well, Article II has a provision in it that says that an ABM radar is one constructed and deployed for an ABM role. And since we are requesting proposals from a contractor that specifically ask for a system to be developed that calls for a forward-based radar as part of that system, is not that radar one constructed and deployed for an ABM role?

Mr. HOLUM. Mr. Chairman, I do not dispute at all, and will hasten to agree with you, that the request for proposals contemplates national missile defenses that would not be compliant with the ABM Treaty. That request for proposals is not designed to fit the treaty. It is designed from the Department of Defense's standpoint to develop options for national missile defenses against the threats we have been talking about.

So it is unquestionable that this could produce recommended programs and a national missile defense architecture that would not be in compliance with the treaty. Under those circumstances, we would seek to negotiate an amendment to the treaty.

Senator COCHRAN. Article III also has a provision relating to radars. And it says that ABM radars must be located in the ABM deployment area or at test ranges. That is a requirement. So in connection with my question about forward-deployed radars being requested as part of a new national missile defense system, it not only fits the definition of an ABM radar in Article II, but is clearly prohibited in Article III unless it is located in the ABM deployment area or a test range.

And I think the reason my question is relevant is that the administration officials whom I quoted in my opening statement keep saying that the "3+3" plan, or the administration's proposal for a national missile defense, will comply with the ABM Treaty. Yet, the request for proposals is requiring a contractor to develop a national missile defense system which seems clear to me violates the ABM Treaty in a number of respects, and I have cited two or three right now, and there are more.

But how do you rationalize that? If you are not negotiating now with the Russians an amendment that will permit this kind of system to be built, why are you spending \$16 million as of last week on contractors to develop a system that will be out of compliance?

Mr. HOLUM. Because, as I said, Mr. Chairman, we intend to negotiate an amendment to the treaty, should that prove to be necessary, based on the system that is produced as a result of these investments. But we are in a very early stage. I would not know what kind of amendments to negotiate to the treaty, or whether any amendments are necessary.

One thing is clear, and that is that the development of a national missile defense system can proceed within the terms of the treaty. The development process is not constrained by the treaty. We have some period of time during the development phase. We also have a period of time when development may well continue after the first 3 years, when we are assessing the threat and moving up on a decision to deploy. And negotiation now would not only be premature but impossible, because we would not know what specific amendments to the treaty we might be required to accomplish.

Senator COCHRAN. In the schedule for "3+3"—3 years to develop, 3 years to deploy—where is there time to negotiate an agreement with the Russians? If the administration and Congress together agree that we have a threat that requires a national missile defense in order to protect the security of our country, where is the time to negotiate that agreement in the "3+3" plan?

Mr. HOLUM. It is at the point, or during the period, more precisely, when we have designed a system architecture, there has been a compliance review analysis of the architecture that has been fixed, and we are preparing to deploy. The actual completion of deployment over a period of 3 years would allow time from the time of the compliance review and the deployment decision to commence negotiations.

Senator COCHRAN. One other request in the document submitted to the contractors, the request for proposals for the lead system integrator, requires the contractors to consider using a Minuteman ICBM system as the booster for a ground-based interceptor. Obviously, the Minuteman is not an ABM interceptor missile.

If the United States were to decide to use the Minuteman ICBMs as the booster, do you think that would be compliant under Article VI(A) of the treaty which prohibits giving capabilities to counter strategic ballistic missiles to missiles other than ABM interceptors?

Mr. HOLUM. It may, or it may not, Mr. Chairman. I just have not made the kind of analysis that would be necessary to determine that and, again, would prefer not to engage in a hypothetical analysis rather than making a real analysis when we have a specific system that we want to develop.

Senator COCHRAN. Let me ask you about another possible conflict between the administration's proposals and actions and the ABM Treaty. DOD plans to incorporate the Space and Missile Tracking System into its national missile defense system when it becomes available. One possible architecture using this missile-tracking system would make it possible to conduct intercepts outside the range of the ground-based radar, making an ABM radar unnecessary. If we decided to deploy a national missile defense architecture in which a space-based sensor made an ABM radar unnecessary, would that sensor be regarded as a space-based ABM component, which is banned by Article V of the ABM Treaty?

Mr. HOLUM. Mr. Chairman, I will have to give you the same answer. I just have not made a considered analysis of that issue.

Senator COCHRAN. Senator Levin.

Senator LEVIN. Who makes those analyses?

Mr. HOLUM. It begins with the Compliance Review Group in the Department of Defense analyzing whether a particular system is treaty compliant.

Senator LEVIN. Do you know whether they have made the assessment of the Chairman's hypothetical?

Mr. HOLUM. No. I do not believe they have, but I would prefer that they answer for themselves.

Senator LEVIN. I want to ask you about the "3+3" approach. That approach, as I understand it, permits us to consider various options and to develop a system which would then be ready for deployment should we decide to deploy. Is that correct?

Mr. HOLUM. That is correct.

Senator LEVIN. And that approach, the "3+3", allows us to consider a whole menu of options, some of which are treaty-compliant and some of which are not. Is that correct?

Mr. HOLUM. That is correct.

Senator LEVIN. But there is a difference between considering options which are not treaty-compliant, and making a commitment now to deploy a system whether or not it complies with the treaty. Is that not true?

Mr. HOLUM. That is correct.

Senator LEVIN. I think that is kind of the heart of the difference. You are not denying, I gather—and you have explicitly said this—you are not denying that we are looking at options, some of which are treaty-compliant, and some of which are not?

Mr. HOLUM. That is right. And the difference, really, between our approach and the approach of, for example, S. 7 is the timing of the deployment and the timing of the decision to deploy. I think the prudent approach is to continue the development, also to continue to watch the threat as it emerges—and it may or may not; we do not know the answer to that at this stage—and to continue to refine the development and advance the process until we feel a deployment decision is necessary; a decision that will need to be made in advance of the arrival of the threat, but the intelligence community is watching that issue closely. Then, make a decision, and go with the best technology available at that time, in a context where I think we are much more likely to be able to negotiate an amendment to the treaty because the security environment should be clear to all concerned, including our treaty partners.

Senator LEVIN. So that the threat at the time the technology is developed, if it exists in a defined enough way so that the intelligence community can make an assessment that it needs to be addressed, would be clear enough, you believe, or might be clear enough, to give us a better chance at negotiating an amendment to the treaty, than a threat which is more abstract or less clear?

Mr. HOLUM. That is right. Keep in mind that we, as I said earlier, have made clear in the theater defense demarcation discussions with the Russians that it is very important to us that the treaty be a living document and susceptible to modification and updating to address real security threats.

At this stage, because the intelligence analysis is pretty widely available in the public realm that we are 14 years away, roughly, from a rogue state threat, it would clearly appear to our Russian colleagues that we are gratuitously trying to get rid of the ABM Treaty, as opposed to amending the treaty in light of a realistic assessment of a then-current emerging threat.

I think once we have further evidence of a changing security environment, as has been the case with the theater systems, we will have a much better prospect for negotiating changes in the treaty.

Senator LEVIN. You made the distinction between the joint statement which President Clinton and President Yeltsin issued at Helsinki and a treaty. What is the next step in negotiating a treaty or an agreement to implement or to embody the principles set forth in that joint statement at Helsinki?

Mr. HOLUM. On theater missile defense, or on strategic reductions?

Senator LEVIN. Well, whatever treaties or agreements were contemplated for negotiation at Helsinki, what is the next step? How many different treaties and agreements are there that are going to be negotiated to embody and implement the concepts and the principles that they agreed to?

Mr. HOLUM. The two that are directly relevant here would be a completion of the demarcation negotiations and follow-on strategic arms reductions. The Standing Consultative Commission is scheduled to meet again the middle of this month to try to wrap up and incorporate the agreed principles established in Helsinki on theater defenses. As far as further strategic arms reductions are concerned, there would be a follow-on negotiation, a formal negotiation, after the Russians ratify START II.

Senator LEVIN. So since we do not know when that is, we do not know when the START III negotiations would begin?

Mr. HOLUM. That is right. We do not have a time table.

Senator LEVIN. And is it hoped that the Standing Consultative Commission wrap-up of the treaty demarcation issue would occur within a matter of months, a few months?

Mr. HOLUM. I certainly hope so. These have, as the Chairman noted, been long and difficult negotiations, so I will not assume success until it is completed. But I think that the leadership of the two countries has been very clear that the principles are now established for wrapping up the demarcation negotiations. And we should complete them in the next round of the SCC.

Senator LEVIN. Thank you, Mr. Chairman.

Senator COCHRAN. Thank you very much, Senator.

There are a number of statements appended to the agreement. One is related to components based on other physical principles and capable of substituting for ABM interceptor missiles, launchers, or radars. And it restricts and imposes limitations on such systems, and says that, and I quote this, "They would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty."

Does it not appear to you very clear that the development of a national missile defense system, as the administration is now proposing and has actually issued request for proposals to contractors to develop, is a clear statement of intent that requires us to discuss with our treaty partner, and agree, in accordance with Article XIV of the treaty, before we undertake that development?

Mr. HOLUM. Again, Mr. Chairman, I have not made an assessment of that. I just do not know the answer.

Senator COCHRAN. The facts seem to be clear from the actions being taken by the administration, first of all to propose that a national missile defense system be developed, then to set out a time frame for the development and the deployment if the threat is perceived to justify the deployment, that will clearly violate the clear and unambiguous terms of this treaty in a number of different respects. And I have tried to identify at least five during my statement and questions to you.

Would it not seem appropriate to at least engage the Russians at this point in a preliminary round of discussions, to see if they agree with your interpretation or this administration's interpretation that we can proceed to develop a system under the request for proposals that we have issued, to get an indication as to whether or not they think that violates the treaty or does not, so we will know whether we are going to make the decision to amend the treaty, to have negotiations similar to the ones we are having on TMD, or whether we ought to consider terminating or withdrawing from the treaty?

I do not think we can continue along this path very much longer before we recognize that those are the only options that we have.

Mr. HOLUM. Well, Mr. Chairman, I think it would be a grave mistake to peremptorily withdraw from the ABM Treaty, for the reasons I have described in my statement. I also think it would be a mistake to prematurely begin discussions with the Russians on what may or may not be required in terms of amendments to the ABM Treaty, until we have made our own judgment as to what we want to accomplish.

It seems to me that the determinant here of our national missile defense program, designed to deal with rogue state threats is going to be what the threat requires, not what the Russians think or what the treaty says. We will begin by determining what the national security requires. And once there is a program that is sufficiently developed in terms of its architecture and its details that we can make our own compliance judgment, then it seems to me that is the time to go to the Russians and say, "We have an emerging threat that we take very seriously. We have designed a system to redress that threat and it requires—" if this proves to be the case—"modification of the ABM Treaty in these specific respects." That would be the time to then begin discussions with the Rus-

sians, when we would have, it seems to me, a good basis for negotiations.

And it seems to me that we need to approach these three different concerns in the proper order. The first one that we have—and it is a risk right now—is the Russian strategic arsenal. It is the only arsenal in the world that could rain overwhelming devastation on the United States. And that has a relevance to the ABM Treaty. The ABM Treaty is important to be able to continue the process of reducing those forces.

There is a second danger that we need to worry about, which is the theater offensive threat. And that is a current risk. And we need to develop theater defenses to be able to deal with that, robust theater defenses. And we have gone to negotiate with our treaty partners to make clear that the treaty permits those.

And remember that in the early days of the treaty the thought was, and the Department of Defense was limited by the premise that, we could not test against an incoming missile of more than 2 kilometers per second velocity, or engage at more than 40 kilometers above the earth's surface. We are now talking about interceptors or target missiles of 5 kilometers per second. That has been agreed by the two sides already. So that we have demonstrated in this process that this treaty can be adjusted and we will be able to meet our security requirements for theater missile defense.

The third threat that the treaty is also relevant to is the danger of missile attack, ICBM attack, from rogue States. And that is a threat that is some time in the future. We are not complacent about it, and the "3+3" program is designed to deal with it.

But in order to deal with that threat in the future, my argument is we should not throw away the benefits of the ABM Treaty for dealing with the larger immediate threat that exists right now. I think we can have our cake and eat it too, if we approach these dangers in the order in which they are arising.

Senator COCHRAN. One of the ingredients of the statement that the Presidents issued following the Helsinki meeting was that the treaty ought to be enlarged to include additional parties. And that was, of course, made in connection with the theater missile defense demarcation discussions that are going on.

Is it your impression that that extension of the treaty to include other parties would require us to negotiate with other parties in connection with a national missile defense system, as well as theater missile defense demarcation issues?

Mr. HOLUM. Any subsequent amendment to the treaty would require agreement of the parties at that time. That is correct.

Senator COCHRAN. Would that prolong, do you think, the period of time within which you could get an agreement like you are contemplating trying to get if we decide we need to deploy a national missile defense system?

Mr. HOLUM. It is impossible to say for certain, but on the basis of our experience in the demarcation area, when the potential successor States have been participating in the discussions, that has not proved to be a complicating factor.

They have sometimes had ideas of their own. They have participated to lesser or greater degrees in the discussions. But I think

all of the additional participants—there are only three—have not impeded the negotiations.

I suspect they would have a very strong interest, if the United States and Russia agreed on amendments dealing with national missile defense, in preserving the viability of the treaty and the strategic relationship between the United States and Russia, and would not impede action. But I cannot predict the future precisely.

Senator COCHRAN. Do you have, based on your experience in this area, any confidence that once we developed a system—if we are able to achieve it in 3 years, the development of a system—and we decide to deploy it, that the deployment can take place in 3 years?

Mr. HOLUM. In terms of the treaty inhibitions, obviously, it is hard to say. I am not going to comment on the technical aspects that are in the province of the Department of Defense. But I do not in any sense say that hard is hopeless. I think that almost everything we do in this field currently is difficult to accomplish. But I think that there is a reasonable prospect that we could negotiate a treaty amendment.

And remember that if we cannot, then we always have the option of making a determination about extraordinary circumstances in our supreme national interests, if it came to that. I do not think it will, because I think we will be able to negotiate the necessary amendments to the treaty.

Senator COCHRAN. Well, I am hopeful that, as we move down this path, whether it is “3+3” or 3-plus-infinity, that we keep in mind that our national security is more important than a treaty agreement, and particularly this ABM Treaty. And that is the issue that we may have to confront at some time. I am not ready to prejudge that, either.

But I think it is important for us to reassure the American public that this Government is not going to refrain from protecting the security of our country against missile attack if we see that threat has emerged—if we have the technical capacity to do so, that we have the will to do so. I think they ought to be assured that we do have the will and the capacity to protect our nation's security, and not just wring our hands over whether we are going to get an agreement negotiated in time to save our lives.

Mr. HOLUM. Mr. Chairman, I appreciate that comment. It is very important to emphasize, I think, to have on the record, that we are not defenseless against strategic missile attack now.

Any country that would contemplate an attack on the United States, based on our overwhelming retaliatory capability, knows that their society would suffer an intolerable, devastating, overwhelming blow. So we should never neglect the fact that our deterrent capability exists and we have the will to use that.

When you make the comment about our security and the treaty, part of the reason why I am adamant in trying to protect the ABM Treaty is, I think it is an instrument of our security. It is an important element in continuing the strategic arms reduction process. But at the same time, you are absolutely correct that the United States has to be prepared to defend itself. And if the treaty is in the way and cannot be amended—and I believe it can—then we have to contemplate further action. But this is something that I think there is a great deal of agreement on, more than we often

appreciate, between the administration and Members of the Congress.

Senator COCHRAN. We all do hope that our deterrent capacity has an effect, as we think it had on the old Soviet Union and its nuclear capability. But I do not know that anybody is reassured that it will have the same effect on rogue states who now seek to possess long-range missile capability and weapons of mass destruction. And so assuming that the deterrent works against those who do not seem to be rational to start with, or who measure costs and benefits very differently from the way we do, is problematical and is unsettling, at best. And so that is not a defense at all, if it does not work.

Mr. HOLUM. That is why we should proceed with the "3+3" program. I agree.

Senator COCHRAN. Senator Levin.

Senator LEVIN. Again, I want to just ask you about the options which are being looked at under the "3+3" program. Some of those options are treaty-compliant; some of them are not treaty-compliant. Is that correct?

Mr. HOLUM. I have not made a considered judgment on any of them, but we certainly contemplate the possibility that options would be not compliant with the treaty.

Senator LEVIN. Do we also contemplate the possibility that options will be compliant with the treaty?

Mr. HOLUM. It is conceivable. I just do not know the answer.

Senator LEVIN. So we are looking at all the options.

Mr. HOLUM. Right.

Senator LEVIN. Whether or not they are treaty-compliant.

Mr. HOLUM. Right.

Senator LEVIN. I do not think we ought to exclude the possibility that one of the options, or more, that may be selected as the best technology will be treaty-compliant.

Mr. HOLUM. Yes, I certainly would not exclude that outcome.

Senator LEVIN. All right. So that is point number one.

Number two: In addition to the question of the threat, as to what it looks like at the end of the 3 years, there are a couple of other important issues that we do not want to prejudge, it seems to me. One is the technology development and how far advanced it is. Is it not possible that we are going to be at a point in 3 years where the technology is simply not effective to do what we might want to do if there is a threat?

Mr. HOLUM. I think that is possible, although I am not competent to assess the technology. I have read the assessments of the military leadership and others who are working on this, and they describe the program as high-risk in a number of respects because of the tight time limits.

Senator LEVIN. All right. So that when the "3+3" program talks about assessing the threat at the end of 3 years, they are also in addition to that talking about looking at the effectiveness of the technology development as of that point, and the cost. Is that also true?

Mr. HOLUM. That is true.

Senator LEVIN. Because there are many threats out there, some of which can be delivered by other than a ballistic missile—includ-

ing a suitcase, or a cruise missile—which may be more likely, and against which we are spending an awful lot less money than we might be urged to spend on national missile defense.

So we would want to look at all of the potential threats, how they could be delivered from rogue nations, what would be the cost of defenses against them, and how it is best to spend our resources to defend against whatever that threat is. Would that be a fair statement?

Mr. HOLUM. I agree with that.

Senator LEVIN. Does the “3+3” allow for all of that?

Mr. HOLUM. Yes.

Senator LEVIN. Thank you.

Senator COCHRAN. Mr. Holum, we appreciate very much your being here today. I think it is clear from the discussion that we have had that this is a complex issue. It is not easy to answer questions “Yes” or “No,” as we tend to have put them to you today. But at the very least, I think we can agree that there are many ambiguities that will have to be resolved, if we are going to both develop and deploy a defense against ballistic missile attack, even rogue ballistic missile attack; and that compliance determinations on specific system elements, even though they may be premature at this point, do not mean that they ought not to be considered and seriously confronted in terms of how we will deal with them if the administration ever acknowledges the threat emerging and convinces itself to deploy a missile defense system.

So if now is not the right time to start answering these questions, I do not know when the right time is going to be. We can hope it is going to be far into the future, but we have no assurance of that. And so the fundamental question is whether Congress and the Executive Branch are going to work together to try to answer these questions, keeping in mind the security interests of the United States. It is something that I think we need to seriously consider and at least begin the discussion on at this time, rather than waiting until it may be too late.

We appreciate your being here. We will continue these hearings. We are hopeful to have one hearing, at least one, each month during this session of the Congress, to try to understand further what our challenges are in this situation and in the proliferation area and the international security area.

And we appreciate very much the excellent contribution made by my friend from Michigan, who is on the Armed Services Committee as well. Senator?

Senator LEVIN. Well, thank you very much. And thank you, Mr. Chairman, for holding these hearings. These are really critically important subjects, and I appreciate the Chairman taking the time and putting in the effort that he has and his staff has in holding these hearings. I think they are going to be very useful to Members of the Senate.

And I appreciate your testimony today, also, Mr. Holum, with I think some of the clearest statements of the importance of putting our security interests first, because that is the guiding star for all of us, I hope; but then trying to figure out how best we can achieve that interest through a combination of nuclear arms reductions and defenses against threats that are either real or could emerge over

a reasonable period of time. And I think your testimony was very, very helpful in that regard. Thank you.

Mr. HOLUM. Thank you.

Senator COCHRAN. Thank you, Senator.

The hearing is adjourned.

[Whereupon, at 3:42 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Charts submitted for the record follow:

ABM TREATY ISSUES 3+3 National Missile Defense Program

Issue	Article
Defense of the Territory	I
Location of NMD Deployment Areas	III
Forward-Deployed X-Band Radars	III
Ground Based Interceptor Using Minuteman ICBMs	VI(a)
Space and Missile Tracking System (SMTS)	V, Agreed Statement D

ABM TREATY ISSUES Defense of the Territory Article I

Treaty Text:

Article I: "Each party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty."

Compliance Issue:

Request for proposals for NMD lead system integrator contract states, "The NMD system will provide defense of all territory in the 50 states."

ABM TREATY ISSUES Location of NMD Deployment Areas Article III

Treaty Text:

Article III: "[W]ithin one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars . . . and (3) no more than eighteen [smaller] ABM radars . . ."

Compliance Issues:

1. An NMD site in Alaska (request for proposals for NMD lead system integrator, C1/C2 architecture) would violate Article III's requirement to base ABM components within an ICBM deployment area.
2. 200 interceptors (request for proposals for NMD lead system integrator, C3 architecture) at two sites would violate numerical constraints on missiles, launchers, and deployment areas.

ABM TREATY ISSUES
Forward-Deployed X-Band Radars
Article III

Treaty Text:

Article II: “[A]n ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of (a) ABM interceptor missiles . . . (b) ABM launchers . . . and (c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.”

Article III: “Within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy . . . two large-phased array ABM radars and . . . eighteen [smaller] ABM radars . . .”

Compliance Issue:

Forward-deployed radars, if deployed for the purpose of supporting an NMD system or if of the same type as the Ground-Based Radar, would meet Article II’s definition of an ABM radar. Deployment outside the Grand Forks deployment area would violate Article III.

ABM TREATY ISSUES
Ground-Based Interceptors Using Minuteman ICBMs
Article VI(a)

Treaty Text:

Article VI(a): “[E]ach Party undertakes not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode . . .”

Compliance Issue:

Minuteman ICBMs are missiles other than ABM interceptor missiles. If used as ABM interceptors, they will have been given capabilities to counter strategic ballistic missiles and will have been tested in an ABM mode.

ABM TREATY ISSUES
Space & Missile Tracking System (SMTS)
Article V/Agreed Statement D

Treaty Text:

Article V: “Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, space-based, or mobile land-based.”

Agreed Statement D: “[I]n 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 . . . and agreement . . .”

Compliance Issue:

If SMTS makes it possible to intercept ICBMs without detection by the Ground-Based Radar, SMTS could be considered a space-based ABM component, or a substitute for an ABM radar based on other physical principles.

