

Effects of BMD Deployment on Existing Arms Control Treaties

The arms control treaties which are most directly relevant to BMD deployment are the 1972 ABM Treaty, the 1967 Outer Space Treaty, the 1963 Limited Test Ban Treaty, the 1974 Threshold Test Ban Treaty, and the 1970 Non-Proliferation Treaty.¹ The ABM Treaty is discussed extensively in chapters 6, 9, and 10, and in appendix A. The others are discussed briefly in this appendix.

Outer Space Treaty

Article IV of the Outer Space Treaty² begins:

States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner . . .

Article IX includes the following provision:

If a State Party to the Treaty has reason to believe that an activity or experiment planned by it or its nationals in outer space . . . would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, . . . it shall undertake appropriate international consultations before proceeding with any such activity or experiment.

Depending on the specific nature of a BMD system deployment which utilizes space-based components, there may be a conflict with one or both of these provisions. For example, Article IV would prohibit placing in orbit a BMD satellite which contains a directed-energy weapon that is powered by a nuclear explosive device.

Limited Test Ban Treaty

Article I of the Limited Test Ban Treaty³ prohibits each Party from carrying out any kind of nuclear explosion in outer space, in the atmos-

¹The texts of these treaties and histories of their negotiations appear in *Arms Control and Disarmament Agreements*, U.S. Arms Control and Disarmament Agency, Washington, DC, 1982.

²"Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies," which entered into force Oct. 10, 1967. It has over 80 parties, including the United States, the U. S. S. R., and the People's Republic of China.

³"Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water," which entered into force Oct. 10, 1963. It has about 100 parties, including the United States and U.S.S.R.,

phere, or under water. Although underground nuclear explosions are permitted, it is very unlikely that the United States or the Soviet Union would deploy a BMD system which relies on space-based directed-energy weapons powered by nuclear explosions without having tested them in space. Thus it is very likely that BMD deployments of that type would require withdrawal from the Limited Test Ban Treaty.

Threshold Test Ban Treaty

The Reagan Administration has reported to Congress that directed-energy weapons driven by nuclear explosions may require nuclear explosive devices on the order of 1,000 kilotons or higher.⁴ This would be far above the 150-kiloton limit imposed by the Threshold Test Ban Treaty⁵ on tests of such devices. The Administration also stated in 1984 that "at this time there is no indication of a need to test above 150 kt."⁶

Non-Proliferation Treaty

While Article II of the Non-Proliferation Treaty⁷ obliges the nonnuclear-weapon parties to refrain from acquiring nuclear weapons, Article VI obliges the parties which possess nuclear weapons to " . . . pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date . . . " Most of the nonnuclear-weapon parties believe that these two obligations constitute a balanced deal.⁸ In recent years they have been complaining strongly in international fora that they have been keeping their side of the

⁴"Fiscal Year 1985 Arms Control Impact Statements," issued March 1984. U.S. Senate Print 98-149, p. 253.

⁵"Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapon Tests." This treaty was signed by President Nixon on July 3, 1974. Although it has not been ratified, both Parties have announced their intention to observe its 150-kiloton limitation pending ratification.

⁶*Ibid.*

⁷"Treaty on the Non-Proliferation of Nuclear Weapons," which entered into force March 5, 1970. It has about 120 parties, including the United States and U.S.S.R.

⁸See, for example, *Nuclear Proliferation Factbook*, U.S. Congress, Congressional Research Service, Washington, DC, September 1980, pp. 459-496; Coit D. Blacker and Gloria Duffy (eds.), *International Arms Control: Issues and Agreements* (Stanford, CA: Stanford University Press, 1984), pp. 153-159 and 169-172.

treaty's bargain, but that there has been insufficient progress toward ending the superpowers' nuclear arms race.⁹

From an American viewpoint, the spread of nuclear weapons to many additional countries would not only constitute a serious threat to U.S. national security, but would also threaten the security of all states. Hence U.S. representatives have argued, in the U.N. and elsewhere, that mutual abstinence from acquisition of nuclear weapons is in the self interest of states not now possessing them, regardless of when or whether the superpowers succeed in their efforts to halt and reverse their nuclear arms competition. To date no party has

⁹For example, in October 1984 the Nigerian delegate stated to the U.N. General Assembly, "The Non-Proliferation Treaty will continue to be a cornerstone of the nonproliferation regime only if all parties assume their responsibilities and obligations with sincerity. As long as the nuclear Powers continue with their vertical proliferation of nuclear weapons, [nuclear weapon] threshold States will consider it their right and duty to keep their options open, and non-nuclear-weapon states will doubt the wisdom of continued adherence to the Treaty. "

withdrawn from the Non-Proliferation Treaty, perhaps because the parties agree with that argument or because they still hope for progress toward nuclear disarmament.

If the U.S. Strategic Defense Initiative should lead to a U.S.-Soviet agreement to reduce offensive nuclear forces and to amend the ABM Treaty to permit deployment of nonnuclear defenses on an agreed schedule, the nonnuclear-weapon states might well consider that a step toward "cessation of the nuclear arms race. " On the other hand, if either the United States or the Soviet Union should abrogate the ABM Treaty before a U. S.-Soviet agreement is concluded on a new strategic arms control regime, the nonnuclear-weapon states would probably perceive little hope for progress toward nuclear arms reductions. In that case, there would be a substantially increased risk that some parties would withdraw from the Non-Proliferation Treaty, and it would become much more difficult to persuade additional states to adhere to it.