

# Shelter from the Storm: Succession and Demarcation Issues under the ABM Treaty



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*The recent nuclear tests conducted by India and Pakistan have once again focused public attention on the controversial Anti-Ballistic Missile (ABM) Treaty, first signed by the United States and the USSR in 1972. This article<sup>1</sup> considers the consequences for the Treaty of the break-up of the USSR in 1991 and goes on to examine a recent problem of interpretation of the Treaty — namely, how to distinguish strategic anti-ballistic missile systems which come within the purview of the Treaty from theatre missile defence systems which do not.*

**T**HE recent nuclear tests by India and Pakistan and reports of a test of a three-stage ballistic missile by North Korea have focused renewed attention on the ABM Treaty,<sup>2</sup> a treaty which limits the rights of the parties to it to defend against ballistic missile attack. This note examines two issues which go to the continued existence of the ABM Treaty, namely (i) the succession on the part of the former Soviet republics to the ABM Treaty and (ii) the demarcation between the theatre missile defence systems permitted under the Treaty and the strategic anti-ballistic missile systems restricted by the Treaty. Demarcation of theatre missile defence systems would allow successor States to the Treaty, including the United States and Russia, to defend against ballistic missile attack from States such as North Korea.

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1. See also D Hodgkinson 'The Reinterpretation of the ABM Treaty: Policy Versus the Law?' (1991) 21 UWAL Rev 258, and 'Defending Against Ballistic Missile Attack: ABM Treaty Developments in the 1990s' (1994) 24 UWAL Rev 285.
2. US-USSR Treaty on the Limitation of Anti-ballistic Missile Systems (26 May 1972).

## THE FRAMEWORK OF THE ABM TREATY

On 26 May 1972, the United States and the Soviet Union signed two strategic arms control treaties, the Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms (the 'Interim Agreement') and the ABM Treaty.<sup>3</sup> A protocol to the ABM Treaty was signed two years later in Helsinki.

In signing the Interim Agreement both superpowers agreed for the first time to set limits on the number of *offensive* nuclear weapons they could deploy. Numerical limits were set on the number of strategic missile launchers, but not warheads, that could be deployed by both the United States and the Soviet Union. In contrast, the ABM Treaty is concerned with *defensive* nuclear weapons, that is, with anti-ballistic missiles ('ABMs').<sup>4</sup> The most important provisions of the ABM Treaty for present purposes are Articles I(2), II(1), III, V(1) and Agreed Statement D.

Article I(2) provides that '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'.<sup>5</sup>

Article II(1) defines such an ABM system as 'a system to counter strategic ballistic missiles or their elements in flight trajectory....' Article V(1) states that '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'. Finally, Agreed Statement D provides that 'the Parties [to the Treaty] 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.'

The ABM Treaty 'codifies' an inherently defensive posture by coupling the survivability of retaliatory, second-strike forces with the vulnerability of populations. The theory is that if a State is exposed to attack by the second-strike nuclear forces of its enemy, that State would not willingly begin a nuclear conflict. Negotiation of the ABM Treaty represented a recognition of the value of mutual vulnerability in producing strategic stability. The Treaty clearly limits defensive

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3. For the texts of the Interim Agreement and the ABM Treaty: see US Arms Control and Disarmament Agency *Arms Control and Disarmament Agreements: Texts and Histories of the Negotiations* (Washington: US Library of Congress, 1990) 157-166, 169-176.

4. An anti-ballistic missile is a device designed to intercept and destroy incoming ballistic missiles and warheads: E Sessler, J Benjamin & A Gross *The Language of Nuclear War* (New York: Harper & Row, 1987) 15.

5. While Article III permits each Party to the Treaty to have no more than two ABM system deployment areas, the 1974 Protocol reduced these deployment areas from two to one.

weapons and it reduces incentives for the deployment of offensive systems. Given that the territory of one's opponent is vulnerable to attack, there is no need to build more and more offensive missiles to ensure an effective second-strike.

Indeed, the United States sought to limit ABM deployment, for the most part, in such a way as to limit any race in building offensive strategic weapons.<sup>6</sup> Both sides, however, were aware that deployment of a comprehensive ABM system could lead to an increase in the deployment of offensive weapons;<sup>7</sup> strategic defences provoke cheaper, offensive counter-measures.<sup>8</sup> The ABM Treaty limits defences against ballistic missile attack and reduces the incentive to deploy increasing numbers of offensive weapons.

In the late 1990s, with the resolution of certain issues concerning the interpretation of the ABM Treaty<sup>9</sup> — issues which had dominated discussion of the Treaty since 1985<sup>10</sup> — the ABM Treaty faces new challenges. The disintegration

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6. G Rathjens 'The ABM Debate' in B Brodie, MD Intriligator & R Kolkowicz (eds) *National Security and International Stability* (Cambridge: Oelgeschlager, Gunn & Hain, 1983) 380-381.
  7. SD Drell, PJ Farley & D Holloway 'Preserving the ABM Treaty' (1984) 9(2) *International Security* 51, 60.
  8. See, generally, F Dyson *Weapons and Hope* (Cambridge: Harper & Row, 1984) 78.
  9. In 1985 the Reagan administration provided a new, broad interpretation of the ABM Treaty which would have permitted the testing and development of the Strategic Defense Initiative ('SDI'), a strategic anti-ballistic missile system and, therefore, a system not permitted under the Treaty. This broad interpretation would have allowed SDI to proceed with unrestricted testing of anti-ballistic missile components, primarily in space. The question of which of the narrow (or traditional) or broad interpretations of the Treaty is the correct one has, as a practical matter, been resolved in favour of the narrow interpretation as a result of positions taken in this matter by the Clinton administration, President Yeltsin and the Russian Duma. Agreement now exists as to the interpretation of the Treaty between the parties to it for the first time since 1985, and the re-interpretation debate has been replaced by other issues. On the re-interpretation issue generally see D Hodgkinson *Manifestly Absurd or Unreasonable? The Reinterpretation of the ABM Treaty* (Canberra: Australian Defence Studies Centre, 1997); M Bunn *Foundation for the Future: The ABM Treaty and National Security* (Washington: Arms Control Assoc, 1990); R Garthoff *Policy Versus the Law* (Washington: Brookings Institution, 1987); AH Chayes & P Doty (eds) *Defending Deterrence: Managing the ABM Treaty Regime into the 21st Century* (Washington: Pergamon-Brassey, 1989).
  10. One crucial issue in the 1990s was the evolving position of the Clinton administration with regard to ballistic missile defences generally. The administration initially continued those policies established both by the US Congress and the Bush administration (which, in turn, had supported the Reagan re-interpretation or the broad interpretation). However, in 1993, the Acting Director of the Arms Control and Disarmament Agency stated that it was the Clinton administration's position that the traditional interpretation of the ABM Treaty was the correct one (unlike the position taken by the Bush administration) and that, therefore, 'the ABM Treaty prohibits the development, testing and deployment of sea-based, air-based, space-based and mobile land-based ABM systems and components ...': D Lockwood 'Administration Backs "Narrow" Interpretation of ABM Treaty' (1993) 23(7) *Arms Control Today* 22. The administration also announced to the Standing Consultative Committee of the ABM Treaty in Geneva in late 1993, in the course of putting a number

of the Soviet Union and the rise of perceived ballistic missile 'threats' from States such as North Korea, and to a lesser extent India and Pakistan, have given rise to two issues: (i) succession on the part of Russia and other former Soviet republics to the ABM Treaty and (ii) the demarcation of theatre missile defence systems permitted under the Treaty from strategic ABM systems restricted by the Treaty. These issues are considered below.

## MEMORANDUM OF UNDERSTANDING ON ABM SUCCESSION

On 26 September 1997, the United States, Russia, Ukraine, Belarus and Kazakhstan signed a set of agreements that provide for demarcation between theatre missile defence systems and strategic anti-ballistic missile defence systems,<sup>11</sup> and a Memorandum of Understanding ('MOU') that designates Russia, Ukraine, Belarus and Kazakhstan as the successor States to the Soviet Union for the purposes of the ABM Treaty.<sup>12</sup> Only these four States, after the collapse of the Soviet Union in December 1991, continued to possess ABM-related facilities.<sup>13</sup> As a result, Russia sought 'multilateralisation' of the Treaty 'in order to facilitate its ability to maintain a functional ABM system ... [and] Belarus, Kazakhstan, and the Ukraine, viewed Treaty membership as an important element of their independent status'.<sup>14</sup>

The Flank Agreement Resolution of Ratification of the Conventional Armed Forces in Europe Treaty ('Flank Document'), such agreement having been approved unanimously by the US Senate on 14 May 1997, attached a condition which required the Clinton administration to promise to submit to the Senate an agreement on ABM succession.<sup>15</sup> President Clinton responded by promising to submit any agreement which 'would add one or more countries to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty' to the Senate for its advice and consent.<sup>16</sup> The MOU is such an agreement.

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of proposals dealing with theatre missile defence ('TMD') systems and the ABM Treaty to the SCC, that it reaffirmed the traditional interpretation of the treaty and retracted the Bush administration's ABM Treaty proposals: D Lockwood 'US Proposal to Re-tool ABM Treaty Re-opens Debate on Missile Defense' (1994) 24(1) Arms Control Today 24.

11. These agreements are further considered below.
12. 'Memorandum of Understanding Relating to the Treaty Between the USA and the USSR on the Limitation of Anti-Ballistic Missile Systems of May 26, 1972' in Arms Control Association 'New START II and ABM Treaty Documents' (1997) 27(6) Arms Control Today 19. Preliminary agreement in this regard had been reached in June 1996.
13. C Cerniello 'SCC Parties Sign Agreements on Multilateralisation TMD Systems' (1997) 27(6) Arms Control Today 26.
14. Ibid.
15. G Bunn & JB Rhinelander 'Viewpoint: The Duma-Senate Log-jam on Arms Control: What Can be Done?' (1997) Nonproliferation Review 72, 73-74.
16. Ibid, 81.

Notwithstanding President Clinton's promise, it is submitted here that any agreement which adds new parties or formalises successor States to the ABM Treaty, such States succeeding to the Treaty obligations of their predecessor, should not properly be seen as one which requires Senate advice and consent.<sup>17</sup> Moreover, should the Senate decline to give its advice and consent to the MOU — a real possibility given conservative Republican opposition in the Senate both to the MOU and the ABM Treaty — then the Treaty itself would clearly continue in force; only succession to the Treaty would be unsettled.<sup>18</sup> Arguments that, without the MOU, the ABM Treaty becomes null and void because, without Senate approval of ABM Treaty succession, the Treaty itself no longer exists, or alternatively that, without the MOU, the ABM Treaty would no longer exist because there would be no agreed successor States, cannot be made out. Neither argument is consistent with international law which recognises that a State which succeeds to an earlier State inherits the arms control obligations of that earlier State.<sup>19</sup>

It is clear that the MOU and the demarcation agreements will be presented to the Senate only after Russia ratifies the START II arms control treaty.<sup>20</sup> The Russian parliament has, at the time of writing, postponed any further consideration of

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17. SM Keeny Jr, J Mendelsohn, JB Rhinelander & J Steinbruner 'Arms Control and the Helsinki Summit: Issues and Obstacles in the Second Clinton Term' (1997) 27(1) Arms Control Today 9, 13. See also Arms Control Assoc 'Clinton to Submit ABM "Amendments" to the Senate' (1997) 27(3) Arms Control Today 32: 'The administration had ... resisted seeking Senate approval of the MOU because it held that the question of succession did not constitute a "substantive modification" to the ABM Treaty and fell within the President's purview under the Constitution and international law. Nevertheless, in a May 14 [1997] letter to the Senate, President Clinton agreed to submit the agreement to the Senate "without prejudice to the legal principles involved".'
  18. C Cerniello 'Administration, Congress Continue Debate Over Membership, Future of ABM Treaty' (1998) 28(4) Arms Control Today 36; J Mendelsohn 'The US-Russian Strategic Arms Control Agenda' (1997) 27(8) Arms Control Today 12, 16.
  19. And, as Mendelsohn *ibid* points out, not only are these arguments 'legally dubious', the 'debate between the Senate and the White House over multilateralization has as much to do with legislative-executive rights (which branch has the authority to recognize successor states?) as it does with missile defenses.' On succession to the obligations of the former Soviet Union: see G Bunn & JB Rhinelander *Who Inherited the Former Soviet Union's Obligations Under Arms Control Treaties With the United States?* (Washington: Lawyers Alliance for World Security, 1992); G Bunn & J B Rhinelander 'The Arms Control Obligations of the Former Soviet Union' (1993) 33 Virginia J of Int'l Law 323; R Mullerson 'New Developments in the Former USSR and Yugoslavia' (1993) 33 Virginia J of Int'l Law 299.
  20. Cerniello *supra* n 18; C Cerniello 'US, Russia Sign START II Accords; Yeltsin Pushes for Treaty Approval' (1997) 27(6) Arms Control Today 27. In this regard, both Presidents Clinton and Yeltsin have also agreed on a framework for START III and agreed that that framework would be negotiated after START II entered into force. The agreement called for a limit of 2 000 to 2 500 deployed strategic nuclear warheads by the end of 2007. While the US Senate has approved START II, the Russian Duma has not (and the Senate would have to approve a resubmitted START II treaty if the treaty is amended by the Duma). If START II is not approved by the Duma, the US may be unwilling to negotiate START III.

START II.<sup>21</sup> And in August 1998 the US House of Representatives approved an amendment to an appropriations bill which denies any funding to US representatives to the Standing Consultative Committee ('SCC') for purposes related to MOU implementation.<sup>22</sup>

## DEMARCATIION BETWEEN THEATRE MISSILE DEFENCES AND STRATEGIC MISSILE DEFENCES

Comprehensive ABM deployment is prohibited by the ABM Treaty, in part to limit any race in strategic offensive weapons. Since the Treaty entered into force, however, the Soviet Union has disintegrated and the United States has come to enjoy a relationship with Russia and other successor States to the Soviet Union very different from that which it had with the Soviet Union. Given this relationship, the likelihood of a ballistic missile attack from, or a race in strategic offensive weapons with, these States would appear to be remote. The United States and Russia have also cut their ICBM arsenals by about 25 per cent since the 1980s; further reductions will begin if and when START II enters into force and, further, if and when START III is negotiated.

In November 1993, the Clinton administration sought to begin talks with Russia on the ABM Treaty so as to clarify the ability of the Treaty to allow the deployment of theatre missile defence (TMD) systems.<sup>23</sup> For the Clinton administration these systems, which include so-called lower-velocity systems such as the Patriot, Navy Area Defense, MEADS and THAAD,<sup>24</sup> and also higher-velocity systems, would offer protection from a new, apprehended threat — States which have acquired, or are seeking to acquire, ballistic missiles.<sup>25</sup> These systems are

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21. Arms Control Association 'Arms Control Developments: Jun 1998 to Sept 1998' <<http://www.armscontrol.org/FACTS/acbrief3.htm>> 1.

22. Ibid, 2.

23. Stockholm International Peace Research Institute *Yearbook 1997: Armaments, Disarmament and International Security* (Oxford: OUP, 1997) 385.

24. J Pike 'Ballistic Missile Defense: Is the US "Rushing to Failure"?' (1998) 28(3) Arms Control Today 9, 10-11.

25. Fetter argues that the population centres of the US will become, at some point, as missile ranges increase, vulnerable to ballistic missile attack from the Third World. 'Responding to this threat should be a major preoccupation of the US, just as ameliorating the Soviet nuclear threat has been a major policy goal for more than four decades': S Fetter 'Ballistic Missiles and Weapons of Mass Destruction' (1991) 16(1) International Security 5, 6-7. Indeed, a number of what Michael Mandelbaum refers to (M Mandelbaum 'Lessons of the Next Nuclear War' (1995) 74 Foreign Affairs 22, 33) as 'rogue' States — eg, North Korea, Iraq, Iran and Libya — may well come to possess not only ballistic missiles but also nuclear weapons technology (J Barry 'Future Shock' Newsweek 24 Jul 1995). On nuclear tests by India and Pakistan see T Graham Jr 'South Asia and the Future of Nuclear Non-Proliferation' (1998) 28(4) Arms Control Today 3; A Karp 'Indian Ambitions and the Limits of American

aimed (after the collapse of the Soviet Union) at protecting the United States and its allies against the perceived ballistic missile threat from such States and are designed to defend against tactical ballistic missile attack.

Clarification of the Treaty so as to facilitate the acquisition of TMD systems consistent with the spirit and purpose of the Treaty is necessary because TMD systems are not restricted by the Treaty — indeed, are not covered by the Treaty. Article VI(a) provides that the parties to the Treaty must not give non-ABM components the ‘capabilities to counter strategic ballistic missiles or their elements in flight trajectory’ and they must not be tested ‘in an ABM mode’. Article VI was placed in the Treaty at US insistence because of concerns over Soviet surface-to-air missile systems<sup>26</sup> and was intended ‘to make sure that the limits on ABMs in the Treaty were not circumvented by missiles that were given different functions, but actually had ABM capabilities’.<sup>27</sup> As Graybeal and McFate point out, implementing Article VI in a very different strategic environment from that of 1972 requires a clarification of the difference between strategic and theatre ballistic missiles.<sup>28</sup>

On 26 September 1997, then, the United States, Russia, Ukraine, Belarus and Kazakhstan signed, in addition to the MOU as outlined above, a set of agreements that provide for demarcation between theatre missile defence systems and strategic

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Influence’ (1998) 28(4) *Arms Control Today* 14. Debate continues as to the reality and seriousness of the ballistic missile threat. The 1995 National Intelligence Estimate concluded that ‘no country, other than the major declared nuclear powers, will develop or otherwise acquire a ballistic missile in the next 15 years that could threaten the contiguous [US] states and Canada’: J Pike ‘The Ballistic Missile Defense Debate’ (1997) *Current History* 157, 159. See also Cirincione’s view that the threat of ballistic missile attack against the US is slight: J Cirincione ‘Missile’ (1997) Paper No 97-D 74.

26. Keeny et al *supra* n 17.

27. R Bell, White House Press Briefing (24 Mar 1997) 2. Bell notes that ‘when this [ABM] treaty came before the Senate for ratification in 1972 there was an exchange on this issue between Senator Proxmire and the then head of research and development in the Pentagon, Johnny Foster, about where this line was drawn in the treaty between ABMs that were covered and things that fell below that line that were not covered.... And that line at the time was if you shot a missile defense system at any target that went faster than two kilometers per second, or if you attempted to engage a missile at an altitude above 40 kilometers you would, in effect, capture or qualify that system as an ABM.’

28. SN Graybeal & PA McFate ‘Strategic Defensive Arms Control’ in JA Larsen & GJ Rattray (eds) *Arms Control Toward the 21st Century* (Boulder: Lynne Rienner Publishers, 1996) 131: ‘The emerging theatre ballistic missile threat includes missiles with ranges in the order of 3 000-3 500 kilometers and maximum velocities of about 5 kilometers per second. Most current modern strategic ballistic missiles have ranges over 9 000 kilometers and maximum velocities over 7 kilometers per second. Permitting ATBM testing against ballistic missiles with velocities up to 5 kilometers per second, as proposed by the Clinton administration in the SCC, would facilitate achieving effective TMD systems without violating the ABM Treaty.’

missile defence systems.<sup>29</sup> The First Agreed Statement deals with lower-velocity systems and permits the testing and deployment of systems with interceptor speeds of 3 kilometres per second or less, provided that the systems are not tested against ballistic targets with speeds above 5 kilometres per second or with ranges greater than 3 500 kilometres. These constraints would permit development, for the United States, of lower-velocity systems such as Patriot and THAAD.<sup>30</sup>

The Second Agreed Statement deals with higher-velocity systems, those with interceptor velocities greater than 3 kilometres per second. Under this agreement the parties cannot test such higher-velocity systems against ballistic missile targets with velocities greater than 5 kilometres per second or with flight ranges of more than 3 500 kilometres. The parties to this agreement are not to develop, test or deploy space-based TMD interceptor missiles or space-based components based on other physical principles that are capable of substituting for such interceptor missiles. The parties will make deployment decisions based on their national compliance determinations. Constraints on TMDs are, then, significantly relaxed; no constraints are placed on TMD testing programs or deployment.

For Spurgeon Keeny Jr, president of the Arms Control Association, the agreements were 'not a step forward from the point of view of the integrity of the ABM Treaty'.<sup>31</sup> George Lewis and Theodore Postol have said that if the agreements —

are ultimately adopted and exploited, the ABM Treaty will survive in name only and will cease to exist as an agreement enforcing any limitations of substance.... The proposed changes would make it 'legal' to build, test and deploy large-scale highly mobile strategic defenses disguised as theater defenses. There would be no limit on their capabilities — only a technically ineffective and easily circumvented limit on the speed of the targets they could be tested against.<sup>32</sup>

## CONCLUSION: SHELTER FROM THE STORM?

It may be that one can have 'highly effective TMDs and adapt the ABM Treaty to permit them while still maintaining the basic benefits of the Treaty',<sup>33</sup> such benefits including the continued progress in strategic arms reductions. For the

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29. 'First Agreed Statement Relating to the Treaty Between the US and USSR on the Limitation of Anti-Ballistic Missile Systems, 26 May 1972'; the 'Second Agreed Statement Relating to the Treaty Between the US and USSR on the Limitation of Anti-Ballistic Missile Systems, 26 May 1972'; and agreements providing for 'common understandings' between the parties with regard to the First and Second Agreed Statements: see Arms Control Assoc 'New START II and ABM Treaty Documents' (1997) 27(6) Arms Control Today 21-22.

30. Stockholm International Peace Research Institute *supra* n 23, 386; Pike *supra* n 24.

31. Keeny, Mendelsohn, Rhineland and Steinbruner *supra* n 17, 10.

32. G Lewis & T Postol 'Portrait of a Bad Idea' (Jul-Aug 1997) Bulletin of Atomic Scientists.

33. *Supra* n 27, 3.

United States the two demarcation agreements permit the maintenance of in-place TMD systems designed to provide shelter from a perceived threat of ballistic missile attack emanating from certain 'rogue' States.

Nonetheless, the two demarcation agreements and the MOU will, in the United States, require the advice and consent of the Senate (and will require equivalent approval by Russia, Ukraine, Belarus and Kazakhstan<sup>34</sup>). It may be that such advice and consent will not be granted<sup>35</sup> given Republican opposition to limits on TMD systems and Republican insistence that space-based interceptor systems be allowed in any demarcation agreement.<sup>36</sup> Of course, START II approval by the Russian parliament is also problematic<sup>37</sup> and, again, the Clinton administration will only present the agreements to the Senate if START II is ratified.

Failure of the agreements in the Senate may have dire consequences for the testing and deployment of TMD systems: absent such advice and consent, any testing and deployment would not be legal. Thus, while *legal* uncertainty with regard to the provisions of the ABM Treaty has been brought to an end by the demarcation agreements, failure by the Senate to give its advice and consent to those agreements, and to the MOU, may well create other types of uncertainty.<sup>38</sup> It appears that the ABM Treaty will be as controversial in the twenty-first century as it has been in this one.

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34. Article IX(1) of the Memorandum of Understanding relating to the Treaty between the US and USSR on the Limitation of Anti-Ballistic Missile Systems, 26 May 1972 provides that 'This memorandum shall be subject to ratification or approval by the signatory States, in accordance with the constitutional procedures of those States' and identical provisions in the demarcation agreements provide that those agreements will enter into force simultaneously with entry into force of the MOU: Arms Control Assoc *supra* n 29; and see Cerniello *supra* n 13, 32.
  35. Keeny et al *supra* n 17; Center for Security Policy 'Will Senate Pass "No-Brainer", Insist on Right to Advise and Consent on Major ABM Treaty Changes?' (1997) Paper No 97-D 64.
  36. S Keeny Jr 'Helsinki: A Pyrrhic Victory?' (1997) 27(1) Arms Control Today 2.
  37. *Supra* n 21.
  38. These issues are further complicated by the introduction of a Bill by US Senate Majority Leader Trent Lott which requires the deployment of a national missile defence system operating by 2003, such deployment requiring significant amendments to the ABM Treaty. In that event it is likely that the Russian parliament would either make START II ratification conditional upon the ABM Treaty continuing in its present form or would withdraw from START I and not ratify START II: Arms Control Association 'Advancing the Arms Control Agenda: Pitfalls and Possibilities' (1998) 28(1) Arms Control Today 11. Also, the US Senate Armed Services Committee approved on 21 April 1998 the American Missile Protection Act 1998 which states that it is US policy 'to deploy as soon as is technologically possible an effective [NMD] system capable of defending the ... US against limited ballistic missile attack': C Cerniello 'Senate Panel Approves NMD Bill Seeking to Move Up Deployment' (1998) 28(3) Arms Control Today 23. The Senate, however, rejected in May 1998 a motion to bring the American Missile Protection Act 1998 to a floor vote: C Cerniello 'Senate Narrowly Averts Floor Vote On Cochran NMD Legislation' (1998) 28(4) Arms Control Today 29.