Nuclear Weapons and International Law: The Arms Control Dimension

Francis A. Boyle

Follow this and additional works at: https://digitalcommons.nyls.edu/journal_of_international_and_comparative_law

Part of the Law Commons

Recommended Citation
Available at: https://digitalcommons.nyls.edu/journal_of_international_and_comparative_law/vol4/iss2/4

This Article is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Journal of International and Comparative Law by an authorized editor of DigitalCommons@NYLS.
NUCLEAR WEAPONS AND INTERNATIONAL LAW: THE
ARMS CONTROL DIMENSION*

FRANCIS A. BOYLE**

The public record reveals that when the Ford administration left
office, approximately three-quarters of the terms of the SALT II
Treaty had been negotiated.1 Shortly after his inauguration, President
Carter unilaterally called for, inter alia, substantial qualitative limitinga
tions on, and quantitative reductions in, land-based intercontinental
ballistic missile (ICBM) systems, much to the astonishment of the So-
viet Union.2 Such cuts would have redounded to the strategic disad-
vantage of the Soviets because of their preponderant reliance on
ICBMs. In contrast to America's more evenly balanced "triad" of stra-
tegic nuclear warheads dispersed between heavy bombers (27%), sub-
marines (50%) and ICBMs (23%), the Soviets have about 72% of their
strategic nuclear warheads on ICBMs, 23% in submarine-launched bal-
listic missiles (SLBMs), and 5% on strategic nuclear bombers.3 This
Carter initiative, in effect, renounced the 1974 Vladivostok agreement4
concluded between President Ford and General Secretary Brezhnev on
the basic principles for future SALT negotiations: namely, an equal
overall aggregate ceiling of 2400 strategic nuclear delivery vehicles
(ICBMs, SLBMs and heavy bombers) and a sublimit of 1320 multiple
independently targetable reentry vehicle (MIRV) systems for each
side. As a result, Secretary of State Cyrus Vance's mission to Moscow
with President Carter's suggestions at the end of March 1977 failed.5
The Soviets insisted upon a return to Vladivostok in order to continue
the negotiations. Carter eventually had to give in, withdraw his propos-
als and return to the Vladivostok consensus. But this blunder had side-

* Copyright © 1983 Francis A. Boyle. All rights reserved.
** Professor of Law, University of Illinois College of Law in Champaign.
The author wishes to note that the research for the following article was concluded by June 3, 1983.
1. See, e.g., 3 The SALT II Treaty: Hearings Before the Committee on Foreign Rela-
3. World Armaments and Disarmament, 1982 S.I.P.R.I.Y.B. 269 (Stockholm Interna-
tional Peace Research Institute) [hereinafter cited as SIPRI].
4. See Joint Statement on Strategic Offensive Arms Issued at Vladivostok Nov. 24,
1974, reprinted in Dep't St. Bull., Dec. 23, 1974, at 879. See also Joint Communiqué
Signed at Vladivostok Nov. 24, 1974, reprinted in id.
tracked negotiations on the SALT II Treaty for several months. No serious progress was made on SALT II until the Fall of 1977.

About one year later, SALT negotiations were again set back by six months because of the badly timed decision taken by the Carter administration to grant diplomatic recognition to the People’s Republic of China (PRC). The decision was announced in December of 1978 and was to be effective January 1, 1979. This act represented the culmination of former Secretary of State Henry Kissinger’s "grand strategy" of establishing a three-way "balance of power" between the United States, the Soviet Union and the People’s Republic of China. By instituting an American relationship with the PRC, Kissinger sought to generate a new source of leverage over the Soviet Union that could be exploited on numerous other issues: e.g., the Viet Nam War, détente and SALT. It was a textbook example of the practical application of the Machiavellian theory of power politics on a global scale in the nuclear age. Yet, because of Carter’s decision to “play the China card” at that time, it was not until late June 1979 that SALT II was finally signed in Vienna, a moment too perilously close to the beginning of the 1980 Presidential campaign. This hiatus meant that SALT II would inevitably become hostage to the vicissitudes of American electoral rites and could not conceivably be evaluated by an objective and dispassionate analysis of its merits alone. Or to phrase this proposition more precisely, the ratification of SALT II was ultimately and quite properly recommended on its merits alone by the Senate Committee on Foreign Relations in a 9 to 6 vote, subject to certain reservations, understandings and declarations, but never came to fruition because of political reasons that were totally extraneous to the treaty’s intrinsic value as an arms control measure.

As it turned out, SALT II actually accelerated the pace of the nuclear arms race considerably. Part of the price Carter chose to pay for approval of SALT II by his Joint Chiefs of Staff was the decision, announced in September 1979, to deploy a land-based MX missile system in a "racetrack" basing mode, later changed to a "dragstrip" pro-

---


posal—both of which were equally absurd. The "racetrack/dragstrip" basing modes were founded upon the dubious assumption that the Soviets would reciprocate by building a similar semi-fixed mobile ICBM system of their own in order to permit "adequate verification" for the purpose of future arms control agreements. But this further assumed that the Soviets had a genuine commitment to "adequate verification" in the first place and, more importantly, that they were willing to commit such a vast expenditure of funds to replicate such a cost-inefficient system. Although the United States economy might be strong enough to sustain such massive waste, the Soviet economy definitely is not. The Soviets will, in all probability, develop a cost-efficient land-based fully mobile ICBM system that might not be "adequately verifiable"—for example, on railroad cars. If so, then the racetrack/dragstrip MX would have proven to be an economic, strategic and environmental folly. Moreover, despite the Pentagon's contrary arguments, the Soviets could MIRV their missiles more cheaply than the United States could build additional racetracks/dragstrips. Further, a racetrack/dragstrip MX shelter would not have been hardened; it could, therefore, be taken out by only one Soviet reentry vehicle (RV), not the standard two. Thus, any alleged United States ICBM "vulnerability" problem would still not have been solved by a racetrack/dragstrip MX. Consequently, President Reagan was quite correct to abandon the Carter administration's harebrained basing mode for the MX. Fortunately, the Reagan administration's plan to substitute an equally ridiculous mode—the "closely spaced basing" system, more popularly known as the "dense-pack"—was soundly rejected by the Scowcroft Commission Report, and President Reagan quickly endorsed the findings of the Commission.

The "racetrack" MX decision was reached shortly after the Carter-Brezhnev summit in Vienna for the signature of SALT II. It destroyed whatever good will, trust and momentum for the future that had been generated there, and poisoned the atmosphere for the proposed SALT III negotiations concerning theater nuclear forces in Europe. With its ten to fourteen MIRVs, each possessing near pinpoint accuracy, the land-based MX threatened to exercise a profoundly destabilizing impact on the strategic nuclear balance of terror between the two superpowers. It purported to provide the United States with

12. Id. at 58.
an offensive first-strike capability against Soviet ICBM silos, which constitute about 72% of their strategic nuclear forces. Because of this imbalance in comparison to the American triad, the land-based MX will create a "vulnerability" problem for the Soviets that is far more serious and threatening than the so-called "window of vulnerability" alleged to be facing United States ICBMs by such groups as the Committee on the Present Danger. The Soviets will be forced to respond by deploying a fully mobile "light" ICBM system of their own in order to counter the United States MX threat. Mutual deployment of one "light" ICBM system by each superpower, as permitted by SALT II, will complete the first stage in the post-SALT II nuclear arms race. An even more disturbing prospect is that the United States first-strike MX missile might, in the alternative, force the Soviets to adopt a "launch on warning" policy that places the future of the world community at the mercy of inherently defective computers and predictably faulty standard military operating procedures.

The next unfortunate event that contributed to the "death" of SALT II was President Carter's self-induced fiasco over the so-called Soviet "combat brigade" in Cuba. At that particular time, the fate of SALT II hung by a thread in the Senate. As pressure rose on Carter to redress the nonexistent Soviet military threat to Latin America and the Caribbean emanating from Cuba, the President finally declared that the status quo in Cuba was "unacceptable." Presumably, the Soviets should have either removed their combat troops from Cuba, or else eliminated their allegedly offensive military capabilities. When the Soviets refused to budge, the President had to accept what was previously unacceptable. Yet, these events proved calamitous for SALT II's chances in the Senate. Senator Frank Church, then Chairman of the Foreign Relations Committee, which was still conducting hearings on the treaty, formally "linked" its ratification to Carter achieving a change in the Cuban status quo.

President Carter bears significant responsibility for Church's join-

14. See SIPRI, supra note 3.
ing of this “linkage” even though Carter publicly opposed it. When intelligence sources confirmed that Soviet combat troops were stationed in Cuba, President Carter was about to begin a vacation aboard the Delta Queen, slowly paddle-wheeling down the Mississippi River to provide some excellent “photo-opportunities” for his soon to be launched Democratic Presidential primary campaign. With Carter's knowledge, Secretary Vance directed the State Department to reveal the information to Senator Church, apparently with the intention that Church would have the privilege of being the first to make the information public. This would give Church an opportunity to appear to be a hard-liner on defense matters at the start of a difficult reelection campaign against vigorous conservative opposition, made more difficult in part by his liberal image on foreign affairs. Presumably, a tough stand on the Soviet troops in Cuba would permit Senator Church to take the “soft” stand of supporting SALT II, which he favored. But the plot boomeranged on Carter, much to his inexcusable surprise. Church called for vigorous counteractive measures by the Carter administration, and backed up his demands with the “linkage” to SALT II. At the request of Church, the Senate Foreign Relations Committee adopted a declaration that Carter could not ratify SALT II until he had assured the Senate that the Soviet troops in Cuba “are not engaged in a combat role.” Out of deference to Church, the White House acquiesced in this publicly acknowledged instance of “linkage.” All this posturing was to no avail, however, for Church, like Carter, was defeated in his bid for reelection in November 1980.

Of course “linkage” was a concept pioneered by Henry Kissinger during the Nixon and Ford administrations. The theory stemmed in part from his inability to perceive that strategic arms limitation agreements between the two nuclear superpowers transcend any Machiavellian maneuvers on the geopolitical chessboard of power politics. “Linkage” is a tool of power politics, not of international law and organizations. Predictably, therefore, linking SALT II with the Soviet “combat brigade” in Cuba proved disastrous for the future of arms control agreements between the two nuclear superpowers.

Carter's gross mismanagement of what should have been a Cuban

---


22. H. KISSINGER, WHITE HOUSE YEARS 129-30 (1979) [hereinafter cited as KISSINGER].
non-crisis provided critics with additional evidence of his basic incompetence in foreign affairs and defense policy. Before uttering any hasty pronouncements on Soviet troops in Cuba while SALT II teetered in the balance, Carter should have waited for the production of further intelligence information. This eventually confirmed that such troops had been stationed in Cuba with the full knowledge of previous American administrations as part of the Kennedy-Khrushchev agreement which terminated the Cuban missile crisis of October 1962. As publicly proclaimed, the heart of this deal was that the Soviets would remove their medium and intermediate range ballistic missile installations and jet bombers from Cuba in return for a United States pledge not to invade that country overtly or covertly as in the Bay of Pigs incident. Soviet conventional troops remained in Cuba in order to secure the pledge. They served as a "trip-wire" against American invasion, making it likely that any outright assault on Cuba would immediately escalate into a direct superpower confrontation.

From the Soviet perspective, it was Carter, not they, who tried to reverse the status quo in Cuba by reneging on the Kennedy-Khrushchev agreement. It reasonably appeared to the Soviets that the United States government was using the threat of SALT II's non-ratification as a geopolitical club to force them into granting unjustified and humiliating concessions over Cuba that would undermine their position of influence throughout the world. Hence, the Soviets understandably refused to capitulate to Carter's demands, and he had to content himself with face-saving countermeasures tantamount to an acceptance of the previously "unacceptable" status quo in Cuba.

The "Soviet troops" fiasco could have been written off to routine Presidential electoral posturing if not for the fact that this experience inflicted irreparable damage upon SALT II. This exercise in "linkage" must have induced any optimists in the Soviet leadership to doubt seriously the sincerity of Carter's commitment to SALT II and détente. Kremlin pessimists must have concluded that Carter was somehow trying to trick them out of the mutual benefits promised by the SALT II Treaty just signed at Vienna in June.

It is not surprising that another grievous blow to the life of the treaty was perpetrated by the progenitor of both SALT II and "linkage": Henry Kissinger. During the Nixon and Ford administra-

tions, Kissinger was the master architect of the policy of détente,\textsuperscript{27} the centerpiece of which was the Strategic Arms Limitation Talks (SALT).
A substantial portion of SALT II (approximately 75\%) had been negotiated under his personal direction.\textsuperscript{28} By late summer 1979, however, Kissinger was primarily concerned with positioning himself for reappointment as Secretary of State in a new Republican administration. Except for John Anderson, all the major Republican Presidential aspirants opposed ratification of SALT II, and it was clear that whoever the candidate was going to be, a frontal assault upon the treaty would constitute a major component of the Republican party’s strategy to defeat President Carter in the 1980 election. Kissinger could not have hoped to win another coveted term at State if he publicly and unequivocally supported SALT II. Consequently, Kissinger’s testimony on the treaty before the Senate Committee on Foreign Relations on July 31, 1979\textsuperscript{29} became a remarkable exercise in dissimulation and obfuscation of a matter concerning the vital national security interests of the United States and the fate of the entire world. At the hearings, Kissinger conditioned his tepid support of SALT II on, inter alia, a significant arms buildup and the Senate’s imposition of debilitating restrictions\textsuperscript{30} on the ability of the President to engage in future strategic arms negotiations. Undoubtedly, Kissinger would have castigated the latter as a dangerous and unconstitutional infringement upon the President’s power to conduct the foreign relations of the United States, had he been in office.

Kissinger’s lukewarm and highly qualified support for SALT II was so evanescent as to be meaningless, and his testimony proved so innocuous that it alone could not have seriously jeopardized whatever his reappointment prospects were without it. Yet Kissinger’s self-interested refusal to speak out clearly, unequivocally and forcefully in order to save his own progeny during the Senate hearings and throughout the course of the public debate over the ratification of SALT II, substantially contributed to the “death” of the treaty. Indeed, about fifteen months later, immediately before the 1980 Presidential election on November 4, Kissinger publicly supported candidate Ronald Reagan’s proposal to withdraw SALT II from consideration by the Senate and to move directly into negotiations for SALT III.\textsuperscript{31} Almost one year

\textsuperscript{27} See generally Kissinger, supra note 22, at 132, 949, 964, 966, 1117, 1143, 1255-57.
\textsuperscript{28} See supra note 1.
\textsuperscript{29} Id. at 151-233.
\textsuperscript{30} Id. at 159-60.
later, however, by the summer of 1982, Kissinger veered into the exact opposite direction by publicly advocating the ratification of SALT II.\textsuperscript{32} Kissinger's venal posturing on the ratification of SALT II has been so highly opportunistic and unprincipled that the American people should deem him to be permanently estopped from ever again offering his pseudo-Machiavellian advice on the proper conduct of United States foreign policy.

The final assault on SALT II came on December 12, 1979, when NATO announced its decision to deploy 108 Pershing 2 rockets and 464 ground-launched cruise missiles in Europe starting in 1983, allegedly for the purpose of offsetting the deployment of Soviet SS-20s.\textsuperscript{33} Yet, alternatively, the deployment of fast and highly accurate American Pershing 2s in West Germany could also provide the United States with a seemingly effective, "surprise" offensive, first-strike capability against strategic ICBM silos targeted against the American heartland that are located within the Soviet Union itself.\textsuperscript{34} From the Politburo's perspective, this decision purportedly concerning only the "modernization" of theater nuclear forces (TNF), substantially undermined the value of the SALT II limitations on the American strategic nuclear weapons force. On its face, NATO's TNF decision specifically violated article XII of the SALT II Treaty, providing that "each Party undertakes not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner."\textsuperscript{35} In a statement to the North Atlantic Council on June 29, 1979, the United States government stated its unilateral opinion that "the non-circumvention provision will not affect existing patterns of collaboration and cooperation with its allies nor will it preclude cooperation in modernization."\textsuperscript{36} With good cause the Soviet government emphatically rejected this self-serving interpretation of the non-circumvention clause of the just signed, yet unratified SALT II Treaty.\textsuperscript{37} By its sponsorship of and par-

\textsuperscript{34} Moore, \textit{Theatre Nuclear Forces}, 14 \textit{Int'l Def. Rev.} 401, 407 (1981) (Pershing 2 missile can readily be given 4000 km range and be MIRVed, however, this Pershing 2 variation is not presently funded); Christian Science Monitor, Nov. 16, 1982, at 4, col. 1 (The Pentagon wanted an extra 108 Pershing 2s in West Germany as "spares," but West Germany's Defense Minister Manfred Woerner rejected the proposal); Getler, \textit{Pershing II Missile: Why It Alarms Soviets}, Wash. Post, Mar. 17, 1982, at A17, col. 2.  
\textsuperscript{35} SALT II, supra note 8, at 43.  
\textsuperscript{36} U.S. \textit{Statement to the North Atlantic Council, June 29, 1979, reprinted in Dep't St. Bull.}, Aug. 1979, at 36 (emphasis added).  
\textsuperscript{37} N.Y. Times, Nov. 6, 1979, at A7, col. 1.
ticipation in NATO's 1979 TNF decision, the United States government willfully violated the basic rule of customary international law enunciated in article 18 of the Vienna Convention on the Law of Treaties: "A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty . . . until it shall have made its intention clear not to become a party to the treaty. . . ."\(^{38}\)

Finally, NATO's 1979 TNF decision also reneged upon an unpublicized yet crucial element of the bargain struck between Kennedy and Khrushchev to terminate the 1962 Cuban missiles crisis: Soviet offensive nuclear weapons systems were withdrawn from Cuba in an implicit exchange for the removal of United States Jupiter missiles from Italy and Turkey, both NATO members.\(^{39}\) Thereafter, the Soviets had a perfectly legitimate and reasonable expectation that American Intermediate Range Ballistic Missiles (IRBM)s such as the Pershing 2 would not be reintroduced into Europe. President Brezhnev's subsequent reactive threat to take retaliatory measures that would place the United States "in an analogous position"\(^{40}\) if NATO's new Euromissiles are deployed, raises the specter of another Cuban missile crisis. The circumstances now, in an era of nuclear equality, are far less auspicious for the United States than they were in the halcyon days of American nuclear superiority. The planned deployment of Pershing 2s in West Germany will definitely not constitute a "modernization" of NATO's theater nuclear forces, but rather the creation of a new and destabilizing United States IRBM first-strike counterforce system in Europe.

In any event, the timing and accumulation of such major nuclear weapons decisions, coupled with the Soviet "combat brigade" fiasco and the proposed trip of Secretary of Defense Harold Brown to China, undercut the credibility of the United States government with the Soviet Union in regard to arms control and détente. With SALT II effectively "dead" in the Senate, the MX missile very much alive, new IRBM's on the way for NATO, a flowering American military rapprochement with the PRC, a massive United States military buildup in the Persian Gulf, Arabian Sea and Indian Ocean in response to the Iranian hostage crisis and intimations that the United States might invade Iran and replace Ayatollah Khomeini with another American surrogate under the pretext of the crisis, the Soviets were given every incentive and confronted with no deterrent to violate the so-called "code

---

of détente’’ by invading Afghanistan. There was neither “carrot” nor “stick” for the United States to offer or wield in an effort to forestall this aggression. The Soviet invasion of Afghanistan led President Carter to withdraw SALT II from consideration by the Senate, and the centerpiece of the Carter administration’s foreign policy towards the Soviet Union collapsed. In Afghanistan, the Soviets turned America’s specter of “linkage” upon its perverted head.

At that point, the vituperative rhetoric of the 1980 Presidential campaign intervened and still obscures several points about SALT II that are crucial for ensuring the future progress of nuclear arms control and reduction agreements between the two superpowers. The Carter administration’s constant refrain that all the SALT II restrictions applied to the Soviet Union, and none to the United States, constituted pure electoral propaganda. The SALT II Treaty per se never was a truly effective and meaningful arms control measure. It placed no real restrictions on either side, but left both superpowers essentially free to build all their currently planned weapons systems. For example, the then Chairman of the United States Joint Chiefs of Staff, General David Jones, forthrightly admitted during his testimony on SALT II that the treaty would not impede the United States nuclear weapons program to any significant extent. Secretary of Defense Harold Brown testified to the same effect. Both countries agreed to limit the number of MIRVs per missile that, in any case, they would not be technologically able to exceed until after the expiration of SALT II in 1985. The Soviets agreed to dismantle obsolete weapons systems that had already been scheduled to be replaced. The freeze on the number of Soviet “heavy” SS-18s at 308 did not matter much since that figure seems to have represented their planned deployment run of “heavy” ICBMs in the first place, and was simply carried forward from the SALT I Interim Agreement of 1972 and the Vladivostok Accord. Rather than constructing more “vulnerable” SS-18 silos, the Soviets now seem to be interested in deploying a mobile “light” ICBM system as permitted by SALT II. In this regard, there are reports that the

44. BUREAU OF PUBLIC AFFAIRS, U.S. DEP’T OF STATE, CURRENT POLICY NO. 72A, SENATE TESTIMONY OF GENERAL JONES ON SALT II 33, 35-36 (July 9-11, 1979).
Soviets are now testing the deployment of a mobile “light” ICBM system on railroad cars.

SALT II possessed little more than symbolic significance without a SALT III and SALT IV. Yet, the great value of SALT II was that it could have paved the way for successful SALT III negotiations concerning theater nuclear forces in Europe and for genuine future arms reduction agreements between the two nuclear superpowers and their allies. Also, there was always the likelihood that SALT II could have been informally extended by the two superpowers after its expiration in 1985, much as they have done with the SALT I Interim Agreement. At that point, the SALT II numerical restrictions could begin to serve as an effective limitation on the development of both United States and Soviet strategic nuclear weapons systems.

The value of SALT lies less in the limitations formally set out in each treaty, than in the process of negotiation itself. The technology of mass destruction develops too rapidly for the cumbersome, time-consuming and highly politicized treaty negotiation and ratification procedures to control. The SALT process cannot stop and reverse the arms race until it first controls the technology race. In the meantime, however, continuation of the SALT process serves the useful function of purporting to regulate technological evolution in the nuclear arms race. SALT makes the arms race appear more understandable, predictable, less irrational and thus susceptible to governmental control. Undoubtedly, these appearances are illusions that could someday become suicidal for mankind. But since nuclear deterrence is essentially a psychological phenomenon, in the absence of genuine arms reductions, such illusions make the strategic balance of terror between the two superpowers appear more stable and, therefore, less dangerous than would be the case without them.

On the other hand, charges that SALT II somehow undermined the very foundation of Western strategic nuclear deterrence, by groups such as the Committee on the Present Danger (COPD) and, later, under its influence, the Reagan campaign, were without any merit whatsoever. However, since the COPD’s strategic nuclear assumptions, such as the “window of vulnerability,” dominate the defense and

47. See 1 M. Glennon & T. Franck, United States Foreign Relations Law: Documents and Sources 41-59 (1980) (excerpt, Senate Debate on Senate Concurrent Resolution 56 concerning the informal extension of SALT I).
foreign policies of the Reagan administration, they must be seriously reexamined and ultimately repudiated. The COPD's outlandish assumptions do not justify the enormous nuclear and conventional weapons buildup currently proposed by the Reagan administration, which, it quite callously admits, will be financed directly by huge cuts from scarce resources previously allocated to social welfare programs and human services. Nothing could constitute a greater present danger to the peace, stability, security and prosperity of the United States, both at home and abroad, than this wasteful and unnecessary arms buildup America is now experiencing under the misguided stewardship of those COPD members who have assumed high governmental positions in the Reagan administration.

The COPD concept of a "window of vulnerability" is a lot of nonsense. It is based on the dubious assumption that the Soviets can and will arm each of their 308 SS-18s with 40 reentry vehicles (RVs), each possessing enough pinpoint accuracy to take out hardened United States ICBM silos. The Soviets neither have nor will have the capability to arm an SS-18 with more than 10 RVs, each with enough accuracy to destroy silos, nor do they aspire to have this technology, even assuming it is possible. As the number of RVs and their accompanying decoys and penetration aids per missile increases, beyond a certain point the accuracy of each RV would necessarily decrease. Indeed, if SALT II had been duly ratified in 1979, Soviet SS-18s would have been limited to 10 RVs each; the SS-17, to 4 RVs; the SS-19, to 6 RVs; the new "light" ICBM permitted by SALT II, to 10 RVs; SLBMs, to 14 RVs; and air-to-surface ballistic missiles (ASBMs) to 10 RVs. The Soviet's long-range mobile SS-16 was banned altogether by SALT II because its first two stages are indistinguishable from the intermediate-range SS-20. So those Reagan administration officials currently decrying intelligence indications that the Soviets are now deploying SS-16s have only themselves to blame for opposing the ratification of SALT II.

Article III of SALT II would have carried forward Vladivostok's equal overall aggregate ceiling of 2400 strategic nuclear delivery vehicle

52. SALT II, art. 4, para. 9, supra note 8, at 39 ("Each party undertakes not to flight-test or deploy new types of ICBM's, that is types of ICBM's not flight-tested as of May 1, 1979 except that each party may flight-test and deploy one new type of light ICBM.").
53. SALT II, art. 4, paras. 10-13, supra note 8, at 39-40.
54. SALT II, art. 4, para. 8, supra note 8, at 39.
launchers for both sides, and would have required the Soviet Union to reduce that number to 2250 by January 1, 1981. Article V of SALT II contained the Vladivostok sublimit of 1320 for all MIRVed systems. Within that number, it established a sublimit of 1200 on launchers of MIRVed ICBMs, MIRVed SLBMs and MIRVed ASBMs; and within that number it established a sublimit of 820 on MIRVed ICBMs. Likewise, if SALT II had been ratified in 1979, Soviet production of the Backfire bomber would have been limited to thirty per year under the terms of a separate but related statement by Brezhnev. These SALT II limitations would have decisively impeded the ability of the Soviet Union to exploit the throw-weight advantage of their heavier ICBMs by the process of additional MIRVing, which was the primary concern of the COPD. Indeed, an indefinite extension of the life of a ratified SALT II Treaty beyond its contemplated 1985 expiration date could permanently forestall the development of any hypothetical "window of vulnerability" for both the United States and the Soviet land-based ICBM systems.

Even assuming the worst case scenario envisioned by the COPD, that towards the end of this decade the Soviets will have acquired the necessary technological sophistication to quadruple the number of RVs per SS-18 and to design each one of these 12,230 reentry vehicles with the degree of computer-simulated "accuracy" to destroy hardened United States ICBM silos, the COPD's assertion that there would then exist a "window of vulnerability" for the United States Minuteman ICBM force is still a lot of strategic nonsense. The COPD maintains that under these circumstances the Soviets will be able to launch a "disarming" surprise first-strike upon the great bulk of United States ICBM silos by means of using only a portion of their own ICBM force, while holding the remainder of their ICBMs in reserve for a threatened second-strike upon United States population centers. Presumably the Politburo would then issue an ultimatum to the American President that he either surrender or face the total annihilation of the United States population by the rest of the Soviet ICBM force. Consequently, according to the COPD, the President would be presented with only two unpalatable options: (1) ordering an all-out nuclear attack upon Soviet population centers by America's unscathed SLBM force with full knowledge that this action would precipitate Soviet destruction of American cities by left-over Soviet ICBMs and other strategic nuclear

56. SALT II, supra note 8, at 38.
57. Id. at 40.
58. Id. at 73.
59. COMMITTEE ON THE PRESENT DANGER, supra note 15, at 20.
forces; or (2) capitulating. Shorn of his own ICBMs, the President would be incapable of pursuing a third and more rational alternative of ordering a limited nuclear strike on the remaining Soviet ICBM force because American SLBMs do not possess the pinpoint accuracy necessary to be used in a countersilo as opposed to a countercity mode.

The COPD fears that without the availability of this third option, any sane, intelligent and "moral" American President might choose to surrender rather than proceed any farther down the path towards nuclear Armageddon. Hence the COPD posits the need to close this "window of vulnerability" by generating such a third option: to launch a limited nuclear strike on reserve Soviet ICBM silos by proceeding immediately with the deployment of a force of "survivable" United States ICBMs. Originally, the Reagan administration had interpreted this requirement to mean the deployment of the new MX missile into a land-based mode that can "absorb" a Soviet first-strike with enough missiles left intact in order to destroy any remaining Soviet ICBMs.

I will not spend much time examining in great detail the absurd nature of this interconnected set of improbable assumptions underlying the COPD's worst case scenario because there exists at least one definitive line of refutation that can be quickly explained and readily comprehended. As Carter's Secretary of Defense Harold Brown indicated during his testimony on SALT II before the Senate Committee on Foreign Relations in the summer of 1979, even under the worst case scenario envisioned by the COPD, the President of the United States would still be able to implement that third alternative of ordering a limited nuclear strike on any reserve Soviet ICBM forces by means of American B-52 bombers armed with air-launched cruise missiles (ALCMs) that do possess enough accuracy to be used in a countersilo capacity and that can penetrate Soviet air defenses. Admittedly, the bomber/ALCM attack would take eight to ten hours to complete, whereas a United States MX counterstrike could theoretically occur in only thirty minutes to an hour, assuming the best of circumstances. But this short time differential does not validate the limited nuclear war assumptions of the COPD's worst case scenario.

During those eight to ten hours, the United States President could simply sit tight while the bombers/ALCMs fly to the outskirts of Soviet airspace in order to perform their mission of destroying any residual ICBM force. With the bombers/ALCMs on their way, the next move in the COPD's hypothetical scenario for limited nuclear war

---

60. Id. at 18.
61. Id. at 35.
62. Feld & Tsipis, supra note 11, at 51.
would be up to the Soviet Union. During those eight to ten hours, the Soviet leadership would be confronted with three basic options, presented here in an estimated increasing order of probability: (1) absorb the United States bomber/ALCM attack and then do nothing; (2) absorb the United States bomber/ALCM attack and then launch the rest of their strategic nuclear forces upon American population centers; and (3) launch any remaining ICBMs together with the rest of their strategic nuclear forces upon American population centers before the United States bombers/ALCMs arrive. In the event the Soviet leadership decides upon alternatives 2 or 3, the United States President could still effectively retaliate by ordering the destruction of Soviet cities by means of the intact United States SLBM force. Yet, given the enormous uncertainties underlying all these outlandish scenarios for waging a limited nuclear war, in the most improbable event that the Soviet Politburo someday decides to launch a surprise nuclear attack upon the continental United States, it would most likely order a simultaneous and coordinated all-out assault by the entirety of their strategic nuclear weapons systems upon American population centers, industrial complexes, ICBM silos, in-port SLBM forces (40%) and SAC bomber bases. In that event, an American President could still totally devastate the Soviet Union by means of America's invulnerable at-sea SLBM force (60%) alone, or in conjunction with United States quick alert bombers.

The need to guarantee this outcome of "mutual assured destruction" for both superpowers under a variety of such worst case scenarios had already been foreseen and exploited by previous American administrations to justify construction of the redundant "triad" dispersement of United States strategic nuclear weapons systems among bombers, SLBMs and ICBMs in the first place. Indeed, after the passage of over two years into the Reagan administration, the Scowcroft Commission Report, enthusiastically endorsed by President Reagan, definitively closed this mythical "window of vulnerability" by arguing quite persuasively that the COPD's scenario for a "successful" Soviet limited nuclear attack upon the United States Minuteman ICBM force was never a realistic possibility, precisely because of the existence of the "triad." Despite the outrageous claims of the Committee on the Present Danger and, under its influence, by the Reagan administration, there is absolutely no need to make the triad any more redundant than it already is by deploying a first-strike MX missile system in order to

64. Id.
close a non-existent "window of vulnerability" allegedly threatening the current United States Minuteman ICBM force.

If the Reagan administration was in fact seriously concerned about the existence of some such theoretical "window of vulnerability," it would not have stridently advocated the admittedly vulnerable basing mode known as the "dense-pack" for the MX missile. From the COPD’s strategic nuclear perspective, the dense-pack was far less survivable than the Carter administration’s racetrack/dragstrip proposal. Moreover, Pentagon devotees of the dense-pack and, before it, of the racetrack/dragstrip have tacitly conceded that ultimately such fixed or semi-fixed basing modes for the MX missile would require the deployment of an anti-ballistic missile (ABM) defense in order finally to solve the hypothetical "vulnerability" problem. This of course assumes that the United States can indeed develop and deploy an effective ABM system in the first place. If that is the case, however, it would make more sense to have abrogated the ABM Treaty when it came up for review in 1982 (or again in 1987) so as to deploy an ABM defense around the entire United States Minuteman ICBM system as soon as feasible, and thus abandon the multibillion dollar first-strike and destabilizing MX missile. Apparently, the Pentagon is more concerned with the acquisition of a potentially disarming first-strike missile against Soviet ICBMs than it is with closing some non-existent "window of vulnerability" for United States ICBMs.

Furthermore, from the COPD’s strategic nuclear perspective, both the dense-pack and the racetrack/dragstrip basing modes would be far less effective in terms of closing the "window of vulnerability" than the deployment of the MX missile on railroad cars that can shuttle across the continental United States on its extensive railway infrastructure—a system the Soviet Union now seems to be experimenting with for its new mobile "light" ICBM. Although a United States "railway" or "roadway" MX has the advantage that it would not require an ABM defense, the problem with a fully mobile land basing mode (such as the Scowcroft Commission’s suggested "Midgetman") is that if it is adopted by either one or both superpowers, it might not be adequately verifiable for the purpose of negotiating future arms control and reduc-


tion agreements. Assuming the Reagan administration really possesses a serious commitment to that objective, the interplay of these considerations leads inevitably to the Garwin-Drell proposal of basing the MX in offshore diesel powered submarines cruising somewhere above the United States continental shelf. The Garwin-Drell proposal would be cheaper, more capable of surviving a Soviet first-strike, would not require any ABM defense, could be adequately verified and would not create any domestic political or environmental problems. If the MX missile is ultimately deployed, as the Reagan administration seems determined to do, it should be placed under the ocean, not on the land. The primary reason why this solution to the nonexistent "vulnerability" problem has not been adopted by either the Carter or Reagan administrations is better explained in terms of bureaucratic politics within the Pentagon than by strategic, economic, environmental or arms control considerations: The Air Force does not want to lose the MX to the Navy.

Or to phrase this proposition in a more precise manner, the Navy is currently engaged in the process of deploying an offensive first-strike strategic nuclear weapons system by means of its Trident 2 program. Each Trident 2 missile will be armed with fourteen Delta-5 warheads, each possessing enough pinpoint accuracy to destroy hardened Soviet ICBM silos and thus to be used in a counterforce as opposed to the traditional SLBM countercity mode. Thus, with the explicit approval and active support of both the Carter and Reagan administrations, the Pentagon has been proceeding apace with the design, testing and deployment of three separate and independent potentially offensive first-strike counterforce nuclear weapons systems: the Air Force's MX, the Navy's Trident 2 and the Army's Pershing 2. To this formidable arsenal should also be added the new MK12A warhead for the MIRVed (3 RVs) Minuteman III ICBM system that can also exercise a substantial countersilo capability. This is an astounding and truly disturbing situation! I am confident the Soviet leadership cannot even begin to comprehend why the United States government would want to field four offensive first-strike nuclear weapons systems at the same time if the Reagan administration actually possesses a genuine commitment to the

68. Feld & Tsipis, supra note 11, at 60. Cf. Scowcroft Commission Report, supra note 13, at 11, 20 (a balanced strategic force would include bomber and air-launched cruise missiles together with the submarine ballistic missiles).
70. N.Y. Times, Feb. 6, 1983, § 1, at 17, col. 1.
negotiation of nuclear arms control and reduction agreements with them. Based upon all the evidence so far available, the most likely and logical conclusion for the Politburo to draw is that the Reagan administration has been exploiting the American public's paranoid fear over the COPD's worst case scenario for a defensive limited nuclear war (i.e., "the window of vulnerability") in order to obtain the popular support for the expenditure of funds necessary to construct new weapons systems that will provide the United States government with the theoretical capability to wage a "successful" offensive limited nuclear war against Soviet ICBMS.

The American government's completion of its planned deployment of the MK12A, MX, Trident 2, and Pershing 2 systems near the end of this decade will effectively reverse the respective positions of the two superpowers in the COPD's hypothetical worst case scenario for a limited nuclear war. The net result, though, is that the "window of vulnerability" then facing the Soviet Union will be far more tangible and dangerous because of its preponderant reliance on ICBMs. At that point, the Politburo's adoption of a launch on warning policy becomes a real possibility, if not an inevitability. The United States government will then feel compelled to respond in kind. The mutual adoption of launch on warning policies by both nuclear superpowers would then create an enormous, almost inexorable incentive for either one to launch a preemptive first-strike on the other with part or all of their nuclear weapons systems, in the event a serious geopolitical crisis breaks out between them.

I sincerely hope that the United States government would never give serious consideration to launching a surprise nuclear attack upon the Soviet Union for any reason. Yet, based upon the foremost Armageddon-like experience the world has witnessed in nuclear crisis management decision-making between the two superpowers, I am not overly confident that the United States would not consider the option of a surprise attack. At the onset of the Cuban missile crisis in October of 1962, a substantial majority of the members of the United States governmental decision-making team established to handle the matter (the "Executive Committee") believed that a "surprise surgical air strike" against Soviet missile sites and bombers in Cuba was the only viable course of conduct to take in response to Khrushchev's surrepti-

72. *But see Anderson, A Small Step For Man From The First Strike*, Wash. Post, Apr. 19, 1983, E8, col. 3 (MX missile and Minuteman are first strike weapons, not just first strike deterrents; however, since MX numbers have been reduced, their use as weapons is unlikely); Anderson, *Missile Worrier Gets Heave-Ho From Air Force*, Wash. Post, Mar. 16, 1983, at D.C. 13, col. 3 (U.S.A.F. teaches first strike in its missile training class).
tious placement of these extraordinarily dangerous and threatening weapons a short distance off the coast of the continental United States. Notification of a bombardment to Krushchev or Castro prior to its commencement was ruled out "for military or other reasons."^74

Upon hearing general support for launching a surprise attack during the initial deliberations of the Executive Committee, Attorney General Robert Kennedy passed a note to his brother, the President, that said: "I now know how Tojo felt when he was planning Pearl Harbor."^75 Robert Kennedy adamantly opposed such a "sneak attack" because it was entirely inconsistent with the moral values upon which the United States of America was supposed to be founded. ^76 Primarily for this reason, Robert Kennedy decided to join ranks with Secretary of Defense Robert McNamara in advocating the imposition of a naval blockade around Cuba, followed by United States resort to the Organization of American States for its endorsement.^77

One major advantage a blockade had over a surprise attack was that the former would permit the United States to present a plausible legal justification for its conduct before the Organization of American States and the United Nations in a bid to obtain, respectively, their support for or lack of opposition to United States action, while a sneak attack would have been legally indefensible before any international forum.^78 Eventually, the blockade alternative prevailed over the surprise attack scenario, and the United States did receive the unanimous support of the O.A.S. for its "quarantine" of Cuba. ^79 In the opinion of Robert Kennedy, "[t]he strongest argument against the all-out military attack, and one no one could answer to his satisfaction, was that a surprise attack would erode if not destroy the moral position of the United States throughout the world."^80

I can only hope that some future American President under similarly excruciating crisis conditions would likewise have the patience, courage and foresight to override the advice given by a majority of his top advisers and refuse to order an illegal "surprise surgical airstrike" upon Soviet ICBM silos by first-strike counterforce strategic nuclear

73. See R. Kennedy, Thirteen Days 9 (1971).
74. Id. at 17.
75. Id. at 9.
76. Id. at 15-17. "We spent more time on this moral question during the first five days than on any other single matter. . . . We struggled and fought with one another and with our consciences, for it was a question that deeply troubled us all." Id. at 17.
77. Id. at 12, 15.
78. Id. at 23.
79. Id. at 26-27, 35.
80. Id. at 27.
weapons systems such as the MK12A, MX, Trident 2 and Pershing 2. Nevertheless, to provide an American President with the military option of ordering an illegal offensive “surprise limited nuclear attack” upon Soviet ICBM silos by the prior deployment of the MK12A, MX, Trident 2 and Pershing 2, only makes it that much more likely that these systems will in fact someday be so used. As Robert Kennedy is reported to have said in regard to the members of the Executive Committee during the Cuban missile crisis: “The fourteen people involved were very significant. . . . If six of them had been President of the U.S., I think that the world might have been blown up.”81 Because there does not exist such a phenomenon commonly called the “window of vulnerability,” these inherently offensive systems cannot serve any conceivable defensive or deterrent purpose, and they are certainly not necessary for a retaliatory attack upon Soviet population centers. There is, thus, no legitimate reason under international law for the United States government to develop and deploy any one of these offensive strategic nuclear weapons systems, let alone all four simultaneously.

To forestall the development of such a predicament, on November 5, 1980, President-elect Ronald Reagan should have announced that immediately upon assumption of office, his administration intended to enter into the proposed SALT III negotiations concerning the “modernization” of theater nuclear forces (TNF) in Europe: SS-20’s, the Pershing 2, ground-launched cruise missiles, the neutron bomb, the Backfire bomber and United States Forward Based Systems (FBS). The Reagan administration finally did this in November of 1981, but that was after it wasted almost ten precious months before starting negotiations.82 In my reading of the proposals put forth by the Reagan administration on TNF, I am somewhat skeptical that the United States is really conducting these negotiations in good faith, especially given the formative roles played in the development of the United States position by Eugene Rostow, former head of the Arms Control and Disarmament Agency, and Paul Nitze, the chief SALT III negotiator, both of whom were leading members of the Committee on the Present Danger. I question to what extent the so-called “zero option” put forth by Reagan is simply a sop that has been made to the people of Western Europe in order to get them to agree to deployment of the Pershing 2s and ground-launched cruise missiles commencing in 1983.

Remember that NATO’s TNF decision in December of 1979 was two tracked: the new TNF would be developed, but negotiations would

81. Id. at 128.
occur so that they would not have to be deployed.\textsuperscript{83} I certainly have no evidence as to negotiating positions at Geneva other than what has appeared in the public record. But from all the indications I have read, the Reagan administration intends to arm to the teeth first, and maybe negotiate seriously later. In this regard, President Reagan's refusal to include consideration of United States FBS and of the French and British nuclear forces within the TNF negotiations is especially distressing.\textsuperscript{84} The December 21, 1982 proposal by General Secretary Yuri Andropov to reduce Soviet intermediate range ballistic missiles in Europe to the number of missiles fielded by Great Britain and France (\textit{i.e.}, 162) in return for NATO's abandonment of its plan to deploy the 572 medium range missiles in Europe, seems to stake out an eminently reasonable position for the start of serious negotiations between the two superpowers.\textsuperscript{85}

I think the Reagan administration should have called for an immediate opening of formal negotiations concerning those strategic systems not prohibited by SALT II, for example, the "light" ICBM, cruise missiles, high energy, anti-satellite, space-based weapons. Mankind is already caught up in this post-SALT II stage of the nuclear arms race. The two superpowers, in conjunction with their allies, must negotiate immediately and comprehensively to prevent the loss of all control over the development of these weapons systems. Regrettably, the Reagan administration wasted one year of precious time by debating whether even to participate in its proposed Strategic Arms Reduction Talks (START) with the Soviet Union.\textsuperscript{86}

To support movement in this direction, the Reagan administration must continue to adhere to the terms of the unratified SALT II Treaty. Ultimately, the formal ratification of SALT II or of some cosmetic substitute by the United States government will be the precondition for any progress in negotiating nuclear arms control and reduction agreements with the Soviet Union. President Carter's unfortunate experience in unexpectedly calling for massive nuclear weapons cuts on the part of both superpowers, especially in the area of ICBMs, indicates that the best course of action for the Reagan administration would be to announce its support for the immediate ratification of SALT II before the United States continues to pursue the strategic arms reduc-

\textsuperscript{83} Special Meeting of Foreign and Defence Ministers Communiqué, NATO Rev., Feb. 1980, at 25.


\textsuperscript{86} Id., June 29, 1982, at A6, col. 5.
tion talks with the Soviet Union, and then to work diligently to secure the Republican-controlled Senate's advice and consent to the Treaty. Future progress can only be made upon the basis of consolidating past gains.

START will only succeed within the context of a ratified SALT II. This can be accomplished by both superpowers agreeing to modify a ratified SALT II by significantly lowering its numerical limitations on strategic nuclear delivery vehicle launchers and upon an indefinite extension of the life of such a ratified treaty as so amended. The Soviet Union has already indicated that it is prepared to proceed in this manner within the context of the START negotiations. The Russians proposed an equal ceiling for both superpowers of 1800 long-range missiles and bombers. This would require the Soviet Union to reduce its current level of 2500 and the United States to reduce its level of 2000. In addition, the Soviets indicated a willingness to establish an overall ceiling on the number of nuclear warheads carried by long-range missiles and bombs carried by bombers. Furthermore, the Soviets expressed a desire to retain "the best elements of" SALT II and a readiness to consider modifications. Yet, the Reagan administration has so far rejected their overture because it still obstinately maintains that SALT II is in some mysterious way "fatally flawed." The time has come for the Reagan administration to abandon the rhetoric of the Reagan campaign.

In the immediate future, the Reagan administration should officially disavow Presidential Directive 59, a Carter campaign fiasco, as well as its more dangerous successor, Secretary of Defense Caspar Weinberger's 1982 Five-year Defense Guidance Statement, the former of which naively contemplates the possibility of fighting a "limited nuclear war," the latter "prevailing" in a "protracted nuclear war." Under the pernicious influence of the Committee on the Present Danger, the United States government's basic strategic nuclear doctrine has shifted from one of deterring nuclear war, to fighting and winning

89. See N.Y. Times, June 29, 1982, at A1, col. 3.
92. See R. Scheer, supra note 90.
93. Id.
a nuclear war. This is utter folly. Consequently, the Reagan administration should make an affirmative decision against deploying any land-based MX missile system, sea-based Trident 2 system and European-based Pershing 2 system, each of which independently possesses a theoretical offensive first-strike capability against the Soviet ICBM force.

President Reagan's proposals to defend a multibillion dollar land-based MX with a multibillion dollar land-based and space-base antiballistic missile system, compound one folly with another to create strategic and economic insanity. It must be made emphatically clear to the Soviet Union that the United States will not terminate the life of the 1972 United States-Union of Soviet Socialist Republics Anti-Ballistic Missile Systems Treaty when it comes up for review in 1987 or beyond. The Reagan administration should work assiduously toward conclusion of the partially complete Comprehensive Test Ban Treaty, which it has now decisively repudiated. If governments cannot test nuclear weapons, it is difficult to measure their capabilities, and this uncertainty in calculations deters their offensive use. The United States should continue to resist the further proliferation of nuclear weapons technology and materials. In this area, the policy of the Reagan administration as it has developed seems to deemphasize the importance of controlling nuclear proliferation and instead stresses the concept that the United States should become a reliable supplier; that is, a reliable proliferator.

Finally, the Reagan administration must repudiate its adoption of Henry Kissinger's theory of "linkage" between considerations of geopolitical power politics, for example, events in Afghanistan, Poland and

94. The recommendations of the Committee on the Present Danger are based upon the belief that it is the policy of the Soviet Union to be prepared "for nuclear war-fighting, war-surviving and war-winning." COMMITTEE ON THE PRESENT DANGER, supra note 15, at 2. In its assessment of U.S. policy in the past, the Committee's report points out that "official U.S. strategic deterrence doctrine, since at least 1974, has been based upon a need for enduring 'war-fighting' capabilities, even for relatively protracted contingencies." Id. at 18. For an insight into the shift in U.S. policy from deterrence to fighting and winning a nuclear war, from the 1950's to the present, see J.D. Porro, The Policy War: Brodie v. Kahn, 38 BULL. ATOM. SCI. 16 (1982).

95. In a televised speech aimed at defending a 10% increase in military spending in 1984, President Reagan appealed to modern technology to develop a program of defense measures for the future whereby deterrence would be based not upon the Soviet Union's fear of immediate U.S. retaliation to a nuclear attack but, rather, upon the capability of the U.S. to "intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies." N.Y. Times, Mar. 24, 1983, at A20, col. 5-6.


El Salvador, and those of nuclear weapons control. Human survival depends on the success of these endeavors to control the nuclear arms race by the principles and techniques of international law and organizations. Handicapped, defective and imperfect they may be, but they represent the only short-term and long-range substitutes for the increasing risk of a nuclear war.

As for so-called "linkage in fact," if the politicized treaty ratification procedure in the United States Senate proves a major obstacle to the realization of the foregoing agenda, future administrations must submit their arms control and reduction agreements with the Soviet Union for approval by a joint resolution of Congress. Such agreements must not be held hostage to the self-interested votes of a few Senators. Failure by the Senate to support the Treaty of Versailles and the Covenant of the League of Nations was in part responsible for World War II. Senate obstinacy over a revised SALT II or SALT III or START I must not be permitted to pave the way for World War III.

On November 10, 1979, shortly after the seizure of United States diplomats in Teheran, I visited Hans Morgenthau at his home in Manhattan. It proved to be our last conversation before his death on July 19, 1980. At the end of the discussion, I asked him what he thought about the future of international relations:

Future, what future? I am extremely pessimistic. In my opinion the world is moving ineluctably towards a third world war—a strategic nuclear war. I do not believe that anything can be done to prevent it. The international system is simply too unstable to survive for long. The SALT II Treaty is important for the present, but over the long haul it cannot stop the momentum. Fortunately, I do not believe that I will live to see that day. But I am afraid you might.

Somewhat serendipitously, George Kistiakowsky made the same prediction three months later before an audience at Harvard University:

98. See, e.g., Hamilton, To Link or Not to Link, FOREIGN POL'Y, Fall 1981, at 127. See also Selin, Looking Ahead to SALT III, 5 INT'L SECURITY 171 (1980-81).
100. Treaty of Versailles, June 28, 1919, 225 Parry's T.S. 188.
101. Id. at 195-205.
102. Interview with Hans Morgenthau in New York City (Nov. 10, 1979).
I think that with the kind of political leaders we have in the world . . . nuclear weapons will proliferate. . . . I personally think that the likelihood for an initial use of nuclear warheads is really quite great between now and the end of this century, which is only twenty years hence. My own estimate, since I am almost eighty years old, [is that] I will probably die from some other cause. But looking around at all these young people [in the audience], I am sorry to say I think a lot of you may die from nuclear war.\textsuperscript{103}

To the same effect have been recent public statements by George Kennan\textsuperscript{104} and Hyman Rickover.\textsuperscript{105}

It is imperative that we undertake a committed and concerted effort to disprove these predictions concerning the end of human civilization. For us to gainsay or ignore the distinct possibility, if not preponderant probability, of a global nuclear war is to engage in that classic psychoanalytical defense mechanism known as denial.\textsuperscript{106} Far better to think about the unthinkable and try to come to grips with it, than to deny strategic nuclear reality and allow the unthinkable to destroy us. Perhaps a nuclear war cannot be prevented, but at least we must attempt to do so.

The analysis of the “death” of the SALT II Treaty and the program for the future of nuclear arms control developed here cannot serve as a general panacea for all the problems of American nuclear weapons policy. But it does point one direction out of the self-fulfilling prophecy of limited nuclear war propounded by the Committee on the Present Danger and the Reagan administration. Only the political will is needed for the United States to take the first step away from nuclear catastrophe by ratifying SALT II.

\textsuperscript{103} Quoted in Leonard, Danger: Nuclear War, HARV. MAG., Nov.–Dec. 1980, at 21, 22 (brackets in original).

\textsuperscript{104} See generally Kennan, On Nuclear War, N.Y. REV. OF BOOKS, Jan. 21, 1982, at 8.

\textsuperscript{105} See Excerpts from Farewell Testimony of Rickover to Congress, N.Y. Times, Jan. 30, 1982, at 8, col. 1.
