

AN ASSESSMENT OF PRESENT US-USSR ARMS CONTROL AND DISARMAMENT NEGOTIATIONS

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I. *Introduction*

During the past three decades the United States and the Soviet Union have worked at creating a meaningful international legal regime for the commercial, scientific, and military uses of outer space, the Moon, and other celestial bodies, as well as for the natural resources of these areas. Multinational negotiations beginning in 1958 led in 1967 to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies.¹ Article 4 of the Treaty limited the presence of nuclear and other kinds of weapons of mass destruction in outer space, as well as on the Moon and on other celestial bodies. Pursuant to Article 4, parties are prohibited from establishing military bases, installations and fortifications, from testing any type of weapons, and from conducting military maneuvers on the Moon or other celestial bodies.

Negotiations from 1969 to 1972, known as the Strategic Arms Limitations Talks (SALT I), led in 1972 to the Treaty on the Limitation of Anti-Ballistic Missile Systems.² The purpose underlying the Treaty was set out in the preamble, namely "to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament."³

Pursuant to the Anti-Ballistic Missile Treaty (ABM Treaty) the parties agreed to limit anti-ballistic missile systems, including the non-deployment of such systems for defensive purposes in given circumstances. An ABM system was initially defined in Article 2 as one able to "counter strategic ballistic mis-

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¹Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, January 27, 1967, 18 U.S.T. 2410, T.I.A.S. No. 6347, 610 U.N.T.S. 205. Eighty-five states are bound by the treaty, including the United States, the Soviet Union, and the People's Republic of China.

²Treaty on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, United States—U.S.S.R., 23 U.S.T. 3435, T.I.A.S. No. 7503. It was accompanied by an Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms, May 26, 1972, United States—U.S.S.R., 23 U.S.T. 3463, T.I.A.S. No. 7504. Both agreements became effective on October 3, 1972.

³Treaty on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, United States—U.S.S.R., 23 U.S.T. 3435, T.I.A.S. No. 7503.

siles or their elements in flight trajectory." However, the agreement permits the parties to deploy ABM systems in prescribed circumstances. In short, the agreement allows for the use of ABM systems within limitations rather than prohibiting such systems outright.

Article 12 of the Treaty contains two important provisions. First, it authorizes a party to use "national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law."⁴ Parties are prohibited from interfering with such technical means employed by the other party. Since reconnaissance satellites are a principal means of gathering information regarding military installations, such satellites constitute a major illustration of existing technical means. Article 12 also provides that each party is not to "use deliberate concealment measures which impede verification by national technical means . . ."⁵

Article 15 of the Treaty provides that it shall be of unlimited duration, subject, however, to the right of a party to withdraw unilaterally if it were to determine that "extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests."⁶ Further, a withdrawing party must give six month's notice prior to being released from its obligations. The notice to the other party is to include a statement of the extraordinary events regarded by the withdrawing party as having jeopardized its supreme interests.

Article 5 of the Interim Agreement adopted the same provisions set forth in Article 12 of the Treaty. The Interim Agreement was to remain in effect for five years. It could be extended by mutual agreement. The right of unilateral withdrawal was identical with the one established in the Treaty.⁷

The Treaty and the Agreement were based on the view that each of the parties was to be allowed to build and possess nuclear armaments, that the presence of national nuclear arsenals would serve as mutual deterrents against the uses by the respective parties of such weapons, and that under such circumstances there could exist a condition of real, albeit uneasy, strategic stability. This policy, known as mutually assured destruction, is frequently referred to as MAD. It is based on the proposition that the existence of offensive nuclear weapons is a more effective way to preserve and maintain strategic stability and the general peace than alternative policies.

Unfortunately, the purpose announced in the Treaty to achieve a reduction in weaponry and a more stable political environment has not been achieved. Furthermore, there has been multiplication of nuclear capabilities and attendant uncertainties. There are many more nuclear warheads in the world today than in 1972. Their constantly enlarging presence, coupled with a

⁴*Id.* at 3443.

⁵*Id.* at 3444.

⁶*Id.* at 3446.

⁷Limitation of Strategic Offensive Arms, May 26, 1972, United States—U.S.S.R., 23 U.S.T. 3462 at 3467, T.I.A.S. No. 7504.

proliferation of delivery systems, as well as their possession by an ever-increasing number of countries, is one of the factors that has induced a general and public effort to reconsider the MAD doctrine. At the heart of the current reassessment of nuclear strategy is the need for a higher and more assured degree of strategic stability among the superpowers.

2. *The Quest for Nuclear Controls and Strategic Stability*

Aside from the central concern over the dangers foreseen by the proliferation of nuclear attack weapons, a number of other considerations have influenced the current direction of arms control and disarmament negotiations between the United States and the Soviet Union. The long-lasting and highly inconclusive bilateral negotiations relating to intermediate-range nuclear forces (INF) and strategic arms reduction talks (START) were halted in November, 1983, when the Soviet Union declined further participation.

The United States in the 1970's began to take official notice of the extended activities of the Soviet Union relating to the deployment and testing of anti-satellite satellites (ASATS).⁸ More recently the United States has begun to express official concern over indicated violations by the Soviet Union of the 1972 ABM Treaty and Interim Agreement with specific reference to the construction of a phased-array radar possessing defensive characteristics at Krasnoyarsk in central Siberia.⁹ The view has been expressed that the Krasnoyarsk case is not an isolated one relating to treaty violations.¹⁰

Prior to the increasingly heightened concerns during the past several years regarding the militarization of space, efforts had been made during 1978 and 1979 to obtain a measure of strategic stability concerning ASAT weapons. During this period three well-prepared negotiating sessions on ASAT control took

⁸*Subcomm. on Space Science and Application of the House Comm. on Science and Technology, 97th Cong., 2nd Sess., "Space Activities of the United States, Soviet Union and Other Launching Countries/Organizations, 1957-1981" (Comm. Print 1982) (Report by C.S. Sheldon II and M.S. Smith).*

⁹BUREAU OF PUBLIC AFFAIRS, DEPT. OF STATE, Security and Arms Control: The Search for a More Stable Peace, 23-26 (Sept. 1984); R. Reagan, Message to the Congress, "Soviet Noncompliance With Arms Control Agreement", (Feb. 1, 1985) (available in BUREAU OF PUBLIC AFFAIRS, DEPT. OF STATE, SPECIAL REPORT NO. 122, at 1-6. The unclassified report was accompanied by a White House release entitled "The President's Unclassified Report to the Congress on Soviet Noncompliance with Arms Control Agreements", February 1, 1985.

¹⁰According to Senator F.H. Murkowski of Alaska, "the Soviets have violated the Anti-Ballistic Missile Treaty, SALT I, SALT II, the Biological Weapons Convention, the Helsinki Accords, and the Thresholds Test Ban Treaty. They are currently constructing an anti-ballistic missile radar at Krasnoyarsk, testing two new land-based nuclear missiles (SS-24 and SS-25), and encoding test data which makes it difficult for the U.S. to verify their compliance with arms agreements." Murkowski, *Curb Soviet Cheating*, Christian Sci. Monitor, Apr. 3, 1985, at 15, col. 1.

place. They were suspended by the United States to indicate its disapproval of the Soviet intervention in Afghanistan.¹¹

In an effort to open the door to negotiations which might be responsive to all of the wide-ranging and critical strategic arms issues, an attempt was made in 1983-84 to set a meeting date for ASAT negotiations. The Soviet Union, through the public pronouncements of President Andropov, in initiatives taken at the Conference on Disarmament and in proposals at the United Nations, expressed the view that there should be no further ASAT testing or the creation of new anti-satellite systems.¹² On June 29, 1984, President Chernenko invited the United States to participate in talks "to prevent the militarization of outer space."¹³ He added that "[t]he question of the complete mutual renunciation of anti-satellite systems should be resolved within the framework of those talks."¹⁴ On the same day the United States unconditionally accepted the Soviet offer.

The United States, while attaching no preconditions to the Soviet invitation, indicated that it viewed the offer as including the following purposes:

1. To discuss and define mutually agreeable arrangements under which negotiations on the reduction of strategic and intermediate-range nuclear weapons can be resumed; and
2. To discuss and seek agreement and feasible negotiating approaches which could lead to verifiable and effective limitations on anti-satellite weapons; be prepared to discuss any other arms control concerns or other matters of interest to both sides.¹⁵

This response was treated by the Soviet Union as "totally unsatisfactory."¹⁶ It was perceived as a U.S. attempt to "advance preconditions for talks on the problem of vital importance to all countries and peoples, and thus to

¹¹*Arms Control and the Militarization of Space, Hearings Before the Subcomm. on Arms Control, Oceans, International Operations and the Environment of the Senate Comm. on Foreign Relations, 97th Cong., 2nd Sess. 44* (statement by R.W. Buchheim, 1984); Buchheim, *Anti-Satellite Weapons and Some Related Matters*, in *MAINTAINING OUTER SPACE FOR PEACEFUL USES* 270 (Jasentuliyana ed. 1984).

¹²For a detailed assessment of the international and domestic policy and legal issues relating to the 1983-84 inconclusive efforts to arrange for ASAT negotiations, see Christol, "Arms Control and Disarmament in Space: The Rough Road to Vienna 1984, Part I", 1 *SPACE POLICY* 26 (Feb. 1985); "Part II", 1 *SPACE POLICY*, 263 (Aug. 1985).

¹³*Soviet and U.S. Statements on Space Weapons Negotiations*, N.Y. Times, June 30, 1984, at A4, col. 2.

¹⁴*Id.* at col. 3.

¹⁵*Id.* at col. 5.

¹⁶Los Angeles Times, July 2, 1984, Part 1 at 1.

block its solution."¹⁷

While the U.S. acceptance of the June 29, 1984 offer was frustrated by varying Soviet views as to the existence of "preconditions", this did not minimize the critical issue of space militarization and general arms control and disarmament involving nuclear weapons. In an effort to facilitate negotiations, President Reagan, on September 24, 1984, in addressing the U.N. General Assembly, stated that "[W]e need to extend the arms control process, to build a bigger umbrella under which it can operate—a road map, if you will—showing where, during the next twenty years or so, these individual efforts can lead."¹⁸

Following the U.S.-Soviet diplomatic negotiations, ostensibly based on the view that the "umbrella" approach might serve as a means to connect nuclear and space arms, President Chernenko put forward on November 16, 1984, a policy statement that was notable in several respects. He indicated the possibility of "new" negotiations, thereby eliminating any possible embarrassment that would have resulted from a return to the previously abandoned INF and START negotiations. Four areas were cited as worthy of examination: the militarization of space, a mutual freeze on nuclear arms, the ratification by the United States of the 1974 and 1976 underground test ban treaties, and an American pledge against the first use of nuclear arms.¹⁹ Prior Soviet preconditions for negotiations, relating to a U.S. moratorium on ASAT testing or the removal from Western Europe by the United States and NATO of Pershing 2 or landbased cruise missiles, were not repeated.

Emerging from this initiative was the meeting in Geneva on January 7th and 8th, 1985, between Secretary of State Shultz and Foreign Minister Gromyko. In their joint communique they agreed that negotiations should be initiated relating to the complex questions of "space and nuclear arms, both strategic and intermediate range, with all the questions considered and resolved in their inter-relationship."²⁰ The parties were also in agreement that:

The objective of the negotiations will be to work out effective agreements aimed at preventing an arms race in space and terminating it on earth, at limiting and reducing nuclear arms and at strengthening strategic stability.

The negotiations will be conducted by a delegation from each side divided into three groups. The sides believe that ultimately the forthcoming negotiations, just as efforts in general to limit and reduce arms, should lead to the complete elimination of nuclear arms

¹⁷*Soviet Reply to U.S. Stand on Weapons*, N.Y. Times, July 2, 1984, at A9, col. 1 (Reprint of official statement from Soviet news agency, TASS July 1, 1984).

¹⁸*Reducing World Tensions*, 84 DEPT. STATE BULL. No. 2092, at 6 (1984).

¹⁹*Chernenko: U.S. Holds Key to Arms Talks*, Wash. Post, Oct. 17, 1984, at A26, col. 2.

²⁰*U.S. and Soviet Set Talks on Missiles and Arms in Space*, N.Y. Times, Jan. 9, 1985, at A10, col. 1.

everywhere.²¹

These negotiations, profoundly influenced by President Reagan's March 23, 1983, call for a research-oriented Strategic Defense Initiative (SDI) (initially described as a ballistic missile defense system) have concentrated attention on the unrivaled complexity of balanced national security systems and stabilized strategic relationships.²² At stake is the identification of a mutually acceptable long-term relationship between the United States and the Soviet Union.

Asymmetries between these two countries are striking. They exist respecting military components and force levels. Patently obvious are their differing ideologies, which will inevitably influence outlooks and condition promises which may be given in negotiated agreements. They will also govern perspectives and practices in such critical matters as the verification procedures contained in any future formal agreement relating to arms control and disarmament. The actual record of both countries relating to compliance with past and existing arms control and disarmament agreements will manifestly influence the commitments now being sought.

Also at stake, and materially influencing the expected quality of compliance, will be the actual terms employed in the agreement. In matters of space and nuclear arms control and disarmament, the degree and extent of agreement must be framed in exceedingly precise language. This is not a situation where either explicit or implicit reservations or qualifications can be accepted. By their very nature they would detract from the significance of the agreement. They would reflect lingering but manifestly real doubts as to the qualitative nature of the joint commitment to the goal of strategic stability in the context of space and nuclear arms control and disarmament.

3. *Essential Considerations Affecting Treaty Compliance*

In considering the duties of States under international law to comply with their treaty-based obligations one is confronted with the fundamental needs of States to advance both their own interests and those of other members of the world community. To the extent that this goal is achieved each State will be in a better position to protect its territorial integrity and its national sovereignty.²³ These common and traditional goals are of central significance when

²¹*Id.*

²²An assessment of the diverse ramifications of the Presidential proposal, known as the Fletcher Report, was issued by the U.S. Department of Defense in April, 1984 ("The Strategic Defense Initiative, Defensive Technologies Studies"). See generally, 9 ANNALS OF AIR SPACE L. 4 (1984); *Arms Control, Foreign Affairs*, 7 HARV. INT'L REV. (No. 4, 1985); 11, 12 J. SPACE L., (1983-1984); 27th COLLOQUIUM ON THE LAW OF OUTER SPACE (1985); MAINTAINING OUTER SPACE FOR PEACEFUL USES 170-328 (Jasentuliyana ed. 1984).

²³Pardo and Christol, *The Common Interest: Tension Between the Whole and the*

there are at stake effective agreements aimed at preventing an arms race in space and terminating it on earth, and at strengthening strategic stability. Moreover, as Secretary of State Shultz observed at the time the U.S. and the U.S.S.R. issued the joint communique of January 8, 1985, "both sides attach priority to achieving radical reduction in nuclear weapons as a first step toward their complete elimination."²⁴ This was consistent with the hope expressed by him both prior to and after the two countries agreed in January that the negotiations would lead to the complete elimination of nuclear arms everywhere.²⁵

In the foregoing remarks it was carefully noted that the ultimate elimination of nuclear weapons would result from a cooperative transitional effort. Secretary Shultz stated:

As the U.S. and the Soviet strategic and intermediate-range nuclear arsenals declined significantly, we would seek to negotiate reductions in other types of nuclear weapons. If we could develop the technologies to defend against ballistic missiles, we could then turn our energies to the perfection of defensive measures against these other nuclear weapons. Our ultimate objective would be the elimination of them all.²⁶

Can any valid reasons be advanced in support of compliance with an international agreement dealing with the critically important subjects currently under consideration at the Geneva Arms Control Meeting? Knowledgeable international lawyers regularly confirm that a vast preponderance of all international agreements are complied with routinely. Only in areas having a significant impact on international peace and national security, such as arms control and disarmament, are there paramount needs to assure that compliance be essentially total. General principles of international law governing compliance exist in both situations. Nonetheless, the quality and the meaning of such international legal principles is deserving of the most careful scrutiny when the possibility of misinterpretation or misapplication of existing norms relates to the condition of international peace and national security.

If the general influences of reason and justice are insufficient to obtain conduct fully supportive of established legal norms and expectations, forms of constraint must be countenanced. To the extent that there is compliance with an international legal norm dealing with a specific subject, there can emerge a

Parts, in *THE STRUCTURE AND PROCESS OF INTERNATIONAL LAW: ESSAYS IN LEGAL PHILOSOPHY, DOCTRINE AND THEORY*, 643 (MacDonald and Johnston eds., 1983).

²⁴*U.S. and Soviet Talks on Missiles and Arms in Space*, N.Y. Times, Jan. 9, 1985, at A10, col. 1.

²⁵Shultz, Address before the Austin Council on Foreign Relations, Austin, Texas (March 28, 1985) (available in BUREAU OF PUBLIC AFFAIRS, DEPT. OF STATE, *Arms Control: Objectives and Prospects*, CURRENT POLICY No. 676).

²⁶*Id.* at 4.

greater awareness of the interactive aspects of the international legal system. Compliance with the law in one area of behavior can lead to a heightened sense of duty in another area.

Specific reasons for compliance with international legal norms lend themselves to extended analysis.²⁷ Only an abbreviated assessment of such reasons will be attempted here. First, conventional knowledge suggests that conformity to law reduces tensions and instabilities. Through the use of law and legal systems there is a prospect for the presence of a minimum, and in some instances more than a minimum, amount of world order.

Second, when law and legal processes exist and commend themselves to international actors the prospect exists for planning for an attainable future. A certain amount of stability results from the presence of predictability and consistency.

Third, a great variety of sanctions may become operative in the event of unacceptable departures from recognized legal norms. These sanctions range from highly coercive physical conduct, such as the massive destruction of persons and property in time of armed conflict, to economic constraints. For example, the United States and other countries have adopted trade policies, known as a generalized system of preferences, which eliminate duties on a range of products imported into the United States from developing countries. These beneficial preferences may, however, be suspended if a developing country engages in conduct perceived as violative of norms of general international law.²⁸

Fourth, the possibility that sanctions may be imposed on a country which does not conform its conduct to international law generally, and to its treaty commitments in particular, may produce a variety of anxieties. States, like individuals, fear the label of "law-breaker." Such concerns can take a variety of forms beyond physical and economic detriment, such as loss of prestige, esteem, or the sense of "standing high" in the opinion of the world community. The influence of opinion was summarized over 50 years ago by Elihu Root, who stated:

. . . [T]here is an indefinite and almost mysterious influence exercised by the general opinion of the world regarding the nation's character and conduct. The greatest and strongest governments recognize this influence and act with reference to it. They dread the moral isolation created by general adverse opinion and the unfriendly feeling that accompanies it, and they desire the general approval and kindly feeling that goes with it.²⁹

²⁷Schachter, *Towards a Theory of International Obligation*, 8 VA. J. INT'L L. 301 (1968) (reference to national perspectives of fifteen writers). Compare J. STONE, *LEGAL CONTROLS OF INTERNATIONAL CONFLICT* (1954) with M. McDUGAL AND ASSOCIATES, *STUDIES IN WORLD PUBLIC ORDER* (1960).

²⁸BUREAU OF PUBLIC AFFAIRS, DEPT. OF STATE, GIST at 5 (Jan. 1984).

²⁹ROOT, "The Sanctions of International Law," 2 PROC. AM. SOC'Y INT'L L. 19-20

Governments invest a very large amount of energies and resources in creating images of their rectitude and responsibility. They rely on the influence of a world-wide media, sometimes carrying out foreign policy through this means, to explain and justify their activities. These governments have a passion to know what is being said about them. Policies are adapted to the conclusions drawn from assessments of such activities.

Fifth, conformity to law cannot be separated from moral considerations. Although it is frequently suggested that States are governed wholly by concerns over national interest, national leaders are not immune from moral considerations. To the extent that they feel a moral need to conform to the expectations of the law, they experience a sense of moral guilt in the presence of non-compliance. The theme that there is a "higher duty" to conform to law can also be attributed to ethical and religious precepts.

While it may be convenient, and superficially persuasive, to rely on the presence of police, courts, prisons, and the entire apparatus of the law enforcement process to justify conformity to law, there is more to it than that. For many individuals, and for many countries, compliance is not the result of punitive sanctions only. The belief there is "a right thing to do" will also have influence.

Sixth, national interest may derive from the international legal principle of national sovereignty. Varying assumptions have emerged from this principle. One is that a State has an enormous amount of latitude in pursuing self-centered objectives. Another is that in modern times a State's sovereign options are subject to substantial constraints. If the latter is the case, and if the constraints are founded on the central precepts of general international law, then national compliance may not be offered many alternative. Conformity to the law in these circumstances may be the norm, rather than the exception. Lawful conduct will result when it is difficult to imagine alternative forms of behavior. The presence of identifiable norms of law will, per se, contribute to compliance with it.

Finally, the vitality of law and a high measure of conformity to it will depend on a realization that common benefits and mutual advantages will result for individuals and States from the presence of established principles, rules, and standards of the law and adequate law-making and law-enforcing processes. Detriment or loss of advantage will befall a deviating State. Common benefits will flow to those which conform their conduct to the principled expectations of the world community. Order rather than chaos is expected to result from a rational assessment of benefits and disadvantages. This position has been identified by Brierly, as follows:

The ultimate explanation of the binding force of all law is that man, whether he is a single individual or whether he is associated with

(1908). This outlook has historic appeal to Americans. The founding fathers in the Declaration of Independence made due reference to "a decent Respect for the Opinions of Mankind."

other men in a State, is constrained, in so far as he is a reasonable being, to believe that order and not chaos is the governing principle of the world in which he has to live.³⁰

From this brief summary it can be concluded that compliance with international legal norms depends on considerations having a mixed moral, social, political, and utilitarian character. In an increasingly interdependent world, norms of law, particularly where the legal institution is regarded as legitimate, have the function of serving the needs of world order. Law, in the light of its substantive content and the accompanying processes, offers an orderly way to deal with disorderly problems.

Because the problem of arms control and disarmament has such a central impact on common human wants, needs, interests, and values, it is essential that relevant and community-serving legal norms be identified and measures be taken to achieve conformity with them. Reasons of the kind that have been identified should offer some confidence in the formulation of constraints designed to benefit those who seek strategic stability in a nuclear world.

4. *The Formalization of Expectations*

The bilateral negotiations that began in Geneva in March 1985 between the United States and the Soviet Union have focused on arms control and disarmament for both nuclear and space weapons. These negotiations are occurring in the presence of a most unusual phenomenon. The thesis that strategic stability would be enhanced through a policy of defense, as foreseen in the Reagan proposal for a Strategic Defense Initiative, has raised the possibility that the traditional policy of offense, as accepted in the 1972 ABM Treaty and Interim Agreement, could be modified. Added to the uncertainties and complexities of this new proposal is the problem, assuming that some form of agreement might be reached respecting the SDI in whatever form it might be cast, of effecting a stable transition from the present to a new approach respecting bi-polar stability.

Before moving toward a new strategic policy it has been noted by Ambassador P.H. Nitze, Special Adviser to the President and the Secretary of State on Arms Control Matters, that two highly exacting criteria would have to be met. In his words:

They must produce defensive systems that are reasonably survivable; if not, the defenses could themselves be tempting targets for a first strike. This would decrease rather than enhance stability.

New defensive systems must also be cost-effective at the margin—that is, it must be cheaper to add additional defensive capability than it is for the other side to add the offensive capability necessary to overcome the defense. If this criterion is not met, the defensive systems could encourage a proliferation of countermeasures and addi-

³⁰J.L. BRIERLY, *THE LAW OF NATIONS* 56 (6th ed. 1963).

tional offensive weapons to overcome deployed defenses, instead of a redirection of effort from offense to defense.³¹

These significant practical concerns fit into, and are consistent with, the four basic objectives being pursued by the United States at the current Geneva discussions. In addressing the three interrelated issues of strategic arms, intermediate-range nuclear forces, and space arms, the United States has indicated it is seeking an enhancement of strategic stability, radical reductions in nuclear weapons, the acceptance of equal or equivalent levels of forces, and effective verification of compliance with a future agreement by the parties.³²

If the final outcome of the current bilateral negotiations between the United States and the Soviet Union is to be measurably influenced by the possible relevance of SDI capabilities and utilities, it is evident that the duration of the negotiations will be quite long. The foregoing time frame must also be measured against the time during which confidence-building measures can evolve. It should be evident that it is necessary to build firmly on commonly held expectations respecting valid motivations and assured future actions if a formal agreement is to have a meaningful existence.

The expectation, of course, is that over time there will be agreement on a set of treaty provisions designed to advance the common moral, social, political, and utilitarian needs of the negotiators. Only if the seven criteria dealing with the obligation to conform to international understandings prove meritorious and persuasive will a particularized agreement relating to nuclear and space arms control and disarmament be meaningful.

In addressing the present situation, a particular political-legal strategy is as important as the substantive arms control and disarmament strategy. The two strategies are inextricably related. Negotiations must proceed on the premise that common interests can be proven to exist and that there is a political will of accommodation that insures that a perspective of common interests will take precedence over unsubstantial or less worthy localized interests. As such reciprocal necessities are unfolding, it will be necessary for the superpowers to adjust their conduct to these realities. As verifiable information is presented and accepted by both parties, and as an ultimate conviction of a sound strategic stability begins to emerge, then it will be possible to draft a viable international agreement dealing with these clearly identifiable practices.

The ultimate goal is one of assured strategic stability based on verified practices. The presence of verified practices can create that spirit of confidence which is fundamental to security-related international relations.

The present task is to clarify the basic objectives to be achieved through U.S.-Soviet arms control and disarmament. As these are more fully understood, and as concerns over national security are placed in perspective, com-

³¹Nitze, Address before the International Institute for Strategic Studies, London (March 28, 1985) (available in BUREAU OF PUBLIC AFFAIRS, DEPT. OF STATE, *The Objectives of Arms Control*, CURRENT POLICY No. 667 at 6).

³²Shultz, *supra* note 25, at 2-3.

mon practices can be allowed to grow and flourish. As the worth of these confidence-building measures comes to be appreciated, and as mutual accommodations mature in practice, it will be possible to arrive at a written agreement that will have a chance of achieving common approval. If it is to come into being, and if it is to serve the respective needs of the superpowers, and indeed, of the entire world community, it must be demonstrated that its terms will be guaranteed success. This, as has been indicated, will depend on the rational assessment of common benefits when there is conformity. It will also depend on the awareness of common disadvantage when there is non-compliance.