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THE SALT II TREATY

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HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

EX. Y, 96-1

THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF STRATEGIC OFFENSIVE ARMS AND THE PROTOCOL THERETO, TOGETHER REFERRED TO AS THE SALT II TREATY, BOTH SIGNED AT VIENNA, AUSTRIA, ON JUNE 18, 1979, AND RELATED DOCUMENTS

OCTOBER 15, 16, 17, 18, 19, 22, 23, 24, 25, 31,
NOVEMBER 1, 2, 6, 7, 8, 9, 1979

PART 6

MARKUP

Printed for the use of the Committee on Foreign Relations

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THE SALT II TREATY MARKUP

MONDAY, OCTOBER 15, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 2 p.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Helms, Hayakawa, and Lugar.

The CHAIRMAN. The hearing will please come to order.

OPENING STATEMENT

Today, we begin the committee's markup of the treaty on SALT II, the second agreement to limit strategic arms between the Soviet Union and the United States.

When the committee began its deliberations on July 9, I remarked that of the many and varied tasks that comprise the work of the U.S. Senate, and in particular of the Committee on Foreign Relations, none was more important than the obligation to receive and consider treaties.

The Constitution and tradition charge us to examine them carefully, to make such provisions respecting them as we deem necessary, and then to report our recommendations to the entire Senate.

Over the past 3 months, the committee has spent hundreds of hours examining the treaty. That examination was the most extensive and exhaustive in the history of this committee. We have held 30 public hearings and numerous executive sessions, heard from over 100 expert witnesses, and compiled a record of over 4,000 pages. On the verification issue alone, the committee conducted over 30 hours of hearings, and last week received the extensive report of the Senate Select Committee on Intelligence, which summarized the results of 2 years of inquiry and 11 volumes of documentation.

In my view, we are now prepared to move to the next phase of our work: To consider proposed amendments, reservations, and understandings as they relate to the treaty, and then to report our recommendation to the entire Senate.

MARKUP PROCEDURE

Let me spend a moment reviewing the markup procedures approved in an executive session of the committee last Thursday. The committee will first consider issues relating to the legal status of collateral

documents associated with the treaty. These documents include the agreed statements and common understandings, the Backfire exchange, the joint statement of principles, and the memorandum of understanding on the agreed data base.

Once this is completed, the committee will turn to the treaty and protocol. We will proceed through these documents article by article. Agreed statements and common understandings will be completed at the same stage as the article with which they deal.

Following the consideration of the treaty and protocol, the committee will consider proposals relating to SALT III. Finally, the committee will consider any other proposals that members of the committee may wish to bring up.

At the beginning of the markup, I think it would be appropriate to examine the means of dealing with the complexity of the task before us. As of Friday, there were approximately 37 amendments, reservations, understandings, and/or declarations that had been introduced or publicly discussed by Members of the Senate. Senator Javits and I have examined with the staff a means by which these proposed changes could be dealt with in an efficient manner. As a preliminary matter, to be considered by the committee as we proceed through markup, I would suggest three general categories for changes to be proposed by members in the markup.

CATEGORIES OF TREATY CHANGES

First are those changes which would be instructions or understandings within the U.S. Government concerning the implementation or administration of terms and conditions of SALT II that need not be communicated to the Soviet Government in any formal way.

Second is those changes which are to be formally communicated to the Soviet Government, but which do not require agreement by the Soviet Government.

Third is those changes that must be communicated and agreed to by the Soviet Government.

By using these three categories, or something similar, the committee will have a means of categorizing proposals so that their impact is clearly understood.

Today the committee will begin with its consideration of the legal status of the collateral documents. I would remind members that the committee agreed last week that every effort would be made to submit proposals 48 hours prior to consideration by the committee. Such notice will allow members time to reflect on the proposals and will allow staff time to analyze them.

Before proceeding to the consideration of the treaty documents, I hope the committee will permit me a personal observation on the task that is before us. Some 60 years ago the Foreign Relations Committee began its markup of the Versailles Treaty. Although historians still debate as to the full implications of the Senate's rejection of the Versailles agreements, there is no doubt that it had an important influence on the course of history and the advent of the Second World War.

I personally believe the United States is at an equally historic moment. We must consider not only the consequences of approval of

this treaty, but also of rejection. What will rejection do to the position of the United States and the world, to the renewal of an accelerated nuclear arms race, and to our relations with our own allies,

We here on the committee are charged with a heavy responsibility.

Now, before we proceed further, I would like to ask the ranking Republican member on the committee, Senator Javits, if he has a statement that he would like to make at this time.

Senator JAVITS. Thank you, Mr. Chairman.

There is no doubt about the fact that this is an historic beginning. We are marking up one of the critically important treaties for the peace of the world as well as the peace of the United States, which is likely to face us in this century. I am satisfied that, in the hearing process, every issue has been explored, and the only way that in a democracy they should be explored, which is on the basis of the proponents and the opponents having their full say. The process has been very fair, complete, and thorough.

Now, Mr. Chairman, it is really important for each of us to decide what is the critical fulcrum of decision here. For me, I would say that the critical fulcrum of decision is first, what is the soundness of the continuance of the doctrine of mutual assured destruction for the United States. This has been challenged in the hearings with the charge that the Soviet Union has sought a new basis for strategic arms preparation which is the ability to win a nuclear war, and that this may change not only their strategy but ours.

Second, there is the question of whether by December 31, 1985, at the expiration of the treaty period, we will still have equivalency in strategic nuclear strength between the two countries. We seem to be on the path of continuing the idea that the best way to keep the peace is through a mutual assured destruction.

Third is whether we are going to keep the confidence of the people of the United States in the ability of the United States to look after its security and that of its allies in accordance with its commitments and obligations. This may involve a continuance of the doctrine under which we have been operating ever since the end of World War II; to wit, the doctrine that the best defense is the ability to wreak upon a potential adversary the same damage or worse, which it could wreak upon us.

Lastly is what confidence we are building in our allies, especially those in NATO and the Organization of American States, in addition to Japan and our other allies in Asia, and what confidence we are building in the parties to the Non-Proliferation Treaty, as this is an important step in redeeming our obligations under the Non-Proliferation Treaty to many countries.

We are proceeding in good faith and with diligence to seek to reduce nuclear armaments. What confidence are we building in relevant international organizations and in peoples everywhere that we seriously propose to use SALT II as a step toward real reduction of nuclear armaments, as it is clear that this is but a small step, albeit a very important one?

Mr. Chairman, the eyes of the world are fixed upon us. It is my judgment based upon the way in which the Chair and the committee have conducted the hearings and their inquiries up to now, the collaboration of other committees, such as the Armed Services Committee

and the Intelligence Committee, and the cooperation of the leadership on both sides of the aisle, that we will not fail mankind in this endeavor.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Javits.

Senator Pell, would you care to make an opening statement?

Senator PELL. Thank you, Mr. Chairman. Yes.

To my mind, this is a demonstration of our governmental processes at their very best. The marking up process, as all of us in Government and in the legislature know, is the key process in any piece of legislation, and usually gives an index of the fate of a particular piece of legislation. In this case, we are dealing with a treaty. I believe the basic question is whether we are better off without a treaty or with an amended treaty which naturally then will result in Russian demands for equivalent quid pro quos which can in turn derail this treaty, or whether we are better off with it. It will be one of those three alternatives.

I must confess that my own experience as the chairman of the Arms Control Subcommittee and as the first adviser appointed by the administration to the talks, and the preceding weeks and months of the hearings have all left me very much with the conclusion that our national interest is better served by passing this treaty as it is than either of the other two alternatives.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Pell.

Senator Hayakawa?

Senator HAYAKAWA. I do not have a statement. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. McGovern?

Senator MCGOVERN. I will hold my remarks until later.

The CHAIRMAN. Senator Glenn?

Senator GLENN. Thank you, Mr. Chairman.

I would like to say a few words, not on the treaty but rather, in general, on the operations of our own committee.

CONCERNS ABOUT CONFIDENTIAL INFORMATION

We had an executive committee meeting on Friday of last week. I was asked about what happened in that meeting by news people when I left the meeting. I declined to comment, because it was an executive session.

I went back to my own State of Ohio over the weekend, and found that other committee members or staff had been quite free in giving information about that meeting, including the vote that we had, which I certainly did not intend to be a referendum on SALT.

The letter I presented to other committee members that day had nothing to do with a referendum on SALT. I did not try to lobby beforehand as you normally would if you had a major vote like that coming up, and yet it was interpreted as an important signal on SALT by both the Washington Post and the New York Times.

So I resent very much the fact that that was leaked. I have not made any effort to find out where that leak occurred, but it was an executive session, which I take to mean exactly that.

Now, I might say that if our lack of attention to security matters continues as we go through these hearings, we are going to run into a lot of problems, because as we are all aware, when we get into the monitoring and verification aspects, we will have to go into executive session. I fear for the safety of my country if we have to go into those executive sessions and ask for top secret and code word material to be given to members of this committee when our track record to date seems to me that there are leaks to every good reporter in Washington, and it is only a question of who gets it on the front page first, the Washington Post or the New York Times.

I guess I may have left out a few other newspapers that have representatives here in the room and might feel affronted, so lest anybody feel that they got left out, we can include all news media within that statement. [General laughter.]

I am very serious. I do not mean to make light about this. We have talked and talked about this in committee, and yet it seems impossible for us to be able to go into executive session without information being leaked. The areas that we were discussing during these hearings are far too important for us to think that we can just go out and put our own interpretation on what is secret, and what is not secret.

I wanted to bring this to the committee's attention in the hope that we could at least start off these hearings with the idea that what is secret and what is code word is going to remain that way, because some of the elements that we are getting into in a discussion of SALT are of a very top level security nature and cannot be given out without endangering the security of this country.

Thank you for your time.

The CHAIRMAN. Senator Glenn, I was surprised to see the article to which you referred in the newspapers. I think it has often occurred, however, that votes taken in executive session have been reported. It is not covered expressly in the rules, but that has been the custom, as I recall, more often than not.

Senator JAVITS. If the Senator would yield on that, I believe that we are required to go into open session and announce any vote that is binding on the committee as well as the Senator who made the motion.

The CHAIRMAN. Nevertheless. it was not an action of which I am aware; that is, neither Senator Javits nor I was aware that any of this was disclosed. I do think, however, that in fairness to the committee, it should be said that customarily votes taken in executive session have been released to the press.

The second thing that I think should be said in the interest of fairness to the committee is, for many weeks now we have heard the most secret and the most sensitive information available in the Government concerning particularly the question as it relates to verification of the treaty. I know of nothing affecting the national security that has been leaked to the press by anyone on this committee. I know of no such leaks.

I think it speaks well of members and the staff that great care has been taken to keep these sensitive matters secret. I am sure that the committee will continue to handle such sensitive matters relating to the national security in such a manner.

Senator GLENN. Would the chairman yield?

The CHAIRMAN. Yes.

Senator GLENN. I might add that the news writeups I read in Ohio over the weekend, stressed that the tentative vote was a great victory for the pro-SALT forces based on the assumption that it indicated the alinement of the committee. However, the point of my letter had nothing to do with approving or disapproving SALT. My letter dealt with another matter which I may release later on. The letter was not classified, so I see no reason why I should not release it if I wish.

Two other committee members had indicated to me that if I really wanted to push for their votes, they would probably vote with me. That would have made it an 8 to 7 vote, and certainly it would have been a less convincing case for those who used the vote for their own purposes, that is an endorsement of the SALT Treaty.

It would have been an almost even split on the committee.

I think the people that were trying to make their point by releasing this information may have done me a great disservice, and I do not appreciate that. That was not the purpose of my letter or the discussion in executive session.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Glenn.

Senator Percy, do you have any opening remarks that you would like to make at this time?

Senator PERCY. Thank you, Mr. Chairman.

I would like to indicate to my colleagues that I went home to Illinois to announce my position on SALT. I believe my colleagues already know this. My support for SALT II is subject to the committee's acceptance and the Senate's acceptance of two understandings which we have previously discussed at great length. I do intend to vote for the SALT II Treaty. I think it is very definitely in the national security interests of the United States of America.

It restricts the Soviet Union in certain things that it might otherwise well do, and provides a limit on what the Soviets can do.

As I see it, it does not inhibit us from doing what we feel is essential and necessary for our own national security. After these many, many months of hearings, in which extensive information has been provided and made available to the committee by witnesses and also through the fine work that has been done by our staffs, I would say I have deep respect for those who still reserve judgment or who have decided to oppose the treaty, but so far as my own consideration is concerned, I have solidly concluded without any equivocation whatsoever that this treaty is in our national security interest.

LETTER OF GENERAL ROGERS

The one question, as many of you know, which I have probed deeply is the treaty's effect upon NATO, our own first line of defense in an area where we have had two world wars. I was concerned that the political leadership might not be reflecting the concerns of the military.

I asked General Rogers before he left if he would spend his first couple of months at NATO analyzing and appraising that situation

to determine whether the military leadership in NATO is solidly convinced that SALT II is in the best interests of the alliance.

I talked with him on Thursday. He delivered to me a letter. I asked unanimous consent, Mr. Chairman, in addition to my full statement on why I have concluded that SALT II should be ratified by the Senate, to include General Rogers' reply to me in the record. He states why, in his judgment, after intensive discussions with the military and other leaderships of our NATO allies, he has concluded that they believe and he believes this treaty should be ratified by the Senate of the United States.

I ask unanimous consent to incorporate my statement and letter in the record at this time.

The CHAIRMAN. Without objection, the statement of the Senator and the letter to which he has referred will be incorporated in the record.

[The information referred to follows:]

[From the Congressional Record, Oct. 15, 1979]

PREPARED STATEMENT OF HON. CHARLES H. PERCY

ON SALT II

Mr. PERCY. Mr. President, I shall vote for the SALT II treaty because it is in the national interest of the United States. It is prudent policy to limit nuclear armaments and contain military competition when two nations have the power to obliterate each other and change the nature of the world. My favorable vote is conditioned upon acceptance by the Senate of the substance of the understandings I introduced that seem to be supported by consensus in the Senate Foreign Relations Committee.

I have found no fatal flaws in the SALT II treaty. I have found ambiguity that is unacceptable. But I am fully confident that the U.S. Senate will make certain clarifications that will make it a better treaty.

I am also confident that the U.S. Senate will support increasing our defense effort where necessary. The historic vote in the Senate last month calling for a 3-percent increase in the defense budget this year and a 3-percent increase if deemed necessary in 1981 and 1982 demonstrated our resolve even in a year of severe financia. restraint.

We should not have great expectations for this treaty. Trust between the United States and the Soviet Union is not at hand. Competition will continue unabated. The belated discovery of a Soviet brigade in Cuba, which has been there for at least several years, demonstrates that the SALT process does not rule out Soviet challenges to U.S. interests. Since the Soviets refused to remove those troops, the United States has acted to strengthen our own position in the Caribbean and to put the Soviets and Cubans on notice that we will not countenance any threat to the region.

Such challenges and counterchallenges will continue. The Soviets are our adversaries. If they were our friends, there would be no need for agreements to limit nuclear arms. We can expect the continuation of keen competition within the limits set by the treaty. The United States cannot afford to fall behind.

I support SALT II because it makes positive gains in limiting the nuclear arms race and reducing the risk of nuclear war. The limits are modest but real. They will restrict the Soviet military buildup in ways important to U.S. national security. For example:

By 1981, the Soviets must scrap approximately 250 strategic weapons. They will undoubtedly eliminate from the inventory their oldest missile launchers and old bombers, but this still would result in at least 250 fewer weapons than would otherwise be aimed at the United States. The firepower of each of the nuclear weapons that could be sent our way on even these 250 oldest systems is totaling the equivalent of 17,500 Hiroshima bombs. We are not required to scrap any strategic weapons. We must recall that just the one Hiroshima bomb killed 78,000 people, injured 84,000, and demolished 62,000 buildings. It destroyed the city.

The treaty allows the Soviets to build only one new ICBM. Other missiles that Soviet planners have on the drawing boards must not be significantly different—plus or minus 5 percent—in size or weight from currently deployed ICBM's.

None of the current Soviet ICBM's can be modified to carry more warheads. This means that the Soviet Union cannot load up its heavy ICBM's to carry 30 or more warheads as is technically feasible. If they did this, they would have more than 6,000 additional warheads, each with an explosive force many times that of the bomb dropped on Hiroshima.

The Soviets will not be able to deploy any more blockbuster ICBM launchers. They will be limited to what they now have—308 fixed for heavy missiles.

The Soviets may not camouflage or otherwise try to hide their launchers from our surveillance and other observation techniques.

The Soviets cannot interfere with our satellite verification capabilities without breaking the treaty.

The United States has agreed to similar restraints. But no major strategic program currently planned to maintain the U.S. deterrent will be prohibited by this treaty. The new Trident submarine will not be prohibited. The new Trident I submarine missile will not be prohibited. The Trident II missile on the drawing board will not be prohibited. The air-launched cruise missile needed to maintain our airborne nuclear deterrent will not be prohibited nor will the development of sea-launched and ground-launched cruise missiles. The MX missile, still in development, will not be prohibited.

A future President could with the support of Congress reverse current policy and build the B–1 bomber. It is not prohibited in this treaty.

The treaty places important limits on the Soviet buildup while allowing the United States the flexibility to build those weapons systems deemed important to national security. This was an initial criterion I laid out for the SALT II treaty. It has been met to my satisfaction.

Another criterion I laid out in a speech on May 7, 1979, before the Bar Association of the Seventh Federal Circuit in Chicago, concerned verification. I wanted to be sure beyond a reasonable doubt that the United States detect Soviet cheating that could undermine U.S. national security. Experience has led us to be profoundly wary of the Soviet Union. I would not support a treaty based on trust. I am now convinced that the United States has the resources and the capability to monitor Soviet actions, to detect cheating and, if necessary to abrogate the treaty and take counter-measures. CIA Director Admiral Stansfield Turner and Chairman of the Joint Chiefs of Staff, David C. Jones have both said that they are now satisfied that the treaty is adequately verifiable.

During the months of the SALT hearings, I concentrated a great deal of my questioning and research on the effect of this treaty on our NATO allies. Before the President sent the treaty to the Senate, I had received reports of dissatisfaction from our allies. Allied officials had expressed concern that provisions of the treaty might prevent the United States and NATO from addressing the military imbalance in Europe. I introduced and had accepted by the Senate Foreign Relations Committee leadership two understandings to the treaty that should alleviate these concerns.

One states that restrictions contained in the 3-year protocol attached to the treaty cannot be extended without Senate approval. This is important because the deployment of certain weapons important to Europe—sea-launched and ground-launched cruise missiles—is restricted in the protocol. The second understanding states that traditional patterns of defense cooperation will be continued unrestricted by the treaty. This means that the United States will transfer technology to our NATO allies on the usual basis. These understandings, if adopted by the Senate, will go a long way toward reassuring Europe of the U.S. commitment to NATO.

In my view, one of the key measures of U.S. strength in the world is the vitality and cohesion of U.S. alliances. The defeat of this treaty by the Senate would badly shake our alliances. It would bring into question U.S. leadership in dealing with our common adversary, the Soviet Union. If the treaty's defeat resulted in a resumption of the cold war between the United States and the Soviet Union, Europe would be the lightning rod, the first to feel the strain. I am convinced that the SALT II treaty, with the understandings I previously discussed, is in the best interest of our European allies.

Treaty opponents have been unable to convince me that this treaty contains fatal flaws. Some of their arguments seem sound at first glance, but lose their impact upon closer inspection.

Consider, for example, the argument that the treaty will give the Soviets strategic advantage because they will have the potential capability in the early to mideighties to wipe out in a first attack most of our land-based ICBM's, the Minutemen missiles. The Soviets will have that theoretical capability. But the SALT treaty will not make the Minuteman vulnerable. Improved Soviet missile accuracy as well as increased numbers of Soviet warheads will make the Minuteman vulnerable.

The treaty, in fact, actually improves our position. It allows the United States to build a mobile land-based missile that will be less vulnerable than the Minuteman. Moreover, it limits the numbers of warheads on new Soviet ICBM's so that a mobile system can be more easily designed to survive an attack.

Another fact that should be included in any discussion of Minuteman vulnerability is that only one-quarter of our striking power is on the Minuteman. The rest is on strategic bombers and on virtually invulnerable submarines. This is in contrast to the Soviet Union, where 70 percent of their warheads are on the much more vulnerable land-based missiles.

Some opponents of the treaty also argue that the Soviets are allowed a significant advantage in missile throw-weight. It is true that Soviet missiles are bigger and heavier than U.S. missiles. It is not true that this translates into superiority for the Soviet Union.

In fact, the treaty sets limits on the number of warheads per missile so that bigger, heavier, missiles cannot deliver significantly more warheads than lighter missiles. In reality, accuracy and reliability count much more in striking power than pure throw-weight. Bigger is not always better.

The United States has always had the option of building heavier missiles. But every President and every Congress has rejected this option and no serious defense analyst proposes that we build a missile similar to the heaviest Soviet missile.

Other critics of the treaty argue that it does not sufficiently limit nuclear weapons. Along with a number of my colleagues, such as Senator Helms and Senator Hatfield, I am disappointed that the treaty does not more substantially reduce the nuclear armaments of the two superpowers. But we must not overlook the significance of the fact that the Soviet Union and the United States have agreed to any limits at all.

It is important that the arms control process is continuing and beginning to yield some significant, though modest, results. To be realistic, we have to limit the arms buildup before we can actually reduce arms, and we have to reduce arms gradually before we can effectively eliminate some of them. This step-by-step approach can build the confidence necessary to continue the process. We will never get to SALT III if we reject SALT II out of hand.

Let us face it. The SALT II treaty is not one great step for mankind. It is only one small step forward. But its defeat could eliminate the prospects for arms control process for decades to come. It is my best judgment that we should take this step. It is in the best interest of the United States, our cities, and, indeed, the rest of the world.

SUPREME ALLIED COMMANDER EUROPE,
Shape, Belgium, October 11, 1979.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Many thanks for your recent letter in which you asked my views on certain issues related to SALT II. I appreciate your providing copies of the testimony of the European parliamentarians who appeared before the Senate Foreign Relations Committee.

I am pleased to provide you my observations which are based on my having been the Supreme Allied Commander, Europe, since 29 June 1979. As you are aware, prior to that time I was the Chief of Staff, U.S. Army, and, as a member of the Joint Chiefs of Staff, was intimately involved with the SALT II treaty as it moved through its negotiating process the last thirty months.

It is my opinion that the ratification of SALT II is considered crucial by our NATO Allies for the following reasons:

(a) The adverse impact which non-ratification would have on the credibility of the leadership of the United States in the Alliance, upon the credibility of the Office of the President, and thus on our future relations with our Allies.

(b) The adverse impact which non-ratification would have on the Alliance decision to modernize NATO's Theater Nuclear Forces in order to deter the grow-

ing threat from the East. This decision, vital for the Alliance, is coupled with the Alliance's desire for arms control negotiations to reduce and balance the NATO and Warsaw Pact Theater Nuclear Forces. Our Allies perceive the SALT III negotiating process as affording that opportunity, but they acknowledge the need to pass through SALT II to get to SALT III.

(c) Non-ratification would cause our allied nations considerable concern about future US-Soviet relations, and the impact such relations would have upon them individually and the Alliance collectively.

I am also aware of the comments by some persons that many influential non-U.S., NATO political and military leaders are opposed to the treaty. I do not believe this is the case. There may be some who are opposed. Perhaps there are some provisions about which other European leaders are concerned, but I believe these leaders do support the treaty's ratification.

As the SACEUR, charged with guaranteeing the military security of Allied Command Europe, I hope that the SALT II treaty will be ratified in the very near future.

With best wishes,

Sincerely,

BERNARD W. ROGERS,
General, U.S. Army, Supreme Allied Commander, Europe.

The CHAIRMAN. Senator Sarbanes?

Senator SARBANES. I have no statement.

The CHAIRMAN. Senator Muskie?

Senator MUSKIE. Thank you, no, Mr. Chairman.

The CHAIRMAN. Senator Zorinsky?

Senator ZORINSKY. I have no statement, Mr. Chairman. Thank you.

LEGAL STATUS OF COLLATERAL DOCUMENTS

The CHAIRMAN. Very well. We are now prepared to commence the markup. The procedures agreed upon by the committee call first for a consideration of the legal status of the collateral documents other than the treaty and protocol. First among these collateral documents presented to the committee was the agreed statements and common understandings which interpret various provisions of the treaty itself.

AGREED STATEMENTS AND COMMON UNDERSTANDINGS

The agreed statements and common understandings are signed by both parties, but they were not submitted to the Senate for the purpose of ratification. One of the first questions that came up was what the legal status of these agreed statements and common understandings was, since they were not incorporated by reference in the treaty itself, and yet clearly had been agreed to by the two governments.

I would call the attention of the committee to an exchange I had with the Secretary of State early in the hearings with reference to the legal status of the agreed statements and common understandings. It appears on pages 120 and 121 of the committee hearings. I said:

> A careful reading of this treaty, however, Mr. Secretary, serves to underscore the importance of the so-called agreed statements and common understandings. It is a highly complex treaty. The interpretations of the meaning of each sentence is in my judgment as important as the actual text of the treaty itself. The first thing one observes in a reading of the treaty is that there are two categories, agreed statements and common understandings. Is there any difference in legal status between an agreed statement and a common understanding?

To which the Secretary replied, "None." The Chairman then said, "Do the agreed statements and or the common understandings repre-

sent binding obligations of the two parties?" Secretary Vance replied, "The answer clearly is yes. They were signed by the heads of the two governments involved, and there is no question about it."

I then said, "So, they will not be regarded simply as negotiating history from which to interpret the obligations contained in the treaty, but will have equal binding force with the treaty itself?" To which the Secretary replied, "That is correct."

Later in the hearings, there was another exchange, this time between Senator Sarbanes and Secretary Vance, in which Senator Sarbanes said, "Would a violation of one of the agreed statements or common understandings be a violation of the treaty?" Secretary Vance replied, "Yes."

With this testimony in mind, Senator Javits and I have proposed a reservation which would expressly settle the legal status of the agreed statements and common understandings. I think that members of the committee have that proposed reservation before them. If not, I would ask the staff to see that each Senator receives such a copy.

CHANGE CATEGORIES AND U.S.S.R.

The reservation which Senator Javits and I propose would fall into category III. That is to say; it would be a reservation which by its terms would be communicated formally to the Soviet Union and would have to be agreed to by the Soviet Union.

Senator JAVITS. Mr. Chairman, we should explain that as that goes to the resolution of ratification. I think that is the first time we have used that term.

The CHAIRMAN. I mentioned in my opening statement these three categories, Senator, but I think perhaps a further explanation is in order.

Senator JAVITS. It will be recalled that in the Panama Canal Treaties, all of the reservations and understandings were written into the resolution of ratification, and Panama was required to accept them all in its own resolution of ratification, which it did.

Now, Senator Church and I believe in the ratification of this particular treaty that this would not be a desirable practice. We believe that there will be reservations or understandings or declarations which are truly unilateral to us and which determine our own policy, and there is no need whatever for seeking Soviet agreement.

Just to give an example, one example of this last category is the expiration date of the protocol. We will make it clear that the Senate does not wish the protocol to be extended either by act, that is, by agreement for extension, or by some informal act such as a declaration by the President that we will observe the protocol so long as the Soviets do. We wish whatever is done that extends the operative date of the protocol either formally or informally beyond December 31, 1981, to be done by what is equivalent to another treaty. That is a policy of our own, so we would not wish the Soviet Union to agree to that or not agree to it. It doesn't matter to us.

Similarly, for example, if there is a reservation or an understanding about the modernization of our strategic nuclear arms and how much we are going to spend and specifically what we are going to do, if that

should be rolled into the treaty process, we certainly do not expect the Soviet Union to agree to that or to give them an opportunity to object.

On the other hand, this reservation which we now propose should be agreed to by the Soviet Union because, as I assume, members have gone through the comparative book, you will see that the agreed statements and common understandings define what are the various terms that are used in the treaty in such a way that the two must be read together. There is no room for disagreement on that if we expect to enforce the treaty.

Hence, it seems elementary that the Soviet Union must accept the very thing to which it agreed as an element of the treaty, so that a violation would justify action on our part either in the appropriate commission or by withdrawing from the treaty. That is the distinction.

Now, we will letter these things in order of ascendancy. Category I will be the category which is not for formal notification to the Soviet Union but which is internal to the United States. The Soviet Union will be aware of them because this is an open process.

Senator SARBANES. What about a category, if they are in the order of ascendancy, shouldn't No. 1 be the category that is just for our own Government?

The CHAIRMAN. I think that is No. 1. The category that is for our own Government requires no formal notification except possibly notice.

Senator JAVITS. Category II may or may not be included in the resolution of ratification but does not require affirmative acceptance by the Soviet Union. In the appropriate manner the Soviet Union will be notified. Category III, the ultimate category, requires not only inclusion in the resolution of ratification but acceptance by the Soviet Union.

The CHAIRMAN. Are there any questions about those three categories?

Senator PELL. Is category III then basically the same as an amendment?

The CHAIRMAN. It would not be the same as an amendment because it would not change the text of the treaty and therefore would not require renegotiation. The treaty, being a contract, cannot be changed without the concurrence of the two parties. Therefore, category III is in the nature of a classical reservation where the Soviet Union at the time the instruments of ratification are exchanged will have to accede to the reservation if it wishes to put the treaty into effect.

So, that is the most severe type of action this committee could take short of amending the text of the treaty itself.

Senator MCGOVERN. Mr. Chairman, may I ask a procedural question?

The CHAIRMAN. Senator McGovern?

Senator MCGOVERN. I have an understanding that affects the status of documents insofar as it incorporates into the resolution of ratification the substance of the joint statement resolution of ratification of principles governing the negotiations for SALT III. That is not on today's agenda, but would it be appropriate to bring that up today? If not, at what time would it be appropriate?

The CHAIRMAN. I have not seen the proposal, Senator.

Senator MCGOVERN. It affects the status of documents.

The CHAIRMAN. I think it would be appropriate to bring it up at the time that we take up the substance of this particular matter. Could we have the staff look at it? Then we will give you a more definitive answer. I am amenable to taking it up whenever the Senator wishes, but if we are going to follow this procedure, I think we had better begin to adhere to it at the start.

Senator MCGOVERN. It does affect the status of documents which, as I understand it, is the matter under discussion today, but it is not on the prepared agenda, and I just wondered if there was any problem in bringing it up, once it is clear that it affects the status of documents.

The CHAIRMAN. Let's look at that as we take up the first two items, and if it is appropriate to consider it later today, I would be happy to entertain it.

Let us give the staff an opportunity to glance at your proposal.

Senator JAVITS. Mr. Chairman, may I just say that it is on the agenda under Legal Status of Documents? It covers the joint statements of principles, but I would agree with the Chair that as a matter of good practice, we ought to have a chance to examine it and decide into what category it should go.

May I say just one other thing? It was complained during the hearing that contrary to our expectations, the Soviets, by keeping silent when given notice of a reservation or an understanding in respect of SALT I, did not intend to bind itself to it and actually proceeded free of it in subsequent action. The way we have now laid the resolution of ratification before the committee, it takes account of that situation, so where we wish explicit concurrence or accession, as Senator Church very properly put it, we will seek it and require it in the terms of the resolution itself.

So, there will no longer be any dependence upon the fact that having had notice of a reservation or an understanding, the Soviets could not demur.

TEXT OF RESOLUTION ON STATUS OF AGREED STATEMENTS AND COMMON UNDERSTANDINGS

The CHAIRMAN. I would like to call the committee's attention back to the text of the proposed reservation. It is a category III type reservation. It is:

> That the agreed statements and common understandings regarding the treaty and the protocol transmitted by the President on June, 1979, with the treaty are of the same force and effect as the provisions of the treaty itself.

Again, I make the argument that Senator Javits has already made, which is that it is impossible to understand this treaty without reference to the agreed statements and common understandings. Since they have been signed, and since there seems to be no argument that they will be of equally binding effect as the text of the treaty itself, then I think we should say so expressly.

Senator GLENN. Would the Chairman yield?

The CHAIRMAN. Senator Glenn?

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Senator GLENN. Do the Soviets agree with this? I am more interested in what the Soviets agree to than in what we agree to ourselves. Perhaps we would call a witness or someone to comment on this, but it seems to me it is more important what the Soviets think with regard to this than it is what we think.

The CHAIRMAN. I believe as we move along we are going to have to make decisions without having in advance the position of the Soviet Union. In this case, I would be surprised if it would occasion any problem, because the Soviet Union has signed off on these understandings, and declared agreed statements. I think the Soviets intend that they have the same status as the treaty itself.

Let us ask Ambassador Earle if he would comment.

Senator GLENN. I presumed that they already understood it in the same way. I wasn't trying to raise any roadblock to going ahead with the agreement. I assumed this was already agreed to by the Soviets. If not, perhaps we are in worse trouble starting out than I thought.

Ambassador EARLE. There is no question, Mr. Chairman, that the Soviets consider these agreed statements and common understandings legally binding.

The CHAIRMAN. Thank you, Ambassador Earle.

Is there any objection to the committee moving ahead with the adoption of this reservation? Is there any further discussion?

Senator HELMS. Mr. Chairman, I want him to explain a little bit more how he knows that.

Ambassador EARLE. Senator Helms, on a number of occasions, both prior to the signature and at the time of signature, the Soviets said, we consider these to be legally binding.

Senator HELMS. Do you have it in writing?

Ambassador EARLE. No, sir—other than the document itself signed by President Brezhnev.

The CHAIRMAN. With the adoption of the reservation, Senator Helms, it would be obligatory on the Soviet Union to accept the reservation along with the treaty if it wanted to put the treaty into force and effect.

Senator JAVITS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. Yes, Senator Javits?

Senator JAVITS. Under the circumstances of what we have submitted to the committee, would it not be appropriate that a motion to adopt a reservation or an understanding should also name the category into which it would be placed and that both the motion and the category would be open to amendment?

The CHAIRMAN. The Senator is correct. May I say in that connection that the reason for establishing three categories is to eliminate the ambiguity that ordinarily frustrates these various names in international law. Sometimes a reservation is binding and must be accepted by both parties in order to put the treaty into effect. Sometimes understandings are treated as though they were reservations, depending upon the substance of the understanding itself.

So, rather than get into that kind of semantical confusion, we think that establishing these three rather precise categories would be of assistance to the committee.

Senator GLENN. Mr. Chairman, for clarification, since this is the first proposed in our committee markup, I would like to ask Ambassa-

dor Earle, if this is part of the negotiating record. Do we have this on record? Have they already agreed to this? Do we really need this? I don't see anything wrong with it, and I will vote for it, but it seems to me in starting out we should determine whether we are going to go through and put in additional language that backs up the negotiating record at every step along the way.

If we establish that sort of precedent, then obviously we open this thing up to hundreds, and hundreds, and hundreds of similar reservations as we go through that already are covered in the negotiating record.

Senator SARBANES. If the Senator would yield. These agreed statements and common understandings documents were signed by President Carter and President Brezhnev. It is therefore different in a significant respect than the negotiating record. What we are doing here is taking that document which they have both signed as being agreed statements and common understandings and in effect giving it the status of being at the level of the treaty and protocol, which it seems to me is a sensible thing to do.

It does not affect the question of how we handle the negotiating record. I guess we will come to that at some point. But this is in a totally different posture, because it is one of the documents submitted. It is one of the few that both leaders have signed as part of the signing of the treaty accord.

Senator GLENN. I agree with what Senator Sarbanes has just said. I probably should have said the negotiating record or the document that the leaders signed. Wasn't this or similar language part of what they signed?

Ambassador EARLE. It was, Senator Glenn. In fact, the prefatory language to this document says the parties have agreed on the following agreed statements and common understandings undertaken on behalf of the governments, and then the chiefs of governments signed it.

Senator GLENN. So it is your feeling that this is already signed and locked in, and similar language was signed by the leaders of both countries. In your view, is this necessary then?

Ambassador EARLE. No; it is not.

Mr. CUTLER. Mr. Chairman, may I speak for a moment, sir?

The CHAIRMAN. Yes, Mr. Cutler.

Mr. CUTLER. We stick with Secretary Vance's position for the reasons just developed by Senator Sarbanes and Senator Glenn, that there is no question that these agreed statements and common understandings are binding. That is why we think a reservation or understanding is unnecessary. However, we have no objection to the understanding as proposed by the chairman and Senator Javits, except we have a very small technical point that does not go to the substance as to the description of these agreed statements and common understandings.

The CHAIRMAN. The reason that we have proposed that the committee adopt this as a category III type reservation is to eliminate any question but that the agreed statements and common understandings have the status of the treaty itself, they are the equivalent of the treaty and have to be combined with the treaty to understand the treaty. They have the same legal effect as any statement contained within the treaty itself.

Because of this, it seems to me we ought to do that, since it is quite impossible, really, either to understand or to enforce the terms of the treaty without making reference to the agreed statements and common understandings.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Percy?

Senator PERCY. We have discussed the desirability of including these in category III. Is it clear that the motion before the committee has now been modified so that the June 18, 1979, agreed statements and common understandings will be considered as category III?

The CHAIRMAN. I don't believe that I heard a motion made.

Senator JAVITS. I will so move.

The CHAIRMAN. I would appreciate the motion in that form. I would ask Mr. Cutler if he would indicate to us that the technical recommendation for technical change was in the wording.

Mr. CUTLER. In lieu of your wording, Mr. Chairman, we suggest this wording, which we think simply describes the document more accurately.

That the agreed statements and common understandings associated with the treaty and the protocol signed at Vienna on June 18, 1979, are of the same force and effect as the provisions of the treaty itself.

The CHAIRMAN. So you would strike the word "regarding" and in its place you would insert "associated with."

Mr. CUTLER. Correct, and we would then say instead of "transmitted by the President on June 22, 1979," we would say, "signed at Vienna on June 18, 1979."

That is the operative date so far as the Soviets are concerned.

The CHAIRMAN. "Signed at Vienna on June 18, 1979."

All right. I see no objection to that change.

Senator SARBANES. Mr. Chairman, do we need to make reference to the protocol in the last line again as we have in line 2?

The CHAIRMAN. I think it is well to do that, because the treaty and the protocol were the two documents which were submitted to us for ratification.

Senator SARBANES. I understand that, but the protocol is not repeated at the end of the reservation.

Mr. CUTLER. I think the point is well taken, Mr. Chairman. It could simply end, "of the treaty and the protocol," period.

The CHAIRMAN. For consistency's sake, we should add, "and the protocol" at the end.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

Senator GLENN. For further clarification, do I understand that this is to be a category III reservation which requires acceptance by the Soviets?

The CHAIRMAN. Yes.

Senator GLENN. Then I would like to ask Ambassador Earle and Mr. Cutler that if this is a category III reservation—requires acceptance by the Soviets—do you see this as reopening negotiations? We will have a whole listing of these, I would imagine, when we complete markup. We will probably have many of them that are category III. Does that not mean that if we put that classification on

these items, we are not going to approve the treaty unless the Soviets have accepted our proposals? As I understand it being category III reservations, they would have to come back with positive acceptance or we would not approve the treaty.

Mr. CUTLER. That is correct, Senator Glenn.

Senator GLENN. They would require renegotiation? Is that correct?

Mr. CUTLER. We would hope there would not be a long list of category III items to be added.

Senator GLENN. Well, I would think that would be wishful thinking.

Mr. CUTLER. Perhaps so, but with respect to this particular item, we do not oppose it because in our opinion it will not lead to renegotiation.

Senator GLENN. If one of these came out during the markup which they would not accept, this would have the full force, it seems to me, of shooting down the whole treaty.

Mr. CUTLER. That is correct, sir, and you would hear us making that point.

Senator GLENN. I have no doubt. [General laughter.]

Thank you, Mr. Chairman.

The CHAIRMAN. Certainly, Senator Glenn.

Is there any comment from the staff with respect to the proposal as modified?

Mr. TIPSON [committee staff]. Mr. Chairman, I just want to distinguish between the legal, technical reason to do this and the political advisability in terms of removing any confusion that exists. When we first received those documents and the discussion began in the Senate, there was a great deal of uncertainty as to whether these agreed statements and common understandings did have equal status with the treaty. By adding this kind of reservation, it seems to me we remove any doubt on that score. Since the Soviets have already accepted it, it would appear to be fine.

The CHAIRMAN. That is the purpose for offering it. I would like to read it in its modified form:

> That the agreed statements and common understandings associated with the treaty and the protocol signed at Vienna on June 18, 1979, with the treaty are of the same force and effect as the provisions of the treaty itself and the protocol.

Are there further comments?

Senator LUGAR. Mr. Chairman?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, clearly, even though this is a modest change, it seems to me we have defined it as a change. That is, the acceptance of the Soviets is going to be required and we are clarifying it for our own purposes, but at least the contention is being made that they will have to accept that.

It seems to me important, as we start down the list, to point out, as I think Senator Glenn has alluded to, and which Mr. Cutler has helped clarify, that in his judgment this particular change is not one which the Soviets would balk over, although it is also the contention, as I gather, of Ambassador Earle and Mr. Cutler that the change is not really required, since both parties have accepted this language. So, for the sake of change, we are making one.

I will not oppose the change if the committee wants to go ahead and make it, but I do think it is important simply at the outset for the sake of those who are following this debate to point out that this is in my judgment the sort of change that may very well be reported as the committee amends the SALT Treaty or it gives an idea of a flurry of activity, of this committee just digging into this treaty, trying to find what is here and making all sorts of constructive suggestions, when in fact this is a cosmetic change if there ever was one.

As Mr. Cutler has pointed out, if we actually do get something that has some substance, we will hear from him and probably from other people.

I would just alert everybody that until I hear from Mr. Cutler, my inclination is that we are not dealing with anything that is worth a great deal of time and effort. In essence, we are busy about a task of trying to show that the committee is going to be tough, is going to say something to the Soviets, and by and large is going to tighten this thing up, when in fact if we really are saying something to the Soviets, they may say something back, and then we will have a different predicament.

Mr. Chairman, I am just not certain precisely at this point, aside from the fact that it may clarify things for ourselves, that it clarifies things really for the rest of the world to go through this type of cosmetic change. I would like once again to hear a rationalization of why we are in this procedure.

Senator SARBANES. May I address that question, Mr. Chairman?

The CHAIRMAN. Very well, Senator Sarbanes.

Senator SARBANES. It seems to me that one of our responsibilities in doing a craftsmanlike and professional markup with respect to these documents is to clarify in those instances in which we think clarification is necessary. There have been a number of instances in which it has been asserted that there is agreement with respect to certain meanings, and that there may be some doubt about that. One way to remove this doubt is, of course, to go through the process which we are now going through with respect to these matters.

Now, I do not contend that the Soviets have an entirely different view of this particular issue that is now before us. In fact, it has been asserted to us that they in fact agree that these statements and understandings are legally binding as is the treaty, but they are not part of the treaty.

As part of doing a craftsmanlike job, we are now going to make them a part of this treaty through this reservation. We will deal with other issues of that sort, I am sure, later. Some people will propose changes that do not represent the clarification of a supposed understanding between the parties, but may in fact involve a matter in which the proposal clearly is changing an understanding reached in the treaty. At that point, we will have to judge that accordingly.

I do not make of this what I think we would have to make of a proposal of that latter sort, but it seems to me this is an essential part of doing a good job here in the committee.

The CHAIRMAN. I thank the Senator. He expressed the view better than I could have expressed it. I would suggest, Senator Lugar, that if you think it is not a matter of great moment, that we ought to move

on to a vote, and take on another matter that may be more significant. I would, before we do that, like to read once more for the record the reservation. Senator Javits, I am using the right of the sponsor to modify his own proposal.

I would like to read once more for the record the actual wording as modified to which the motion pertains:

That the agreed statements and common understandings associated with the treaty and the protocol signed at Vienna on June 18, 1979, are of the same force and effect as the provisions of the treaty itself and the protocol.

A motion has been made that the committee adopt this proposed reservation under category III. I would like to call for a vote.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Percy?

Senator PERCY. I would like to comment to Senator Lugar very briefly. I think it is more than cosmetic. I think it establishes the precedent and procedure for understandings, statements, and so forth that will be considered an integral part of the treaty and which really go to the heart of it. I stated in Illinois last Saturday that we should incorporate the Soviet statement on the Backfire as an integral part of the treaty. I am not satisfied with just a statement by them and a response from the White House. We should also adopt two understandings: one with respect to terminating the protocol and the other stating that sharing with our allies information on the cruise missile is not to be interpreted as an infringement of article XII. They are so essential that I could not possibly vote for the treaty without them. As during the Panama Canal debate we did not accept the joint statement made at the White House; rather, we made the statement a part of the treaty itself.

I believe that satisfied some of us that it was binding upon both parties. So, I think this procedure is an essential and necessary procedure, and I do suggest that we go to a vote now. Thank you, Mr. Chairman.

Senator LUGAR. May I respond, Mr. Chairman?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. I appreciate what the Senator is saying, but the point that I am making is, it would seem to me at the outset of this debate, and we have many votes and many opportunities, that the Senators who are disposed to vote for the SALT Treaty are in a way attempting to make a record attempting to show that they are making constructive changes of sorts along the way. I am simply calling this for what I think it is. I think these are cosmetic changes. I think it is perfectly all right for Senators who want to indulge in this sort of thing, to do so and I shall not hold up the vote. The chairman is eager to rush on and have a vote and be done with it. But let's call it for what it is. It is a way of covering yourself for a pro-SALT vote.

I think we can all interpret it in that way.

Senator BIDEN. Mr. Chairman?

The CHAIRMAN. Let each Senator interpret it to his own heart's desire.

Senator BIDEN. Mr. Chairman?

The CHAIRMAN. Senator Biden?

Senator BIDEN. Mr. Chairman, I would like to suggest to Senator Lugar that I have five or six of those that I would be happy to lend to him. [General laughter.]

The CHAIRMAN. Very well. If there is no further discussion, the clerk will call the role. Let it be known at the outset, however, that all votes taken by the committee are tentative, that is to say, subject to reconsideration until the time the final vote on markup of the treaty and the protocol is taken. The clerk will call the role.

Mr. BADER. Mr. Pell?
Senator PELL. Aye.
Mr. BADER. Mr. McGovern?
Senator MCGOVERN. Aye.
Mr. BADER. Mr. Biden?
Senator BIDEN. Aye.
Mr. BADER. Mr. Glenn?
Senator GLENN. Aye.
Mr. BADER. Mr. Stone?
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes?
Senator SARBANES. Aye.
Mr. BADER. Mr. Muskie?
Senator MUSKIE. Aye.
Mr. BADER. Mr. Zorinsky?
[No response.]
Mr. BADER. Mr. Javits?
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy?
Senator PERCY. Aye.
Mr. BADER. Mr. Baker?
[No response.]
Mr. BADER. Mr. Helms?
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa?
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar?
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman?
The CHAIRMAN. Aye.

On this vote, the ayes are 13, the nays are nothing. The reservation is agreed to.

Senator Zorinsky was later polled in the affirmative.

FURTHER DISCUSSION OF MARKUP PROCEDURE

Senator GLENN. Mr. Chairman, might I ask a question?

The CHAIRMAN. Senator Glenn?

Senator GLENN. To set the ground rules, are our votes to be kept open and other members polled so that we can all be recorded, or as we go through will only the votes of members who are present be recorded?

The CHAIRMAN. If other members wish to be recorded, I think we had better decide upon a rule here. The normal practice has been to permit Senators who were not present to be polled as long as the

polling does not change the result of the vote. I think that has been a pretty satisfactory way to deal with this, because presumably those who are here and engaged in the debate are best able to judge the merits of the motion.

So if we extend the privilege to absent members I think it ought to be with the understanding that they may be recorded by the end of the day, that the staff will contact them and if they wish to be recorded they will be recorded, but not in the event that their vote would change the result.

Senator GLENN. For further clarification, Mr. Chairman, it would not change the result then, but at the end of the hearings before a final vote, we still could bring up that matter and revote it again, and it would change at that point. Is that correct?

The CHAIRMAN. The Senator is correct.

Senator GLENN. While we have a good attendance here today, I know before we finish all of the markup sessions we will be marking up sometimes with two or three members present probably, and there might be wishes to reconsider some of those votes later on.

The CHAIRMAN. Very well. With that understanding, we will so instruct the staff.

Senator SARBANES. Mr. Chairman, I would like to pursue that questioning for a moment.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. How many Senators will we require to do the markup as we proceed along?

The CHAIRMAN. For markup purposes, a working quorum is five members.

Senator PERCY. With a member from both parties present.

The CHAIRMAN. I just follow the practice of doing no business unless a Republican is present.

Senator SARBANES. I have seen that any member can bring an issue up again. Is that at the end? I guess we will work that out as we move along. A member can bring it up no matter which side he voted when the proposal was first considered. Is that correct?

The CHAIRMAN. That is correct, but I think since we have adopted a procedure, we ought to move along with that procedure, since any motions to reconsider actions of the committee should come at the end.

Are there any other proposals respecting the legal status of the agreed statements and common understandings?

[No response.]

STATUS OF BACKFIRE LETTER AND STATEMENTS

The CHAIRMAN. If not, the committee will proceed to the next document, which relates to the Backfire exchange. This document, members will recall, was submitted to the committee unsigned. Unlike the agreed statements and common understandings, it does not qualify as a formally signed agreement between the two countries, but the committee received testimony to the effect that the Soviet Union did regard the unsigned statement as obligatory upon it, and that furthermore, the unsigned statement had been supplemented by an oral statement given by President Brezhnev to President Carter on June 17, 1979, to the effect that the Soviet Backfire production rate was 30 per year.

Taken in combination with the written statement, this represented a Soviet commitment not to exceed the current rate which was 30 per year. So, what we have here are a combination of two things, an unsigned written document and an oral statement by the Chief of State of the Soviet Union.

Senator Javits and I have proposed a reservation which would deal with these two commitments and clear up the status, the legal status of both of them. The reservation would read:

> That the commitments contained in the Soviet written statement which President Brezhnev handed to President Carter on June 16, 1979, concerning the Soviet TU-22M Backfire bomber and the statement of President Brezhnev of June 17, 1979, that the Soviet Backfire production rate would not exceed 30 per year are essential to the obligations assumed under the treaty, and that these commitments are legally binding on the Soviet Union, and their violation would give the United States the right to withdraw from the treaty.

I myself would think that the final phrase is surplusage and that the proposed reservation might stop after "that these commitments are legally binding on the Soviet Union."

It would thus give them the same status as we have now, given the agreed statements and common understandings, the same status as the text of the treaty and the protocol, and make them expressly legally binding upon the Soviet Union. Would you disagree with that Senator Javits?

Senator JAVITS. No; I would not, Mr. Chairman.

The CHAIRMAN. So, I would modify the proposal by striking the final phrase which reads, "and their violation would give the United States the right to withdraw from the treaty." That is surplus. Of course it would, if it were legally binding upon the Soviet Union and had the status of other commitments contained in the treaty itself.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

BACKFIRE PRODUCTION RATE

Senator GLENN. I will vote for this, Mr. Chairman. I think it is good that we are putting this in. I would like to know what data base we have to start with? This 30 a month means very little if there is no base on which to start to add that 30 a month onto. Have they given us information on the number of Backfire bombers that they have in the Soviet Union now? If not, do we have reliable intelligence estimates of our own?

The CHAIRMAN. Before the executive branch representative speaks to this, may we hear from Mr. Sauerwein of our own staff?

Mr. SAUERWEIN [committee staff]. I want to make it clear for the record that it is 30 per year.

Senator GLENN. Of course it is, Harry. I didn't mean to say 30 per month.

Mr. SAUERWEIN. The number of the Backfire production rate is not a part of the memorandum of understanding on data base, so that number is not a part of the official document that was agreed to.

Senator GLENN. I understand that, but we will have to have some basis on which to start, or we will never know whether they are exceeding the 30 a year to which they have agreed.

Ambassador EARLE. Senator Glenn, with respect to the first question you asked, the Soviets have not given us information with respect to numbers of Backfire already produced on the grounds that they have maintained throughout, that it is not a strategic weapon and not part of the data base. With respect to our knowledge, I would ask Mr. Slocombe to address that to the extent that he can in this open session.

Mr. SLOCOMBE. Senator Glenn, we have quite precise information about the number of Backfires that have been produced and the rate at which they are being produced, and that is consistent with the representation made by President Brezhnev that the rate would not exceed 30 per year during the treaty.

Senator GLENN. Thank you.

Senator JAVITS. What does that mean as to how much they have on hand?

Mr. SLOCOMBE. Excuse me, sir?

Senator JAVITS. What does that mean as to how much they have on hand?

Senator GLENN. How many are in the inventory now?

Mr. SLOCOMBE. I am not sure that I can give you an unclassified number. We can give you the precise number on a classified basis.

The CHAIRMAN. Would the number differ between the classified and the unclassified number? [General laughter.]

Mr. SLOCOMBE. The usual pattern is that the unclassified numbers are more rounded off than the classified numbers.

The CHAIRMAN. Well, for purposes of the general information of the committee, would you give us an unclassified number so that we know what the approximate number of these bombers might be?

Senator SARBANES. Is this a number that is now publicly available? I am not seeking a number out of you if it is not publicly available. I do not want to make publicly available at this meeting a number that heretofore has not been public.

Senator GLENN. I agree completely with that.

The CHAIRMAN. What was requested was the unclassified figure.

Senator GLENN. Has there been an unclassified figure made public before?

Mr. SLOCOMBE. I believe there has been, Senator, and that is what I am checking.

Senator GLENN. Let's make certain of that before you give us any figure.

The CHAIRMAN. We have an unclassified figure here which has been presented to us in documents. I will read it and then you can comment on it. It reads as follows:

> The Soviets have produced about 150 Backfires, according to U.S. estimates, by June 1979. In January 1977, the United States estimated that the then current production rate was about two per month. In January 1979, the United States stated that the current production rate averages two and a half aircraft per month. At such a rate of 30 Backfires per year, the Soviets could produce a total force level of about 350 aircraft by the end of 1985.

Would you gentlemen agree that those are reasonably accurate figures?

Mr. SLOCOMBE. Yes.

The CHAIRMAN. The most recent estimate we have is that the Soviet Union has about 200 Backfires now.

Senator BIDEN. Mr. Chairman?

The CHAIRMAN. That information has been made public. Yes, Senator Biden?

Senator BIDEN. The essential point is that we know how many Backfire bombers they have. In testimony before the Intelligence Committee in closed session, we have been given that precise number. I wish the administration would correct me if I am wrong, but they have a high degree of certainty as to the number that are presently in the inventory.

Mr. SLOCOMBE. That is correct, Senator Biden.

Senator BIDEN. So we have that data base, and for purposes of this resolution, that is all we have to know. We have to be assured that we have that.

I would like to ask one question, Mr. Chairman.

The CHAIRMAN. Yes?

BACKFIRE MODIFICATIONS

Senator BIDEN. The language that you and Senator Javits have put forward is very similar to that you put forward some months ago and similar to that which others of us have drafted. I think I know the answer, but for the record I will ask the question anyway. This covers not only the production rate, but also the question of modification of the Backfire bomber, does it not?

Senator JAVITS. Will the Senator yield on that?

Senator BIDEN. Yes.

Senator JAVITS. We have incorporated by reference Brezhnev's statement handed to the President, which says, "and that it does not intend to give this airplane the capacity of operating at intercontinental distances."

"In this connection, the Soviet side states that they will not increase the radius of action of this airplane in such a way as to enable it to strike targets in the territory of the U.S.A., nor does it intend to give it such capability in any other manner, including by in-flight refueling." Then it goes on.

Senator BIDEN. Thank you, Senator Javits.

That is the reason I asked the question. I wanted it to be clear for the record that the written statement did speak to the modification question, and that is different from the amendment which I had offered which specifically states modification. It is incorporated even though the word "modification" is not used, because the letter is used. Thank you.

The CHAIRMAN. The Senator is correct. Are there further comments?

Senator SARBANES. Mr. Chairman?

The CHAIRMAN. Senator Sarbanes?

Senator SARBANES. Mr. Chairman, I have a language question, and that is whether the term "commitments" embraces the parties' stated intention or the parties' statement as to what the fact is. The Soviets in their written statement do not at any point make a commitment.

They state an intention in a couple of instances, and they also make a statement as to what they will not do. I simply raise the question whether it is use of the phrase "the commitments contained in the written statement" actually embraces these intentions and statements of proposed action, or whether we need a different sort of language.

Senator JAVITS. Well, you could say, if you wish, that the statements contained in the Soviet written statement and the oral statement by Brezhnev are accepted by the United States as commitments essential to the obligations assumed under the treaty, and that these commitments are legally binding on the Soviet Union.

NATURE OF BREZHNEV BACKFIRE COMMITMENT

The CHAIRMAN. You might start with the declarations that are contained in the statement and say that we regard these commitments to be binding.

Senator HELMS. Mr. Chairman?

The CHAIRMAN. Senator Helms?

Senator HELMS. This bothers me, Mr. Chairman. We are dancing around the basic issue. I want somebody to explain to me why Mr. Brezhnev at least did not initial this statement, and why we did not require him to certify that this is what he had in mind. This [indicating] is the reproduction that I have, which is just a typerwritten statement, and it is not even a commitment. Nobody said he signed this thing. Now, Cyrus Vance signed it, but Brezhnev didn't. Why didn't somebody require him to sign it?

Ambassador EARLE. Unfortunately, Senator Helms, it is not in our power to require President Brezhnev to do anything.

Senator HELMS. I beg your pardon, sir. We were negotiating, or supposed to be. General Rowny had some doubt about it, but go ahead.

Ambassador EARLE. The scenario for the Backfire statement had been worked out far in advance, but I think it should be noted that throughout the negotiations we handed each other on a biweekly basis or a weekly basis so-called plenary statements which constituted the formal declarations of the governments. I think the fact that he did not sign it does not affect its validity.

Senator HELMS. Do you take any blank check that way, Mr. Ambassador?

Senator SARBANES. Well, the process we are going through now, even if that is a deficiency, would correct it because it would include this proposition as a category III proposal, and therefore would require the affirmative acceptance by the Soviet Union at the time of the resolution of ratification.

Senator HELMS. I don't believe it. I think we are getting snookered.

Senator SARBANES. You know, Jess, that you can take the position you don't believe anything, but I don't know how you can try to get it any clearer than to add it to the resolution of ratification as something that the Soviets will have to affirmatively agree to.

This is our way of insuring that this provision about which you have raised, a good point, and which I would point out to you I raised at the time of the initial testimony, when the testimony came before us.

The way for us to be certain with respect to this matter is to deal with it exactly the way we are dealing with it now. If the Russians then accept it, then it has been locked into the treaty in this category III way. If they don't, then we know that they don't. That is the purpose of this exercise.

Senator HELMS. The Senator himself raised the question about this being no commitment, so now we are tinkering around with the word "declaration" or "statement." Now, is it a commitment, Senator, or is it not?

Senator SARBANES. No, no, Senator Javits had language that made it a commitment. He took their expressions and made them commitments and then he is going to move those into the posture where the Soviets have to affirmatively accept them.

The CHAIRMAN. In other words, Senator Helms, what we are doing is exactly what you want. We are in effect forcing the Soviet Union to sign the declaration. They would do so at the time that they accepted the reservation, and if they refuse to accept the reservation, then there will be no treaty.

We are supplying the missing signatures, Senator.

Senator HELMS. I understand that, Mr. Chairman, but why are we at the point now where we are debating about whether they should have signed this thing at the time it was presented. You know, the President is always saying, let's be calm about this thing. We ought to have said, calmly, Mr. Brezhnev, would you mind putting your John Hancock on this thing? I don't understand why we are here at this point debating about how to go about getting the Soviet Union to sign something that ought to have been signed in the first place. Can you explain that?

Senator PERCY. May I take a crack at that?

Senator HELMS. I would rather hear the State Department. You didn't negotiate the treaty, Chuck.

Mr. CUTLER. Mr. Chairman, may I respond?

The CHAIRMAN. Yes.

Mr. CUTLER. We have no doubt, Senator Helms, that the Soviet Union intended this statement to be a binding obligation of the Government of the Soviet Union and therefore we have no objection. While we think it is unnecessary, we have no objection to the proposal that this be added as a condition, a category III condition, at least as far as the term "binding obligation" or "legally binding" on the Soviet Union is concerned. I think, though, in fairness, whether or not Mr. Brezhnev had put "L. B." on his full name on that statement, he would still be making the same point here, that we should get a recitation that it is a binding obligation on the Soviet Union.

Senator HELMS. I see Secretary Vance's signature on there. What was the date this was handed to President Carter?

Mr. CUTLER. June 16, as it says in Mr. Vance's statement.

Senator HELMS. That was 2 days before the treaty was signed. Is that correct?

Mr. CUTLER. That is correct.

Senator HELMS. And nobody thought that it might be a pretty good idea to get him to sign it?

Ambassador EARLE. The President of the United States was not going to sign the treaty until he had that paper in his hand.

Senator HELMS. Was he over there by himself?

Ambassador EARLE. No, sir.

Senator HELMS. He had some State Department people with him, didn't he?

Ambassador EARLE. And Defense Department people. Yes, sir.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Whatever the omissions of the executive branch might have been, Senator Helms, we propose to correct them with this action.

Senator HELMS. That is an action devoutly to be wished.

Senator PERCY. That is the point I wanted to make to Senator Helms. I think what we are doing is covering a point that should have been done. I wondered why that statement wasn't signed. I wonder why sometimes we get a blank piece of paper from someone in the executive branch, why the author does not want to put it on the letterhead of the Department and sign it. They just don't want to be held accountable for it, I assume.

I think in this case it probably should have been signed. I think Jack McCloy made it very clear to us in his testimony that we have a duty and an obligation, now that we have had another crack at this, to go back and tidy this up. We have a statement from the State Department that sometimes ambiguity is a good thing, but in this case, I don't think ambiguity is a good thing. It is our job to button it up.

I think what Senator Helms is saying is exactly what our function and purpose is, and I am glad you brought out that point.

Senator HELMS. I thank the Senator.

Senator BIDEN. Mr. Chairman?

The CHAIRMAN. Senator Biden.

Senator BIDEN. I would like to ask the staff a question. The chairman indicated that, assuming this reservation is passed, in effect it will be "as if." What is the effect as a matter of law?

Mr. SHEA. Senator, at the beginning of Senator Church's opening statement, he proposed three categories.

Senator BIDEN. I am aware of the categories.

Mr. SHEA. Legally, ones that have been acted upon by the Senate and the documents were then transmitted back to the President. That would be a condition that would be legally binding.

Senator BIDEN. That is right. So, once the Soviets sign the protocol of ratification, as a matter of law, this reservation is incorporated and is binding, as binding as any other provision of the treaty. Is that right or wrong?

Mr. SHEA. That is correct.

Senator PELL. Mr. Chairman, it should be noted that Cyrus Vance's signature is not for this document. Senator Helms, his signature is to a memorandum of understanding, so he would not sign the document.

Senator HELMS. Oh, I know that, Senator. Cyrus Vance didn't have to certify anything about Backfire production. It is Mr. Brezhnev's certification that I wanted.

Senator BIDEN. Mr. Tipson of our staff, I believe, wanted to add to the answer. Did you, Mr. Tipson?

Mr. TIPSON. I want to add that it depends on what the protocol of the exchange says as to whether the Soviets agree to it. By phrasing the

resolution the way we have, what we are saying to the executive branch is, we want you to assure that whatever way you follow is sufficient to satisfy the Senate's requirement that they explicitly agree to it. Now, we have been told that we will have more explicit assurance of the executive branch for which form they intend to follow to satisfy that requirement but we don't spell it out here as long as they are fully aware that that is the case.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

U.S. NEGOTIATING UNILATERAL STATEMENTS

Senator GLENN. Mr. Chairman, I am not yet sure that I am clear on the answer to Senator Biden's question of a little while ago that I believe Senator Javits referred to. We asked the State Department to prepare for us a listing of all of the places where, during the negotiations, we have made unilateral statements that the Soviets had not accepted and whether we were bound by that or not. They have sent back a listing of these, and I will quote from the letter. The administration has indicated that, and this is with regard to the Backfire upgrading,

At the Vienna Summit, President Carter made clear that any significant upgrade in range/payload capability would be inconsistent with the Soviet Backfire assurances. The Soviets responded that they would not be bound by U.S. unilateral interpretations of their statement.

Now, I am not certain that that squares with what Senator Javits said and whether incorporation of the reservation that has been suggested here would automatically carry this other limitation with it. I have prepared a reservation of my own which I was going to submit at the appropriate time that would cover this particular item. I don't know whether the statements of Senator Javits and this statement which I just read from the State Department are in agreement with each other.

The CHAIRMAN. Senator Javits has taken our original proposal and has modified it slightly, and I think we should hear the modified version.

May we hear that, Senator Javits?

Senator JAVITS. The reservation would now read as follows:

That the written statement which President Brezhnev handed to President Carter on June 16, 1979, concerning the Soviet TU-22M Backfire bomber, and the statement by President Brezhnev of June 17, 1979, that the Soviet Backfire production rate would not exceed 30 per year, are deemed by the United States to be commitments the carrying out of which commitments are essential to the obligations assumed under the treaty and to be commitments binding on the Soviet Union.

Senator GLENN. Would you read the first part of that again, please?

Senator JAVITS.

That the written statement which President Brezhnev handed to President Carter on June 16, 1979, concerning the Soviet TU-22M Backfire bomber, and the statement by President Brezhnev of June 17, 1979, that the Soviet Backfire production rate would not exceed 30 per year are deemed by the United States to be commitments the carrying out of which commitments are essential to the obligations assumed under the treaty, and to be commitments binding on the Soviet Union.

BACKFIRE RANGE AND PAYLOAD UPGRADE

Senator GLENN. I don't believe this covers the issue that I raised the first time, because they could upgrade and extend the Backfire range payload capability. I will present this later on as a separate issue, but I thought in response to Senator Biden's question you had indicated that you felt it did address the range and payload matters.

Let me read this again. The administration indicated this:

> At the Vienna summit, President Carter made clear that any significant upgrade in range payload capability would be inconsistent with the Soviet Backfire assurances. The Soviets responded that they would not be bound by U.S. unilateral interpretations of their statement.

I think we have to pin that down a little bit better than that. I don't believe that statement includes anything that would pin down the range payload characteristics.

Senator JAVITS. It comes from the Brezhnev statement. That is what we are incorporating into the record. We are incorporating Brezhnev's statement.

Senator GLENN. All right; that is fine. I will submit this, then, at a later time with an appropriate reservation or understanding or whatever we decide to do on it so that we can clarify that these range payload characteristics are included within the understanding of the treaty.

Senator JAVITS. Well, John, listen to this and see if you need to do that. "The Soviet side informs the U.S. side that the Soviet TU–22M airplane called the Backfire in the U.S.A. is a medium-range bomber." That is one thing, that it is a medium-range bomber. "And that it does not intend to give this airplane the capability of operating at intercontinental distances." That is two. "In this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the U.S.A." That is three. "Nor does it intend to give it such a capability in any other manner, including by in-flight refueling." That is four.

So, there are four specifications that we are now making commitments. That is in the statement.

Senator GLENN. If the Senator will yield, then, these statements do not agree, because the statement I have from the State Department says the Soviets responded on those very points of range payload that they would not be bound by U.S. unilateral interpretations of their statement.

The CHAIRMAN. May we hear from Ambassador Earle on this, or Mr. Cutler?

Ambassador EARLE. I am not sure, Mr. Chairman, exactly what the question is. Brezhnev handed over these statements. President Carter made his statement about significant upgrading, and the Soviets said they would not be bound by our unilateral statements.

Senator BIDEN. Mr. Chairman, may I ask the question another way, in non-State Department language?

The CHAIRMAN. Please ask it so that Ambassador Earle can understand it.

Senator BIDEN. I am not sure I can do that, but let me do it this way.

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The written statement to which we are referring, the June 16 letter, says that it is a medium-range bomber, that the Soviets do not intend to upgrade it, that they do not intend to increase its radius by equipping it with a refueling capability.

Senator HELMS. What about deployment?

Senator BIDEN. I would assume deployment. Obviously, what we are after here, Mr. Ambassador, is a commitment from the Soviets that they will not substantively modify that aircraft to do what we don't want it to do. We are assuming that that written statement referred to would cover us. But if it doesn't cover us, should we enunciate what we view that statement to mean in order to assure that we are covered?

Senator SARBANES. Mr. Chairman?

Senator BIDEN. Perhaps he can answer my question first?

Senator SARBANES. Except that I want to make a distinction here.

The Chairman. Senator Sarbanes?

STATUS OF BACKFIRE EXCHANGE VERSUS SUBSTANTIVE PROPOSALS

Senator SARBANES. My understanding in terms of where we were on the agenda is that we were going to seek to address the legal status of these documents, and in this instance take this document and what is contained in it and bring it into the status of the treaty. If what they put in their statement falls short of what someone thinks we should have gotten out of them, as Senator Glenn has just suggested, then I think that should come later as a proposal, in effect, as an add-on, and that way we can keep the two things separate.

Senator BIDEN. Mr. Chairman, is it possible to do that, though? Because if we are going to agree or not agree to incorporating a written statement the meaning of which we don't know, it has no relevance to incorporate it now.

We have to know what it means before we can determine whether or not we should incorporate it.

Senator SARBANES. If the point is whether the statement encompasses something, I think that is a reasonable point.

Senator BIDEN. That is what I want to know.

Senator SARBANES. I am sorry. I thought your point went beyond that to something that is not encompassed but you think should be included. As I understood it, I thought you said the President then went on to make a unilateral assertion which the Soviets refused to accept. Is that correct?

Ambassador EARLE. That is correct.

Senator SARBANES. Do you understand the President's unilateral assertion as going beyond what is contained in the Soviet Backfire statement or as being encompassed within it?

Ambassador EARLE. It was a clarification of our understanding of the Soviet statement. It did not go beyond it.

Senator SARBANES. I see. Then I think Senator Glenn and Senator Biden are right.

Senator GLENN. The point I am making is whether a statement had been made which indicated that these concerns of mine were included in what we were about to adopt here. I question that because

of the reply I got from the State Department. I am willing to bring this up later. I don't want to belabor the point and try and include it here. We may want to bring it up later, but I did want to clarify whether this was included as part of what we were about to vote on.

The CHAIRMAN. I think in light of the question you have raised, we might consider redrafting this particular reservation and in the process take into account your own concerns, if that is possible. Why don't we defer action right now on this until we have an opportunity to redraft the reservation, taking into account the discussion that has taken place and your own language as well?

Senator GLENN. I have an understanding which I have drafted which I will submit, Mr. Chairman.

The CHAIRMAN. If you would pass out a copy of that, we will take a look at it, and we will undertake to redraft this particular reservation.

Senator JAVITS. I think the important thing is to see whether his terms differ only in words or in fact from the provisions contained in the Brezhnev memorandum, and then the State Department could inform us that that is what the parties meant. Then we can judge whether we want to write it in as something we insist they agree to, or whether we are simply expressing what was meant anyhow. We will know what we are doing. Right now, in view of this question, we should wait and see.

Senator HELMS. Mr. Chairman?

MEDIUM-RANGE BOMBER NOT DEFINED

Senator GLENN. Mr. Chairman, I think it is great that we redraft this thing, but there is one rather key point. What they are agreeing to with this whole thing is that it be a medium-range bomber and not an intercontinental bomber. Is there anywhere where we define what a medium-range bomber is?

Ambassador EARLE. No, sir, it is not defined.

Senator GLENN. That is what I thought.

Senator HELMS. Mr. Chairman?

The CHAIRMAN. Senator Helms.

BACKFIRE INTERCONTINENTAL CAPABILITY

Senator HELMS. I am glad you are putting this down for further consideration, Mr. Chairman. The State Department's own glossary identifies the Backfire as having intercontinental capability. That is on page 60 of the glossary. On page 247 of the committee hearings, Secretary Vance said the aircraft does have an inherent capability to perform some intercontinental missions, so what is Mr. Brezhnev talking about when he says that the Soviet Union does not intend to give this airplane the capability of operating at intercontinental distances? The only thing it needs is deployment in an intercontinental mode. That is the reason I asked the question I did. Is deployment covered in this thing?

The CHAIRMAN. I think the testimony, Senator, will show that in order to give the plane inercontinental range, it would be necessary to configure it for refueling in the air, but that——

Senator HELMS. Not necessarily.

The CHAIRMAN [continuing]. But that the question of its initial range is one on which the intelligence community is not in agreement. There is a dispute within the community as to what the Backfire's initial range would be absent refueling.

Senator HELMS. In any case, Mr. Chairman, you are pulling this back for further restudy?

The CHAIRMAN. Yes; we are doing that.

Senator HELMS. That is an excellent idea.

Senator LUGAR. M'r. Chairman?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, during the pulling back and redrafting situation, it seems to me to be important to analyze what President Brezhnev has said. Other members of the committee have hit this from various angles, but essentially President Brezhnev was asserting that it is a medium range bomber which, as Senator Glenn has pointed out, is undefined, and that it is not intended to give the airplane the capability of operating in intercontinental distances.

As you pointed out, Mr. Chairman, intelligence community people are in dispute presently as to what sort of range the Backfire might have. Without going any further into that, I would just say that one of the problems I would raise with this entire statement is that President Brezhnev is making some assertions.

By incorporating, as we are planning to do, do we in any way endorse or validate that he was telling the truth? I think there are some real problems when you take a look at language such as "does not intend to give the airplane capability of operating at intercontinental distances." In fact, the aircraft may already have that capability.

It is not a question of whether the Russians are going to impart new powers or characteristics to the aircraft at that point.

What I am wondering as we fuss over this language backward and forward is whether we are dignifying their statement to begin with, which on its face is suspect, and is suspect on the basis of some of our own intelligence discussions in this country. If it is suspect, even though we believe that perhaps somehow or other something that was unsigned and given to the President is put into strengthened form for our purposes by putting it into the treaty. On the other hand, if it is not valid, there is at least the logical question as to whether it should perhaps be left out altogether. I think this is a question that really needs to be raised at this point.

So, maybe while we are redrafting we ought to rethink what it is we want to do with this.

Senator BIDEN. Mr. Chairman?

The CHAIRMAN. Senator Biden?

Senator BIDEN. Mr. Chairman, there are those of us who are going to disagree on the present capabilities of the present Backfire bomber. Even those of us, like Senator Lugar and I, who both serve on the Intelligence Committee, have differing points of view on how much of a threat in an intercontinental sense it poses.

This I don't think we are going to resolve in the context of any understandings or reservations. If, as Senator Goldwater believes, it

has intercontinental capability now, there is nothing we can do to alter that, but the two most important things we must do are to assure that the Backfire bomber does not take on any additional capability beyond what we now know it to have and secondly, that they not produce more than 30 per year.

The CHAIRMAN. I think we should keep those observations in mind as we prepare new language. Thank you, Senator Biden.

Senator HAYAKAWA. Mr. Chairman?

The CHAIRMAN. Yes, Senator Hayakawa?

LEGAL STATUS OF COMMITMENT OF INTENT

Senator HAYAKAWA. On page 45 of the markup comparative print, at the Vienna summit, Brezhnev handed President Carter a written statement in which the Soviet Union informed the United States that it did not intend to give the Backfire bomber the capability of operating at intercontinental distances and would not increase the production rate, et cetera, nor increase the radius of action.

This is a statement of intent which is not a contract of any kind. It is not an agreement. It is a statement of intent. Is the purpose of the understanding offered by Senator McGovern to change that intent into a firm agreement? Is that the idea?

The CHAIRMAN. The purpose of the reservation offered by Senator Javits and myself, the purpose of the reservation was really to clarify the legal status of the oral statement and the written statement given by Brezhnev to President Carter, and to treat those statements as being legally binding upon the Soviet Union.

The Senator makes a good point: Can a statement of intent be made legally binding? It may be that the reservation should be redrafted so that the actual substance of the written and oral statements are taken into account and on that basis made legally binding.

Senator SARBANES. Mr. Chairman, that is the point I was making earlier to Senator Javits.

The CHAIRMAN. That is right, and this is what we will look to when we redraft this.

Senator SARBANES. It is an important point.

Senator JAVITS. If the Senator would yield, I would like personally the advice of Ambassador Earle and the technical staff as to whether if we had a commitment that the Soviet Backfire bomber, one, does not have the capability of operating at intercontinental distances; two, that the radius of action of the Backfire will not be increased so as to enable it to strike targets on the territory of the United States; three, that it is a medium-range bomber; and four, that it will not have added to it in-flight refueling—these are flat statements of facts, and those are the commitments which we write into our reservation.

My question is this: Are those precise enough so that we can enforce them?

Mr. CUTLER. Mr. Chairman, Senator Javits, I think it is a good idea to go back and consider redrafting this particular reservation or understanding. I would also like to suggest that we could answer it better and, I believe, achieve the objectives which a majority of the committee seem to have if that further discussion could be in executive session.

CONFIDENTIALITY OF U.S. NEGOTIATING STRATEGY

In addition to the members of the press and the public who are here, I believe there is also a representative of the Soviet Union here, and when we venture predictions to you as to whether a particular proposal might or might not be negotiable, it seems to me much wiser to do that in executive session, if it can be done.

The CHAIRMAN. Very well. Let us move on.

We will ask the staff to collaborate with members of the executive branch conversant with this subject, and that a reservation may be redrafted for consideration of the committee tomorrow, and if necessary, that consideration will take place in executive session.

Senator McGovern is now recognized for the purpose of offering an understanding.

Senator MCGOVERN. Mr. Chairman, thank you for letting me bring this up today.

UNDERSTANDING ON JOINT STATEMENT OF PRINCIPLES

I think all members of the committee have been given a copy of this understanding. It would incorporate by reference the agreements contained in the "Joint Statement of Principles" into the resolution of ratification, and this particular understanding would be in category II. The Soviets would be informed about it, but they wouldn't have to act on it. It makes clear that the Senate is acting in reliance on the joint statement providing the basis for SALT III.

Mr. Chairman, I think it is accurate to say that a consensus has emerged from the committee's hearings and deliberations that SALT II has not gone far enough to reduce and limit nuclear weapons. I found that sentiment expressed both by critics and by supporters of the treaty. If the SALT II Treaty were the end of the road, I could not in good conscience support it.

I think it does little more than codify the existing arms race while creating the impression that the threat of nuclear war is being contained. But when one looks at the costs of this whole ratification process in terms of new weapons systems and a bigger military budget, and I think at times a distorted foreign policy debate, those things outweigh the modest contributions made by the treaty.

SALT III AND MEANINGFUL ARMS REDUCTIONS

My decision, and I want to emphasize this, whether to support or oppose SALT II depends largely on the prospect of meaningful arms reduction and limitation in SALT III. SALT II in effect is a kind of detour from the path of significant arms limitation and reduction. But if it leads us in SALT III back to the road of genuine reductions, I am willing to make that detour.

So, the question I am going to be addressing several times during the markup is, how can the Senate assure itself that genuine arms reductions will follow this treaty? I think one of the most basic steps we can take is to give a higher status to the "Joint Statement of Principles."

I am not proposing here today to change that statement of principles. Unfortunately, that statement, which I think is quite good,

did not receive much attention during the hearings. But it does contain worthy objectives, and the most important objective to which the parties have agreed in the joint statement to pursue are, first of all, significant and substantial reductions in the number of strategic offensive arms. That is an important gain, if that can ever be achieved. Second, it provides for qualitative limitations on strategic offensive arms, including restrictions on new types and on the modernization of old types.

Neither of those objectives have been satisfactorily achieved in SALT II. I think we would all agree on that.

So, what I am suggesting is that the Senate should make clear that it does expect them to be achieved in SALT III or else the SALT process itself should be called into question.

The understanding that I am proposing for consideration of my colleagues on the committee raises the status of the joint statement from a nonbinding agreement between the two heads of government to an understanding or condition of Senate advice and consent. This understanding does not make the joint statement legally binding, because under the Constitution the President enjoys plenary powers of negotiation. But it does make clear that Senate action on SALT II takes place in reliance on the existence of this agreement regarding the objectives of SALT III.

The CHAIRMAN. May I pose a question there, Senator? The understanding, as I understood you to say, would fall in category II, so it would be an understanding between the Senate in effect and the Presidency that our negotiating objectives in SALT III would be in accordance with the agreed statement.

Senator MCGOVERN. Yes.

It is actually designed to raise the importance of the joint statement of principles by making it a part of the resolution of ratification as an understanding of the Senate that this is the direction in which our negotiators are going to proceed in the SALT III discussions.

Senator STONE. Would you yield?

Senator MCGOVERN. I yield to Senator Stone.

Senator STONE. Senator McGovern, are you saying that your analysis of SALT II is that unless it leads to a successful reduction of weapons on a fair basis in SALT III, the costs would outweigh the gains of SALT II as it is presently structured?

Senator MCGOVERN. Yes, that is my opinion.

Senator STONE. So the linkage you make is to a successful arms limitation in SALT III?

Senator MCGOVERN. That is correct.

Senator STONE. And if it weren't for that, your current estimate, having heard the hearings and examined all of the costs and the comparison of the systems of the Soviets and ours under this is that there would not be even a modest gain, that the costs would outweigh the gains, unless you could get a good SALT III?

Senator MCGOVERN. That is my opinion. I think we lost the fight on the Senate floor on the modification in the Senate Budget Committee recommendations where the Senate came out in favor of a 5-percent increase in military outlays for 1981 and 1982. I think we lost that fight on a larger military budget primarily because of the anxiety raised by the hearings on SALT II. I am not willing to pay that big a price,

unless we can see in SALT III that we are deadly in earnest about finally bringing about significant and substantial reductions on both sides.

Senator STONE. Well, Senator, aren't you saying more than that? Aren't you saying that not only do you want us to be deadly earnest about SALT III, but some prospect for the Soviets also would reduce, otherwise we wouldn't have reductions?

Senator MCGOVERN. That is correct. I am not advocating a unilateral course for the United States. I am saying that the Senate ought to go on record at the time we deal with the resolution of the ratification in saying that we want our negotiators to press for those mutual reductions which are significant and substantial on both sides.

Now, we have not talked very much about the joint statement of principles. The Senators know in these hearings that there is a lot of talk about other issues, about verification, about equivalency, about various other aspects, but there has been very little discussion of how our ratification of SALT II is going to lead in SALT III to the kind of reductions that I think the American people and people all over the world want to come out of this SALT process.

The CHAIRMAN. Senator, I welcome your proposal and I strongly endorse it.

I think what we have here is a joint statement of principles by the Soviet Union and the United States presumably to guide our negotiators in SALT III, and you would make those stated principles the subject of an understanding between the Senate and the executive branch of our Government, that these indeed will be the guidelines for our negotiation of SALT III.

Senator MCGOVERN. That is correct, Mr. Chairman. It is not only an understanding between ourselves and the executive branch, but by informing the Soviet Union about this action, underscores to them the importance that the Senate attaches to bringing about significant and substantial reductions in SALT III. The executive branch is already on record in the joint statement of principles. This puts the Senate clearly on record. It raises it to a level of an understanding in the resolution of ratification.

The CHAIRMAN. And one thing in category II that would be formally transmitted to the Soviet Union.

Senator MCGOVERN. That is correct.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

SALT III TIME LIMITS

Senator GLENN. I had one question as to whether Senator McGovern had considered putting a little more teeth in this and providing, instead of just subsequent negotiations, setting a time limit, start something 6 months after ratification, or some other time period. This could go on into the indefinite future, and to make it this vague, it seems to me, sort of cuts the props out from under it just a little bit.

Senator MCGOVERN. Let me respond to that, Senator. I am going to have a more specific wording on a proposal to be attached to the resolution of ratification that will come up when we get the conditions

relating to SALT III. I think at that point we can talk about the exact nature of what kind of declaration we would want to make. It would seem to me that is the proper point to raise that issue at. That is on the agenda under item 4.

Senator GLENN. I have one further question. Since we are considering the legality of the treaty, I might ask some of the witnesses if they would comment on this. If we make this understanding part of the resolution of ratification, what would happen if the Soviets do not agree? Has the Soviet Union agreed to these subsequent negotiations, or would this be something new tossed into the pot?

Mr. CUTLER. The Soviet Union, of course, has signed the joint statement of principles and basic guidelines for subsequent negotiations.

Senator GLENN. This would not go beyond what they have agreed to?

Mr. CUTLER. That is correct.

Senator GLENN. Once again, it would reiterate our interest in seeing that this is carried forward. Is that correct?

Mr. CUTLER. That is correct, Senator Glenn. As I understand Senator McGovern and the committee's categories, the resolution of ratification would contain this particular understanding as one of which the Soviet Union is to be notified but to which its further express consent will not be required since they have already consented.

Senator GLENN. In your opinion, then, this would not open up a new avenue for negotiation or anything like that?

Mr. CUTLER. No, sir, subject to, again, refining the language slightly to describe the joint statement document more accurately. This is a tentative vote.

The CHAIRMAN. Do you have a technical amendment to offer?

Mr. CUTLER. Yes, sir, it is the same one as we offered to the first resolution adopted by the committee.

The CHAIRMAN. Then Senator Javits has a point to make.

Senator JAVITS. First, let me yield to Senator Percy for a question.

The CHAIRMAN. Senator Percy?

PROTOCOL AND SALT II

Senator PERCY. I have a question of Senator McGovern which concerns the protocol. I will preface it by saying that I concur completely that the present treaty is not a great step forward for mankind. It is a very modest step. I concur with those who have testified on behalf of NATO that there is probably no basis for getting to SALT III unless we go through the SALT II process. So, we need to take this step in order to make what we hope will be a much more significant step, and everyone has expressed the intention and desire to see us take that significant step. However, I would like to point out that in the McGovern understanding—is it an understanding, Senator McGovern?

Senator MCGOVERN. Yes; it is.

Senator PERCY. In the joint statement of principles, the parties state that they will pursue in future negotiations a resolution of the issues included in the protocol. As you know, range limitations on deployed ground-launched and sea-launched cruise missiles are contained in the protocol. This is the essence of some of the concerns of our NATO allies. They wanted to be certain that the protocol

would end as of December 31, 1981, that those prohibitions would be removed and that we could then deploy, and that it is our intention to deploy cruise missiles with ranges exceeding 600 kilometers.

I have submitted an understanding on protocol extension which states that nothing in the treaty commits the United States to enter into an agreement maintaining any restrictions on the protocol. I am only concerned that there is no implication that the protocol limits are the starting point for SALT III. I could support the McGovern understanding, reserving the right to urge adoption of the previous understanding that I have suggested or that is incorporated and embodied in the joint leaderships' understanding.

If we can vote on this subject to approval of that understanding later, then I am certainly prepared to do so.

Senator JAVITS. If the Senator would yield, that is precisely what I had in mind to suggest to Senator McGovern. I would suggest at a later date if we adopt the understanding which has just been described, there would have to be a proviso that nothing herein contained should be deemed to compromise that.

Senator MCGOVERN. Senator Javits, let me say to you and Senator Percy that I agree with you completely on that point. I am going to support the proposal that you make later on. In the joint statement, the third agreement, paragraph 3 states only that the issues in the protocol will be resolved in the context of the principles and objectives of the joint statement, but no substantive commitments are made in that paragraph regarding protocol extension. The paragraph addresses the resolution of the issues in the protocol, but not the fate of the protocol itself as a separate document.

So, incorporation of the joint statement is not intended by me and cannot reasonably be interpreted to require or suggest extension of the protocol. I am opposed to formal extension of the protocol without prior Senate approval.

Senator HAYAKAWA. Mr. Chairman?

The CHAIRMAN. Senator Hayakawa?

Senator HAYAKAWA. May I ask Senator McGovern a question?

The CHAIRMAN. Surely.

Senator HAYAKAWA. I would like to know in what respects this resolution or this understanding goes beyond what the treaty itself says on pages 43 and 44.

Senator MCGOVERN. Senator Hayakawa, it does not go beyond the present joint statement of principles at all. It is in fact based on what the parties have already agreed to. It simply elevates to a somewhat higher level of attention and importance the Senate's concern that we proceed in the SALT III negotiations toward significant and substantial reductions on both sides. It is just a method of underscoring what the joint statement of principles already calls for. It doesn't change the language of that joint statement in anyway.

Senator SARBANES. Mr. Chairman?

The CHAIRMAN. Senator Sarbanes?

Senator SARBANES. It is further my understanding that the proposition that is before us now is simply directed to the status which the joint statement of principle should have. Changes in the content of the joint statement of principles such as the one Senator Percy is con-

cerned about or other changes about which members have questions would come up later in the markup when we get down to item 3, where we are considering proposals relating to SALT III and the joint statement of principles. Would that be correct?

Senator McGovern. Yes.

Senator Sarbanes. So we could elevate the status now. That does not bind anyone in terms of seeking to alter the content that is encompassed. That would come later on.

Senator McGovern. The Senator is correct. That is why I answered Senator Glenn's suggestion as I did, because any content changes would more properly come later on in our discussions.

The Chairman. Senator Javits?

Senator Javits. First, I notice that you left unfinished the end of your statement where you say "subsequent negotiations between the parties for the further limitation and reduction of strategic arms. "If you look at the joint statement of principles, that is a comma, not a period, it goes on and says, "as well as for their further qualitative limitation." I think that ought to be included.

Senator McGovern. Yes.

Senator Javits. The second thing is, I had in mind an idea which can easily be grafted onto your understanding. It is this. We should tell the President that we will not give our consent to a treaty which does not significantly limit and reduce the numbers of strategic arms and provide for further qualitative limitations.

Senator McGovern. There again, Senator Javits, wouldn't that more properly come later on in the agenda when we get to that item?

Senator Javits. No; I don't think so. I think this is it. In other words, we should tell him now. This is only instruction to our President, whoever he may be at the time, that we expect only a treaty which will actually do these things to be submitted to the Senate. That gives it some teeth, and that is what you want, because that is what we all feel. We will let him know now, the next treaty has to be different. We don't propose to deal with another treaty that allows escalation.

We want reduction.

Senator McGovern. That is precisely my position, Senator Javits, but I do think to get specific about what our declaration of policy is on SALT III is organized here in the agenda at a later time. What we are talking about now is the status of the document that is now called the joint statement of principles. What I am suggesting is that that joint statement be elevated to the status of a modification of the resolution of ratification. The content of our policy in negotiating SALT III seems to me to be something that would more properly come up under items 3 and 4 of our agenda.

Senator Javits. May I say the reason I cannot go with that is, you are adopting by reference a joint statement of principles and basic guidelines. and that they themselves say exactly what I am saying. They say: "The parties will continue to pursue negotiations in accordance with the principle of equality and equal security on measures for the further limitation and reduction and the members of strategic arms, as well as for their further qualitative limitation," and we are saying that only a treaty following these principles will be considered by the Senator in the future.

Senator McGOVERN. If you will yield, Senator Javits, if you were to offer that, obviously, I would support it as a modification.

Senator JAVITS. OK, I will.

Senator McGOVERN. I guess the Chair would have to rule on that, on whether this is the point at which we want to talk about specific changes of that kind, and the way the joint statement of principles now reads.

The CHAIRMAN. I would just call attention to the agenda in which we have, first of all, a legal status of collateral documents, which is the subject we are now addressing. Down in item 3 of the agenda, we have a consideration of proposals relating to SALT III and the joint statement of principles. Now, I understand that several other members may have proposals to make, and that you have other proposals to make when we reach item 3.

Senator McGOVERN. Yes, I do.

The CHAIRMAN. It would seem to me that that would be the best place to consider the various proposals.

Senator JAVITS. I have no objection to that, Mr. Chairman. Mr. Chairman, I move that after the word "arms" we insert the words "as well as for their further qualitative limitations."

Senator McGOVERN. I think that brings it into line even more with the joint statement of principles.

The CHAIRMAN. Is there further discussion?

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, I would like to address this question to Senator McGovern to try to think through what it is that we are attempting to achieve here. Obviously, one thing we are attempting to achieve is to draw emphasis on the need for a cutback in armaments if we negotiate another treaty. I appreciate that point. That was the purpose for having the joint statement signed in this case by the United States and the Soviet Union.

I understand our procedure now to be, however, that in elevating this to a higher position, we are communicating as a legislative body with the executive branch of our own Government. This is not a category III procedure in which the Soviet Union agrees at this higher level. This is a logical point that I would like members of the committee to consider. I would like Senator McGovern to suggest why we should not have the Soviets involved in this. Essentially we are saying to ourselves that we will not consider further negotiations unless there is substantial change along the lines of the four points in this statement.

I would question whether that is a very wise strategy for us to be involved. In other words, I am not certain whether I want to bind the President of the United States in a unilateral gesture on our part with the Soviets simply looking in from the outside on the whole prospect as to what ought to occur.

I am perfectly willing, I think, to leave it alone with both sides having affirmed that we ought to proceed in this way unless Senator McGovern suggests that the Soviets in a category III procedure also affirm that they believe this is more important, too, as opposed to messages within our own Government.

I would like to ask Senator McGovern, why are we not asking the Soviets in essence to proceed along with this? Why do we simply handcuff ourselves in this procedure and elevate it to a higher status?

The CHAIRMAN. May I make a brief statement before Senator McGovern answers your question? It seems to me that we are elevating this to a higher status insofar as the Soviet Union is concerned. That Government has already entered into an agreement with the United States. The agreement is contained in a joint statement of principles which is to govern the SALT III negotiation. There is nothing the Senate can do to elevate, affect, or in any way change the status of the agreement that has been reached between the United States and the Soviet Union on that subject.

What the Senator proposes is that within our own Government we send a message to the President of the United States and say one of the conditions on which the Senate ratifies this treaty is that we, the Senate, believe that these statements contained in the joint statement of principles shall govern subsequent negotiations on SALT III. It is an intragovernment communication given a formal status by its incorporation in the instrument of ratification and by placing it in category II. It formally informs the Soviet Union that this is the position the Senate takes.

Senator MCGOVERN. I cannot improve on that answer. That is precisely what it is designed to do.

Senator LUGAR. Mr. Chairman, I appreciate the explanation. I think I see it clearly, but having heard it, for the life of me I cannot understand why we would use this treaty markup procedure to get into these sorts of communications to ourselves. I think this is a serious matter. It is one that is the stuff of general politics domestically in this country, as a matter of fact. It is an interesting idea, but why it is involved in the treaty ratification process I really cannot see. I hope before we adopt it that other members will ponder on this for a moment.

The CHAIRMAN. Senator, it is not simply a communication between the Senate and the executive branch, but it is one that is formally conveyed to the Soviet Union as well, and therefore I think it has importance.

Senator MCGOVERN. And it doesn't commit either government or that of the Soviet Union, to anything they have not already agreed to, but it does underscore to our negotiators as they go into the SALT III negotiations the terms under which the Senate expects them to come back to us in SALT III.

Senator HAYAKAWA. Mr. Chairman?

The CHAIRMAN. Senator McGovern, would you accept the modification offered by Senator Javits?

Senator MCGOVERN. Oh, yes.

The CHAIRMAN. The modification is accepted, and the question is on the committee agreement to the proposal as modified.

Senator PELL. I would move that motion.

The CHAIRMAN. Is there further discussion?

Senator Hayakawa?

Senator HAYAKAWA. Mr. Chairman, I have reread the joint statement of principles. I find it a highly satisfactory document to which our President and Mr. Brezhnev both have put their signatures. With

all due respect to Senator McGovern, I feel that his resolution is supererogatory.

Senator McGovern. What was that word?

Senator Hayakawa. Supererogatory.

The Chairman. You can get by with that kind of language, Senator, because none of us understand it. [General laughter.]

Senator Hayakawa. It is repetitious of that which has already been very, very firmly stated over two signatures of heads of state. For that reason, Senator McGovern, I respectfully affirm that I am going to vote against it.

The Chairman. If there is no further discussion, a motion has been made and the clerk will call the role.

Mr. Bader. Mr. Pell?

Senator Pell. Aye.

Mr. Bader. Mr. McGovern?

Senator McGovern. Aye.

Mr. Bader. Mr. Biden?

Senator Biden. Aye.

Mr. Bader. Mr. Glenn?

Senator Glenn. Aye.

Mr. Bader. Mr. Stone?

Senator McGovern. Mr. Stone is aye by proxy.

Mr. Bader. Mr. Sarbanes?

Senator Sarbanes. Aye.

Mr. Bader. Mr. Muskie?

[No response.]

Mr. Bader. Mr. Zorinsky?

[No response.]

Mr. Bader. Mr. Javits?

Senator Javits. Aye.

Mr. Bader. Mr. Percy?

Senator Percy. Aye.

Mr. Bader. Mr. Baker?

[No response.]

Mr. Bader. Mr. Helms?

Senator Helms. Aye.

Mr. Bader. Mr. Hayakawa?

Senator Hayakawa. No.

Mr. Bader. Mr. Lugar?

Senator Lugar. No.

Mr. Bader. Mr. Chairman?

The Chairman. Aye.

On this vote, the yeas are 10, the nays are 2, and the McGovern understanding as modified is approved by the committee. Senator Zorinsky was later polled in the affirmative.

There is now a rollcall vote. It is 20 minutes after 4. The committee stands adjourned until 10 o'clock tomorrow morning.

[Whereupon, at 4:20 p.m., the committee adjourned, to reconvene at 10 a.m., Tuesday, October 16.]

THE SALT II TREATY MARKUP

TUESDAY, OCTOBER 16, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:25 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

OPENING STATEMENT

The CHAIRMAN. The committee will please come to order.

We will have a working quorum present in a moment, so I think we can wait another moment.

Senator Percy, do you know where Senator Javits is?

Senator PERCY. I think he is tied up on the the floor with his amendment on fuel. He called me this morning to say that he would be tied up there for a while and would hope to be here as soon as possible.

The CHAIRMAN. Thank you, Senator Percy.

The committee meets today to resume its markup hearings of the SALT II Treaty.

Yesterday, the committee considered, but took no action, on the proposal relating to the Backfire bomber, which, it was agreed, was to be redrafted. It has been redrafted, and when Senator Javits, who is presently engaged on the floor of the Senate, comes to the committee, the newly drafted version will be taken up.

But I think it would be best to wait until Senator Javits, as one of the co-sponsors of this proposal, is present before the committee considers it.

This leaves the question as to whether there are any other matters under item No. 1 of the agenda, other than the Backfire matter, that any member wishes to bring up at this time.

[No response.]

The CHAIRMAN. If there are no further comments regarding item No. 1, the committee then will move to item 2 of the agenda, having to do with the treaty and the protocol.

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. The memorandum of understanding was listed on item 1. It is my impression that it probably ought not to be moved up to treaty status. Is that the decision we have made, in effect, by moving on?

The CHAIRMAN. I would think so, subject, of course, to the right of any member at a later time to bring it up again.

Senator HELMS. Mr. Chairman, I am sorry but I did not hear the Senator's question.

The CHAIRMAN. Senator Sarbanes asked if, by moving from item No. 1 on the agenda to item No. 2, we had, in effect, made a decision that the memorandum of understanding should not be elevated to the status of the treaty. I told him that that would be the tentative decision of the committee if no member wished to address the memorandum of understanding at this time.

Senator BAKER. Mr. Chairman, I just arrived and I am sorry I am a bit late. I had to be on the floor when we opened and I have not yet had time to address that point.

I would hope that nothing we would do here would imply that this question is resolved.

The CHAIRMAN. The Senator is correct. We operate under a rule of procedure which will make every committee decision tentative and subject to reconsideration at a proper time, before we go to a final vote.

Item No. 2 on the agenda deals with the treaty and the protocol. I call members' attention to the comparative print, which is set out in four columns. The first column contains the text of the treaty. The second column contains a list of the agreed statements and common understandings which interpret the provisions of the treaty. The third column has to do with executive branch comments, and the fourth column contains committee staff comments.

TREATY READING: PREAMBLE

I suggest that we proceed through the treaty and read the preamble at this time. Then we will take up the articles one by one.

Mr. Sauerwein, would you read to us from the comparative print, please.

After reading the preamble, any comment that the staff wishes to make relating to the preamble would be in order, after which, members of the committee, if they have any proposals to make, should feel free to make them.

Mr. SAUERWEIN [committee staff]. The preamble reads:

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Conscious that nuclear war would have devastating consequences for all mankind,

Proceeding from the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics of May 29, 1972,

Attaching particular significance to the limitation of strategic arms and determined to continue their efforts begun with the Treaty on the Limitation of Anti-Ballistic Missile Systems and the Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms of May 26, 1972.

Convinced that the additional measures limiting strategic offensive arms provided for in this Treaty will contribute to the improvement of relations between the Parties, help to reduce the outbreak of nuclear war and strengthen international peace and security,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Guided by the principle of equality and equal security,

Recognizing that the strengthening of strategic stability meets the interests of the Parties and the interests of international security,

Reaffirming their desire to take measures for the further limitation and for the further reduction of strategic arms, having in mind the goal of achieving general and complete disarmament,

Declaring their intention to undertake in the near future negotiations further to limit and further to reduce strategic offensive arms,

Have agreed as follows:

That completes the preamble. The preamble identifies the parties, contains the nine paragraphs that have just been read, and sets forth common general views and objectives of the United States and the Soviet Union concerning the limitation of strategic arms.

The CHAIRMAN. Thank you.

Is there discussion or is there a proposal which relates to the preamble?

Senator PERCY. I have one question of the administration.

The CHAIRMAN. Senator Percy.

GENERAL AND COMPLETE DISARMAMENT

Senator PERCY. Ambassador Earle, regarding the phrase in the preamble of "having in mind the goal of achieving general and complete disarmament," would you give us the background for the inclusion of that phrase? Is that something the Soviets always insist upon having in? Is it something we genuinely feel is achievable? Would we ever, in our right minds, move toward total disarmament and leave ourselves exposed to whatever forces there may be?

What is the purpose of making such a statement in a very serious document, such as the preamble?

Ambassador EARLE. Senator Percy, it was a Soviet proposal. I suppose that in the best of all perfect worlds it would be a desirable goal. But I agree with your implication that in all likelihood it is unattainable. The Soviets wanted it in and, given their comments, we accepted it.

Senator PERCY. That assumes that we live not in a world of human beings, but in a world of angels.

Ambassador EARLE. I guess it does.

The CHAIRMAN. If there is no further comment relating to the preamble, the committee will proceed to a consideration of article I of the treaty.

Senator JAVITS. Mr. Chairman, I apologize for being late, but I was unavoidably detained on the floor.

The CHAIRMAN. We did receive a message from you to that effect, Senator.

STATUS OF BACKFIRE EXCHANGE: PROPOSAL REDRAFT

Now that Senator Javits is here, I think we could take up the question that we left undecided yesterday, relating to the proposed Backfire resolution.

Let me say that the committee was considering what legal status to give the various signed and unsigned papers that were delivered to the committee for its review in connection with the proposed treaty

and protocol. One of those was an unsigned written statement which President Brezhnev handed to President Carter. The testimony also showed that an oral statement had been given by President Brezhnev relating to the Backfire.

The purpose of this reservation simply is to express the position of the Senate that both statements, the written and oral statement, constitute a binding agreement of the Soviet Union.

We have drafted the proposed Backfire resolution, copies of which have been distributed to members.

This proposition is set out in the following language:

> That the written statement which President Brezhnev handed to President Carter on June 16, 1979, concerning the Soviet TU–22M bomber [referred to as Backfire in the United States], and the statement President Brezhnev made to President Carter on June 17, 1979, that the production rate of this bomber would not exceed 30 per year, constitute a binding agreement of the Union of Soviet Socialist Republics.

This does not raise the question of interpretation of the substance of the agreement, which may come at a later time in the discussion and deliberations of the committee. It has merely to do with designating both the written and oral statements as binding upon the Union of Soviet Socialist Republics. This would be a category III matter, so the Soviet Government would have to accede to the proposition that both statements constitute a binding agreement at the time the instruments of ratification are exchanged.

First, Mr. Cutler, let me ask you if you have any suggestion relating to the language?

Mr. CUTLER. Mr. Chairman, the draft handed to us read at the end "constitute legally binding commitments of the Union of Soviet Socialist Republics." I believe you read " constitute a binding agreement."

The CHAIRMAN. That is right. Senator Javits had suggested that we use a binding agreement in place of legally binding commitments because we are dealing with the treaty and the protocol, both of which are agreements, and we were simply using a phrase that was consistent.

Mr. CUTLER. A phrase, such as "are legally binding on," if the word "commitment" is not desired, might be better. It is only the word "agreement" that we would have any concern on because this is a statement of the Soviet Union and there is no reciprocal agreement of the United States.

Senator JAVITS. If the Senator would yield, I would say that except this is a category III reservation and, hence, will require concurrence by the Soviet Union.

The CHAIRMAN. But it relates to statements that are unilateral on the part of the Soviet Union.

Mr. CUTLER. We see no reason why the Soviet Union should not confirm that these statements are legally binding on them or are binding on them.

Senator JAVITS. I have no objection. It was the word "commitments" that worried me.

The CHAIRMAN. Then if we were to say "are legally binding upon the Union of Soviet Socialist Republics," would that be all right?

Mr. CUTLER. That would be satisfactory, Mr. Chairman.

The CHAIRMAN. We will so modify the language.

The resolution will now read, regarding the written and the oral statements, "that the production rate of this bomber would not exceed 30 per year, are legally binding upon the Union of Soviet Socialist Republics."

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. Thank you, Mr. Chairman.

Mr. Cutler, do I understand that it would be the intention of the administration to elicit and obtain a formal concurrence in this reservation from the Soviet Union before the treaty documents were deposited?

Mr. CUTLER. Yes; Senator Baker. This would be what was called yesterday a category III kind of understanding, which would be put into the instrument of ratification and the expressed consent of the Soviet Union would be required.

Senator BAKER. Would you please explain for me what we would require, what the Soviet Union would have to say in order to satisfy this requirement in the eyes of the administration?

Mr. CUTLER. In their instrument of ratification, they would agree to the understanding, or whatever it may be called, that is included in the U.S. instrument of ratification.

Senator BAKER. What would be the effect if the Soviet Union did exceed a production rate of 30 per year? In the view of the administration, would that be a breach of the treaty?

Mr. CUTLER. It would be an event which would justify the United States in withdrawing from the treaty—yes.

Senator BAKER. Would it be of the same stature legally, in the view of the administration, as a violation of this provision if the provision were included in the body of the treaty itself as an amendment?

Mr. CUTLER. We would have the right to withdraw from the treaty since we had relied upon this representation in entering into the treaty.

Senator BAKER. Mr. Chairman, may I pursue my question for just a moment?

The CHAIRMAN. Of course.

Senator BAKER. My question, Mr. Cutler, is to weigh the relative merit of including this as a category III reservation to accompany the instruments of ratification as is suggested here, as opposed to the inclusion of this language as an amendment to the treaty itself.

Now, is there a qualitative difference in the nature of the commitment in those two cases?

Mr. CUTLER. From the standpoint of the rights of the United States, there would be no difference.

Senator BAKER. From the standpoint of the position of the administration, would there be any difference?

Mr. CUTLER. No, sir.

Senator BAKER. So, if an amendment to the treaty were adopted which carried into the text of the document these words, it would be of no greater force or effect, as far as the administration is concerned, than would a category III resolution?

Mr. CUTLER. It would give the United States and the administration the same rights to withdraw from the treaty or seek some other

remedy for violation of the commitments, as if the commitments had been incorporated into the treaty itself.

Senator BAKER. Thank you very much, Mr. Cutler.

I have one final question, Mr. Chairman, if I may.

Of course, this reservation would have nothing to do with the counting rules in respect to strategic weapons systems?

Mr. CUTLER. That is correct, sir.

Senator BAKER. Mr. Chairman, nothing in this reservation would prejudice or jeopardize the right of any member here or on the floor to offer an amendment that would impose a counting rule requirement on the Backfire bomber?

The CHAIRMAN. That's correct.

Senator BAKER. Thank you, Mr. Chairman.

Thank you, Mr. Cutler.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Yes, Senator Percy.

Senator PERCY. Mr. Chairman, I have only one problem with this and I think it can be handled in the report language.

It is perfectly clear that we want to have as legally binding Soviet commitments their statement that they will not increase the radius of the Backfire in such a way as to enable it to strike targets in the territory of the United States, their statement that they do not intend to give it such an intercontinental capability in any other manner, including in-flight refueling, and their statement that they will not increase the production rate which is currently 30 per year. However, by this proposed resolution, we do include the definition of the Soviets in the Soviet Backfire statement, which says, "The Soviet side informs the United States that the Soviet TU–22M airplane, called Backfire in the United States, is a medium range bomber."

It is my understanding that it is the U.S. contention that the Backfire does have intercontinental capability on a one-way, high-altitude, subsonic, and unrefueled flight.

I think, therefore, that it might be prudent and wise for us in report language to make it clear that the United States does not agree that the Backfire is a medium-range bomber for the purposes of negotiating SALT III.

The CHAIRMAN. That certainly would be appropriate for the report. It is also open to the committee at a later stage in these proceedings to consider any interpretation it wants to lay upon this particular written statement of the Soviet Union. Our only purpose here is to determine the legal status of that statement. We are putting the Soviet Union on notice that we regard it as legally binding upon them. Whatever it means, it is legally binding upon them. We can get into the question of how we want to interpret it at a later stage of our deliberations.

Senator BAKER. Senator Percy, would you yield to me just for a moment?

Senator PERCY. Of course.

Senator BAKER. Mr. Chairman, that is a very good point I would think. I wonder if we might avoid the complication Senator Percy suggests by changing the suggested language to read: "Concerning the TU–22M and that part of the statement of President Brezhnev to President Carter respecting the rate of production at 30 per year," and

thus exclude from the reservation we are considering here the other parts of the statement made by President Brezhnev with respect to the capability of the airplane.

Senator SARBANES. Except that in the other part of the statement the Soviets stated certain intentions which we will treat as commitments with respect to what they might try to do with this airplane, which I think are important from our point of view.

Senator BAKER. I think they are, too.

What I am suggesting, if I may say, Mr. Chairman, is that we ought to pick through that statement and find out which parts represent a commitment and which parts represent a representation, allegation, or assertion vis-a-vis the medium range.

Senator PERCY. That is why I felt it necessary to put into our record that we want their statement to be legally binding that they will not increase the radius of the Backfire in such a way as to enable them to strike targets in the territory of the United States. That certainly is a commitment along with the production rate of 30 per year and their statement that they do not intend to give it such an intercontinental capacity in any other manner, including in-flight refueling. I think that is something that we want bound into a legally binding position.

The CHAIRMAN. At this point, whatever else we wish to do at a later point dealing with the substance of any of these documents, we simply want to say that we regard the document as legally binding on the Soviet Union.

Senator BAKER. I do not want to prolong this discussion, Mr. Chairman, so I might say, to conclude my remarks, that I think all of us are dealing essentially with a drafting problem. I think we can sort through this to find those parts that we wish to assert with more formality. I am perfectly willing to move on at this point and let staff produce further recommendations.

The committee should also know—and some Senators already do know—that at some point I will offer amendments to the treaty dealing with this subject. I have already inquired and the chairman has informed me that nothing we do here will prejudice in any way the right to offer such amendments.

The CHAIRMAN. That's right. I appreciate the cooperation of the Senator in the interests of orderly procedure.

Senator BAKER. Thank you.

The CHAIRMAN. If there is no further discussion on this particular proposal, I would hope that the Chair might entertain a motion regarding this resolution.

Senator JAVITS. I so move.

The CHAIRMAN. The motion will be that the committee adopt the statement, as revised, as a category III proposition.

The Clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. Biden.

[No response.]

Mr. BADER. Mr. Glenn.
[No response.]
Mr. BADER. Mr. Stone.
[No response.]
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. Aye.
Mr. BADER. Mr. Muskie.
[No response.]
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
[No response.]
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. No.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.

On this vote, the ayes are 9 and the nays are 1. The proposal is adopted by the committee. Senators Glenn and Stone were later polled in the affirmative; Senators Biden and Helms were polled in the negative.

Now, Mr. Sauerwein, we were about to commence the committee's consideration of article I of the treaty.

TREATY READING: ARTICLE I

Mr. SAUERWEIN. Article I reads:

Each Party undertakes, in accordance with the provisions of this Treaty, to limit strategic offensive arms quantitatively and qualitatively, to exercise restraint in the development of new types of strategic offensive arms, and to adopt other measures provided for in this Treaty.

The CHAIRMAN. I notice the staff comment is that this article does not place additional obligations on the parties beyond those set forth in the other articles.

Is there any discussion of article I?

[No response.]

The CHAIRMAN. If not, the committee will proceed to a consideration of article II.

ARTICLE II: DEFINITIONS

Mr. SAUERWEIN. Article II reads:

For the purpose of this treaty:

Intercontinental ballistic missile (ICBM) launchers are land-based launchers of ballistic missiles capable of a range in excess of the shortest distance between the northeastern border of the continental part of the territory of the United States of America and the northwestern border of the continental part of the territory of the Union of Soviet Socialist Republics, that is, a range in excess of 5,500 kilometers.

That was paragraph one, Mr. Chairman, of article II.

I would comment that this is the basic article, article II, where the systems that are limited by the agreement are defined. In this first paragraph we set forth the definition of an ICBM launcher. In effect, the paragraph specifies that an ICBM is a ballistic missile capable of a range in excess of 5,500 kilometers and based on land. This would differentiate ICBM's from shorter range ballistic missiles based on land, which are not limited by the treaty.

The CHAIRMAN. I think it needs to be observed here that no effort is made to define a launcher. Article II reads, "Intercontinental ballistic missile (ICBM) launchers are land-based launchers." So, other than the term "land-based," no further definition of a launcher is given. But the definition really pertains to intercontinental ballistic missiles, is that correct?

Mr. SAUERWEIN. That's correct, Mr. Chairman.

The CHAIRMAN. Is there any discussion relative to the definition given of intercontinental ballistic missiles as contained in article II?

Senator SARBANES. The definition really relates to intercontinental capacity in the ballistic missiles; doesn't it?

The CHAIRMAN. The Senator is correct. It distinguishes between intercontinental ballistic missiles and other types by defining the range as being in excess of 5,500 kilometers.

If there is no further discussion of the definition in article II, may we proceed?

Is there further discussion?

Mr. MCFADDEN (committee staff). Mr. Chairman, I might just point out that this parallels an agreed interpretation in SALT I; other than specifying the 5,500 kilometers, it is the same approach that was used in SALT I.

The CHAIRMAN. Yes; the same definition as used in SALT I.

Mr. LAKELAND. (minority staff director). Mr. Chairman, there is an agreed statement and two common understandings which accompany that paragraph.

The CHAIRMAN. Very well. Perhaps we should read through the agreed statement and common understandings before moving on to the next article.

Mr. SAUERWEIN. The first agreed statement reads:

The term "intercontinental ballistic missile launchers," as defined in paragraph 1 of Article II of the Treaty, includes all launchers which have been developed and tested for launching ICBM's. If a launcher has been developed and tested for launching on ICBM, all launchers of that type shall be considered to have been developed and tested for launching ICBM's.

The first common understanding reads:

If a launcher contains or launches an ICBM, that launcher shall be considered to have been developed and tested for launching ICBM's.

The second common understanding reads:

If a launcher has been developed and tested for launching an ICBM, all launchers of that type, except for ICBM test and training launchers, shall be included in the aggregate numbers of strategic offensive arms provided for in Article III of the Treaty, pursuant to the provisions of Article VI of the Treaty.

Senator SARBANES. May I ask a question of Ambassador Earle?

The CHAIRMAN. Certainly, Senator.

DIFFERENCE BETWEEN AGREED STATEMENTS AND COMMON UNDERSTANDINGS

Senator SARBANES. Secretary Vance, in testimony before the committee, as I recall it, indicated that there was no substantive difference between an agreed statement, and a common understanding.

Is that correct?

Ambassador EARLE. That is correct, Senator.

Senator SARBANES. In putting the documents together, why did you use two categories, agreed statements and common understandings? Did they have some difference in meaning in the course of the negotiations, and if not, why were two different categories used instead of one category?

Ambassador EARLE. Basically, Senator, we tried to put obligations and more significant considerations into agreed statements and interpretations and less significant agreements, if you will, into common understandings. Over the 4 years of negotiations, occasionally the lines would blur. They do have the same force and effect. That was the guideline, if you will, which occasionally was not held to strictly.

Senator SARBANES. Thank you.

The CHAIRMAN. Without objection, then, the committee will move on to page 3, the third common understanding.

Mr. SAUERWEIN. Yes, Mr. Chairman. I stopped in the middle because of the page break. There is a third common understanding and second agreed statement to paragraph 1.

The CHAIRMAN. Yes, and it is on page 3. I wonder if you would proceed with a reading of the third common understanding and the second agreed statement as they appear on page 3.

Mr. SAUERWEIN. The third common understanding reads:

The one hundred seventy-seven former Atlas and Titan I ICBM launchers of the United States of America, which are no longer operational and are partially dismantled, shall not be considered as subject to the limitations provided for in the treaty.

The second agreed statement reads:

After the date on which the protocol ceases to be in force, mobile ICBM launchers shall be subject to the relevant limitations provided for in the treaty which are applicable to ICBM launchers, unless the parties agree that mobile ICBM launchers shall not be deployed after that date.

The CHAIRMAN. Is there any discussion?

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

LAUNCHERS: FIXED VS. MOBILE

Senator BAKER. Where is there some further elaboration or a negotiating history with respect to the definition of a mobile launcher, the purpose of the second agreed statement?

Mr. LAKELAND. The staff comment provides some of that, Senator.

The CHAIRMAN. Ambassador Earle, can you respond to Senator Baker's question?

Ambassador EARLE. Thank you, Mr. Chairman, I will try.

There was very little negotiating history on the subject of what was fixed and what was mobile. The limitations on fixed launchers are carried over from SALT I. Both sides understood what they were, and I think it was tacitly and occasionally expressly agreed that anything that was not fixed was, by definition, mobile.

SOVIET CONCERNS ABOUT M-X DEPLOYMENT MODES

Senator BAKER. What I am thinking of, Mr. Ambassador, is the possibility of a future conflict over the deployment mode of the M–X, particularly the so-called sun roof or track system.

Can you enlighten us any further on the negotiating history in that respect?

Ambassador EARLE. As I think you know, Senator, on several occasions the Soviets raised the question, originally based on newspaper articles, about what they had read about the proposals in the United States for mobile launchers, and expressed concern that they might violate the ban on construction of new, fixed ICBM silo launchers. I think the fact that the new mobile system which is planned permits the missile to be launched from its carrier wherever the carrier is located, and that the carrier itself is mobile dispels any suggestion that it would violate that ban on fixed launchers.

Senator BAKER. Is there any representation by the Soviet Union in the negotiations or otherwise, formally or informally, that would shed any light on Russia's attitude toward that, or is your statement based purely on your surmise and conjecture?

Ambassador EARLE. I'm sorry, Senator, but I could not hear you.

Senator BAKER. Is there any reference by the Soviets in the negotiating history to that interpretation, the one you have just given us?

Ambassador EARLE. We presented that interpretation to them on several occasions, and said that any system we develop would not only be verifiable—which is the other concern they expressed—but would not violate the ban on construction of new fixed ICBM silo launchers. The final one in the course of the negotiations was made by the President in Vienna and the Soviets made no response to his comments. Then, subsequently, President Brezhnev did sign the agreement.

Senator BAKER. I understand that at Vienna they did not. That is partially why I put the question to you. In the course of the entire time of the negotiations, did the Soviets ever do more than remain silent in the face of that assertion?

Ambassador EARLE. No, sir. They never said, "The system we read about in the newspaper is OK with us."

Senator BAKER. Have they ever said that it isn't OK?

Ambassador EARLE. No. They expressed concern that it might violate either the ban on deliberate concealment measures or the ban on the construction of new fixed ICBM silo launchers.

Senator BAKER. I have just one further question, Mr. Chairman.

Could you characterize those concerns for us, Ambassador Earle?

Ambassador EARLE. I think their concern was if the launchers went into shelters, they might not be able to verify the number of launchers

which, of course, is a counting problem under the aggregates, and, if these holes in the ground could, in fact themselves launch missiles, they would indeed be new fixed ICBM silo launchers.

As you know, the program the administration has adopted meets both of those concerns.

Senator BAKER. Can you tell us whether the Soviets expressed these concerns once or more than once in the course of the negotiations?

Ambassador EARLE. To the best of my knowledge, Senator, they expressed them four times: once at the delegation level in Geneva; twice at what we refer to as the ambassadorial level, once in Washington and once in Moscow; and, finally, at the summit in Vienna.

Senator BAKER. I am sorry, Mr. Chairman, to be so long, but may I continue for a moment?

The CHAIRMAN. Surely.

Senator BAKER. Is there any other item in the treaty text or in the agreed statements or common understandings, as we have them before us, in which there is a similar level of concern expressed by the Soviet Union?

Ambassador EARLE. I cannot think of one; no.

Senator BAKER. So, this stands out as an item on which the Soviets most often have expressed their concern that a deployment mode for M–X which we may adopt, may be in violation of relevant portions of the treaty?

Ambassador EARLE. That's right, based on what they have read in the newspapers about our plans.

Mr. CUTLER. Could Mr. Slocombe amplify that, Senator Baker?

Senator BAKER. Please.

Mr. SLOCOMBE. To my knowledge, Senator Baker, they have not expressed a concern that the M–X system, which we are planning to deploy, would violate the fixed launcher rule. They have expressed a concern about verification, to which we have responded by saying the system will be verifiable. They did, at an earlier stage, raise a question about what they understood to be a system which was under consideration. We responded that that system also was consistent with the treaty, but that related to their understanding, based on newspaper reports, of systems which were not finally adopted.

Senator BAKER. Would the administration, then, have any objection to a reservation requiring the concurrence of the Soviet Union prior to deposit of the instruments of ratification that would clarify our right to deploy M–X in the mode which we have designated?

VERIFICATION OF M–X

Mr. CUTLER. Senator, we do not think there is any reasonable way in which we could ask the Soviet Union to accept that a system not yet built and deployed is verifiable. The proof of verification is in the eating of that pudding, and that issue will simply remain until we deploy the M–X. We intend to make it verifiable and we believe we can satisfy the treaty commitment that it be verifiable.

On the other point about the fixed base points, the fixed launch points, that has become a moot point in the light of the decision to deploy the M–X as it is now being deployed, and at Vienna the Soviets did not raise that point, as I understand it.

Senator BAKER. I agree with your second point, Mr. Cutler. I have a strong view, though, that one of the greatest mistakes we could make would be to ratify this treaty and then discover in weeks or months that the Soviet Union disagreed with a major deployment.

I fail to see why it would not be desirable to have an understanding or a reservation requiring the concurrence of the Soviet Union saying, look, in principle what we have described is not in contravention of the agreement that we have made.

Mr. CUTLER. But what we have described is a mobile M–X system that will be verifiable. Their only concern is, will it turn out to be verifiable, in fact, and that cannot be known until it is built.

Senator BAKER. Mr. Cutler, I think we are doing what Oliver Wendell Holmes accused all lawyers of doing: I think we are shoveling smoke. The question of whether or not it is verifiable is in the mind of the beholder. What I am suggesting is that if we are going to get into this solemn obligation between our two countries, we ought to do it on some basis other than an invitation to disagree. This is the only item on which there have been four expressions of concern by the Soviet Union, as I understand it. It seems to me, then, that precaution and prudence would dictate that we have an agreement that what we have proposed for M–X is within the framework of the treaty as we have negotiated it.

Mr. Chairman, at the appropriate time, I will have an amendment, reservation, understanding, or other device to offer. I will not burden the committee's time at this point to offer it. But I would like the record to show that I plan to do that.

The CHAIRMAN. Very well.

Mr. CUTLER. May I just add, Mr. Chairman, that any such reservation or understanding would require a rather detailed disclosure of blueprints and other plans for the deployment of the M–X, and I doubt that we would be returned a similar courtesy on any new Soviet missile.

Senator BAKER. I might add, if I may, that all I have in mind to do is to attach a copy of "The New York Times." That pretty well describes the system. If the principle is acceptable, that is, the principle of the deployment, then I trust we will jealously guard the techniques we use to implement it. But I do not foresee that as a problem.

Mr. CUTLER. Mr. Chairman, if the Soviets attached a copy of "Pravda" and said, approve our new type missile, I doubt we would accept that.

Senator BAKER. I think what Mr. Cutler is doing, Mr. Chairman, is suggesting that we are buying a lawsuit, and I think that is a bad way to get into a SALT Treaty.

The CHAIRMAN. I think the Senator has stated his position clearly. He is within his right to make such proposals as he may care to make in such a way and at such time as he cares to make them. But let us now proceed, if we may.

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes, are you going to speak to the same subject?

Senator SARBANES. I will speak to the second agreed statement; yes.

The CHAIRMAN. Then I recognize Senator Sarbanes, after which I will recognize Senator Percy.

Senator SARBANES. Does the phrase "shall be subject to the relevant limitations provided for in the treaty" apply to any subject matter other than the concealment question and the problem of new fixed ICBM silo launchers, the two subjects that already have been discussed? Does it reach to anything else?

The CHAIRMAN. Mr. Sauerwein, would you respond first, please.

Mr. SAUERWEIN. Senator Sarbanes, it goes on to say, "which are applicable to ICBM launchers." So, I think it refers to every place in the treaty and the agreed statements and common understandings that refer to ICBM launchers, without qualifying them to be either fixed or mobile.

I think that is the answer to your question.

Senator SARBANES. Then are there other problem areas besides these two potential problem areas?

Mr. SAUERWEIN. Only one other was mentioned in the staff comments, and that is a reference to storage facilities at launch sites, which I believe is in article IV.

Senator SARBANES. There is no numbers problem as you see it?

Mr. SAUERWEIN. I beg your pardon?

Senator SARBANES. There is not a numbers problem?

Mr. SAUERWEIN. Relative to counting the number of deployed launchers?

Senator SARBANES. Yes.

Mr. SAUERWEIN. I think not. I think that goes to the issue that was being discussed of being able to verify the numbers that are actually deployed and what actually counts, the mobile launcher and not some shelter for the launcher.

Senator SARBANES. So there is no danger that the shell game that we are developing to enhance the survivability of our missile will get us into a multiple number counting problem?

Mr. SAUERWEIN. I believe that is the same issue that was being discussed. That would have to do with the verifiability; that is, the countability of the launchers themselves. If they can be counted and adequately so, then there would be no issue that something it would hide in ought to be counted instead.

Senator SARBANES. Does that mean that you have the choice that it is verifiable and therefore counts as one or the assertion that it is not verifiable and therefore it counts as 20 or 40?

Is that what this is?

Mr. SAUERWEIN. I think that would depend on what you are counting. There was that issue when we were talking about the vertical shelter and if the shelter constituted part of the launcher. Part of it is a definitional issue, what is actually the launcher? Could you think of a horizontal shelter in the racetrack M–X deployment mode as being a launcher? I think it is pretty well agreed now that this would not be the case.

The CHAIRMAN. Senator Percy, I had agreed to recognize you next.

Senator STONE. Excuse me, Mr. Chairman, but may I have my vote recorded before you call upon Senator Percy?

I wish to be recorded as voting "aye" on the Backfire resolution.

Senator BIDEN. In that case, I would like to be recorded "no" on that resolution. When we go back through the whole review on this, I will give you my reasons for my vote.

The CHAIRMAN. Very well.

Senator Stone and Senator Biden will be so recorded. Senator Percy is recognized.

PINNING DOWN M–X BASING MODE LEGITIMACY

Senator PERCY. Thank you, Mr. Chairman. I would like to comment on Senator Baker's very pertinent point.

I think Mr. Cutler is correct in his perception that the United States would not approve a Soviet missile still on the drawing board. But I think we have to take into account the fact that if the Soviets at some point do object to our M–X, they could cite, really, pretty good U.S. authority for their case if they were making a case. Paul Nitze has criticized the treaty for not adequately defining "launchers." He believes that the M–X missile may be unacceptable to the Soviets under the ICBM launcher definition. So, I think it would be highly desirable for us to clarify and pin down the administration's position on this. The administration position is a unilateral statement that the multiple protective shelter mode of the M–X can be classified as a "mobile launcher" within the terms of the treaty because all of the equipment required to launch the missile, as well as the missile itself, is moved together periodically from one shelter to another, with the shelter providing a protective launch location.

I do not know how we are going to go about pinning this down, but I do think that many of us feel, as do many in the administration, that a certain amount of ambiguity is necessary, and possibly desirable. But I think many of us here feel that as much of the ambiguity as is humanly possible should be taken out and that we should find a way—I hope by understanding or reservation—that will clearly define what we intend to do. We can certainly say that the Soviets are on public notice in many, many different ways that this is going to be done. But I think that we should try to find a way to clarify this. To the extent that Senator Baker will be offering an understanding that is not a treaty-wrecking move, but is an attempt to remove the ambiguity and clearly put us on record in a way so that we clearly have the right to go ahead with that system, I think we should do that.

Mr. CUTLER. Senator Percy, we will take that under advisement to see if there is a way to satisfy your and Senator Baker's concern.

Senator PERCY. Thank you very much.

The CHAIRMAN. Very well.

There being no proposal now before this committee, I think we should proceed in our consideration of the treaty.

Senator JAVITS. Mr. Chairman, excuse me, but I would like to have the administration restate, before we leave this subject, what is the definition of a mobile launcher, for the purpose of article IX of the treaty, which reads in paragraph 1(d) that mobile launchers of heavy ICBM's are prohibited, and for the purpose of the protocol which also deals with this question, and which says in article I that each party undertakes not to deploy mobile ICBM launchers or to flight test ICBM's from such launchers.

So, the administration must have a position as to what it defines as a mobile launcher. I would like to have that official position stated before we pass this by.

Mr. CUTLER. That position is stated, Senator Javits, under executive branch comments on page 3 of the comparative print.

The CHAIRMAN. Will you read the pertinent language, please, Mr. Cutler?

Mr. CUTLER. Certainly.

It is the last paragraph in the column headed "Executive Branch Comments" on page 3, and it reads as follows:

To emphasize that launchers of mobile ICBM's are permitted after the expiration of the Protocol, the Second Agreed Statement states that mobile ICBM launchers, which are included in the definition of ICBM launchers in paragraph 1 of Article II, are subject to the limitations of the Treaty applicable to ICBM launchers, unless the Parties subsequently agree that mobile ICBM launchers shall not be deployed after the Protocol expires on December 31, 1981. The term "mobile ICBM launcher" includes the various basing concepts the United States has been considering, including those, such as the "multiple protective structure" (MPS) system, in which missiles with their launchers are moved among shelters which might themselves be hardened. The basis for classifying the MPS system as mobile is that essentially all the equipment required to launch the missile, as well as the missile itself, are moved together periodically from one shelter to another—with the shelter providing a protected launch location. Of course, any mobile ICBM basing system would have to permit adequate verification of the number of launchers deployed, in order to be fully consistent with the verification provisions of SALT II.

The CHAIRMAN. Thank you very much.

Senator JAVITS. The next question then is this. You speak here of a "common understanding." Is there any common understanding that the administration claims is applicable to this definition?

Mr. CUTLER. I should think, Senator Javits, that the only answer to that is a fixed launcher is defined and what is not a fixed launcher is a mobile launcher.

Senator JAVITS. Any launcher, other than a fixed launcher, in your judgment, according to the common understanding, may be defined as a mobile launcher?

Ambassador EARLE. That is land-based.

Senator JAVITS. All right.

Now, so that we get the picture, precisely what have the Soviets expressed as their concern?

Mr. CUTLER. As of the Vienna summit, the only concern they were expressing, other than a general concern about starting out on a major new missile system, was a concern about whether the M–X system would prove to be verifiable. We intend to make it verifiable and we are satisfied that we can meet any such concern.

Senator JAVITS. They did not challenge it on any other grounds?

Mr. CUTLER. Not at Vienna, sir.

Earlier, they were challenging whether when we were considering a system in which we would move a missile from various fixed holes, whether each hole might itself be a launcher.

Senator JAVITS. Thank you.

Senator ZORINSKY. Mr. Chairman.

The CHAIRMAN. Senator Zorinsky.

Senator ZORINSKY. Mr. Chairman, I would like to ask any member of the State Department this question. Through the process of negotiation, in the evolutionary process, did the Soviet Union ever clear with the United States any of its intended proposals to see if they

would be acceptable to us? Some of the discussion today has implied that we should check with them concerning construction of our missiles? Is the reverse of that true or has it been in any instance during the negotiations?

Ambassador EARLE. The short answer, Senator, is no.

Senator ZORINSKY. Then I would think we might set a dangerous precedent in obtaining permission or playing "may I" with any systems this Nation builds with respect to its own defense. Second, if it does bring about questions of verification in the future, I think maybe that will lead us to that one word called "trust" will possibly lead to on-site inspections, if some of this type of information is not obtainable in other ways.

Thank you, Mr. Chairman.

The CHAIRMAN. Very well.

If there is no further discussion on this point, there is no proposal before the committee, so let us proceed to section 2 of article II on page 4, please.

ICA USE OF GEORGE MEANY FILM

Senator PERCY. Mr. Chairman, before we go on to this next section, since we have a quorum, would it be possible to report out approval for ICA on the George Meany film. They showed the film here yesterday and I saw nothing objectionable about it.

The CHAIRMAN. Is there any problem with this? I believe Senator Helms raised some question about it.

Senator HELMS. There is no problem, Mr. Chairman.

The CHAIRMAN. Very well, there is no problem.

Senator LUGAR. Mr. Chairman, what was the disposition of the problem as far as the independence and their desire for this film to proceed through—I cannot remember the letter we all received, but there was a distribution problem, as I recall, with regard to small broadcasters and their desire to have this film available, apparently.

Senator SARBANES. Mr. Chairman, as I recall, what they wanted was a statement in the report, but it would not affect this film, which would be done under past procedures. It seems to me that probably the quickest way to handle this would be to go ahead and then ask our staff to study the issue they have raised. Then, the next time we get a request, we would be able to address it in a much more thoughtful and comprehensive way, than to try now to evolve a policy that responds to their concerns.

I understand their concerns. I think we should address them. But I think it is probably better, since it would not apply to this film in any event, that the staff undertake a study and be prepared to report to us about that.

Senator LUGAR. I have the letter before me, Mr. Chairman, from the Association of Media Producers. I am trying to scan it to find their point.

[Pause.]

Senator LUGAR. Apparently they would like report language to the effect that in authorizing domestic distribution of the International Community Agency film "Reflections," by George Meany, in authorizing the Administrator of GSA to make the film available for pur-

chase and public viewing, the committee does not intend that dissemination of the film be carried out directly by GSA or any of its divisions. Rather, the committee directs the Administrator to arrange for the distribution of the film to the public in accordance with Federal procurement regulations and competitive bidding practices, which I think is a very sensible idea.

The CHAIRMAN. Are you proposing that this provision be inserted into the report, Senator?

Senator LUGAR. Yes, I so propose, Mr. Chairman.

The CHAIRMAN. I see no objection to that.

Senator JAVITS. Mr. Chairman, if that is not objected to, then I move that H.R. 5279 be reported favorably, with the provision in the report to which Senator Lugar referred.

The CHAIRMAN. Very well.

The Clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye.

Mr. BADER. Mr. McGovern.

[No response.]

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

[No response.]

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

Senator BAKER. Aye.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. Aye.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote, the ayes are 13 and the nays are nothing. Senator McGovern was later polled in the affirmative.

The resolution will be reported favorably to the Senator and the committee report will contain the language suggested by Senator Lugar

Now, may we proceed with section 2 of Article II.

ARTICLE II, PARAGRAPH 2: SLBM DEFINITIONS

Mr. SAUERWEIN. Paragraph 2 of Article II reads:

Submarine launched ballistic missile [SLBM] launchers are launchers of ballistic missiles installed on any nuclear-powered submarine or launchers of modern ballistic missiles installed on any submarine, regardless of its type.

There is one agreed statement associated with this paragraph. I will read it now:

Modern submarine launched ballistic missiles are: for the United States of America, missiles installed in all nuclear-powered submarines; for the Union of Soviet Socialist Republics, missiles of the type installed in nuclear-powered submarines made operational since 1965; and for both parties, submarine-launched ballistic missiles first flight-tested since 1965 and installed in any submarine, regardless of its type.

I would comment that the effect of this paragraph and its agreed statement under the interim agreement is to include all present and future U.S. SLBM's and all present and future Soviet SLBM's, except for a small number of older missiles on existing Soviet diesel-powered submarines. These are the G-class submarines.

The CHAIRMAN. Why were they excepted?

Mr. SAUERWEIN. This was carried over from the interim agreement and this is the way it was treated in the interim agreement.

The CHAIRMAN. Why were they treated in that way?

Mr. SAUERWEIN. Because they were considered to be older and obsolete short-range missiles.

Senator STONE. Mr. Chairman.

The CHAIRMAN. Senator Stone.

Senator STONE. Mr. Chairman, I had a little go-around on this at the beginning of the hearings.

SOVIET GOLF CLASS SUBS

The Soviet *Golf II* class submarine has visited Cuba on several occasions, the most recent one being 1974. Initially, the administration denied that it carried nuclear ballistic missiles. Later it admitted this and it is now in the record that they do.

The SS–N–5 nuclear missile is down here as either proscribed or counted in the H–II class submarine. Yet the SS–N–5 is one of the two types of nuclear missiles which the *Golf II* diesel powered Soviet submarine carries.

The Chairman put his finger right on the problem when he asked why were they excepted? The answer was because they were in an interim agreement. That is not an answer. That is just a temporary procedure.

The fact of the matter is that stationing excluded submarines with nuclear missiles in Cuba would be a problem for us. The Soviets have, according to our staff, about 20 older G–I and G–II diesel-powered submarines with about 60 SS–N–4's and SS–N–5's, sea-launched ballistic missile launchers that would not be counted.

I have not heard of any reason why they are not counted, plus I have heard of some reason why they should be counted.

I wonder if the administration can give us a better reason than the fact that it was just in the interim agreement that we would not

count the G–I and G–II diesel-powered submarines with their nuclear ballistic missiles, both SS–N–4's and SS–N–5's.

Ambassador EARLE. Senator Stone, as far as the negotiations are concerned, my recollection is that this was one of the provisions in the interim agreement which was agreed at Vladivostok in 1974 should be carried over into the new agreement.

Senator STONE. Why?

Ambassador EARLE. I don't know. I wasn't there.

Senator STONE. "I don't know" is not a good enough answer. This is a sea-launched system, which in 1970 the Nixon administration had included in the 1962 agreements respecting Cuba, because any sea-based system that carries nuclear ballistic missiles is a threat to us.

The fact that it was in an interim agreement is not a reason for putting it into this agreement.

Why?

Ambassador EARLE. I would just comment, Senator Stone, that there are a number of weapons that are not included in this agreement which, if placed in Cuba, would be a threat to us. Any medium bomber, indeed any light bomber, would be, and none of those is included in this agreement.

Senator STONE. Yes. But the Soviet *Golf II* submarine was in Cuba twice, once in 1972 and once in 1974. There are facilities being built there which could house it.

I see a loophole developing. I see a base facility being built in Cuba which has already been visited for several weeks by a kind of submarine which is excluded from this treaty, no reason being given to exclude it from the treaty. There are some 20 of these submarines, with about 60 of these nuclear ballistic missiles.

If I am not mistaken, those nuclear ballistic missiles are at least of the fire power of the kind we almost had a major problem with in 1962 on land.

I would like to know what is the reason for excluding them, other than the fact that we talked about it at Vladivostok.

Mr. CUTLER. As I believe you noted earlier, the stationing of any such submarine carrying a nuclear weapon would be a violation of the 1962 agreement between the Soviet Union and the United States as to the stationing of the submarine.

Senator STONE. Why would it be a violation?

Mr. CUTLER. It would be a violation of the 1962 agreement which bars the stationing of offensive nuclear weapons in Cuba.

Senator STONE. I happen to agree that it is. If it is of that moment, then why should it not be included in the SALT II Treaty?

Mr. CUTLER. As I understand it, we do not believe it is a strategic system. It is more in the nature of a theater system. I believe these vessels at the moment are in the Baltic and in the Pacific.

So far as your concern about Cuba goes, that is covered in an express agreement between the United States and the Soviet Union.

Senator STONE. I would like to take this opportunity, if I may, again to ask for the declassification of the letter regarding submarines and Cuba which I held off asking for declassification on until the negotiations were over.

Mr. CUTLER. I am trying to get that done, as you know, Senator, and I hope we will be successful.

Senator STONE. I thank you so much.

Let me just say, Mr. Chairman, that to say that at least *Golf I* and *Golf II* diesel-powered submarines carrying the same kind of sea-launched ballistic missiles that are covered when included on a newer submarine is not strategic, but only theater, is specious.

The first amendment that I will offer, or reservation—I guess it might have to be an amendment—in any case, it will be to eliminate this loophole which I see developing not to count carriers of the same kind of nuclear missiles that we proscribe or count in the SALT II Treaty when they are on a diesel submarine as opposed to a newer diesel submarine or a nuclear submarine.

Senator HELMS. Will the Senator yield?

Senator STONE. I yield.

THEATER AND STRATEGIC WEAPON CATEGORIES

Senator HELMS. Mr. Cutler, where do you get the idea that this is a theater system rather than a strategic system? Where do you get your information?

Mr. CUTLER. My understanding is that this is how these vessels are being used, sir.

Senator HELMS. Have you talked to the CIA about it?

Mr. CUTLER. Yes; our group here has discussed that with the CIA.

Senator HELMS. Do you contend that that is the CIA's position?

Mr. CUTLER. Senator Helms, I will check that for you.

Senator HELMS. Yes, sir, you'd better check it.

The CHAIRMAN. Let me ask this question just so we can try to keep all of this in perspective.

American aircraft carriers can reach the coastal waters of the Soviet Union since they have a global range; is that not correct?

Ambassador EARLE. Did you say that the aircraft, together with the carriers, have a global range? Yes, sir.

The CHAIRMAN. The carriers have a global range, and the aircraft launched from an American carrier within range of the Soviet Union are capable of carrying nuclear bombs or weapons; is that not true?

Ambassador EARLE. That is correct.

The CHAIRMAN. Weapons equipped with nuclear warheads?

Ambassador EARLE. Yes.

The CHAIRMAN. Are they included or excluded from the treaty?

Ambassador EARLE. They are excluded from the treaty.

The CHAIRMAN. They are excluded.

The Russian acceptance of the exclusion of this nuclear capability of the United States, including the nuclear capability of all of our aircraft stationed in Western Europe, was the breakthrough that enabled us to reach the SALT I agreement; is that not correct?

Ambassador EARLE. It was the breakthrough at Vladivostok which permitted us to proceed into the substantive discussions of SALT II.

The CHAIRMAN. Right.

So, there is a certain quid pro quo involved here since American forward-based systems that are capable of delivering nuclear weapons against the Soviet Union are not included in the treaty.

Would you say that this in a way is comparable to our agreeing not to include these particular submarines?

Ambassador EARLE. I would say that it is comparable, Mr. Chairman. I would add another comparison along the lines of what Senator Stone was talking about, where similar weapons are deployed on different platforms.

The SRAM missile is deployed on B–52's, which count in the agreement. The SRAM missile is deployed on FB–111's, which do not count in the agreement.

Mr. CUTLER. Mr. Chairman, could I add in answer to Senator Helms' question, that I am informed that the Joint Chiefs of Staff carry these G-class submarines equipped with the missiles they have as theater weapons.

Senator JAVITS. I think I have a little evidence on that which may help us, Mr. Chairman.

Dr. Kissinger addressed himself to this subject, that of the G-class submarine, in a press conference which he held in 1972, in connection with SALT I.

He was asked this question:

> And the submarine, if they decided to retire the old one, would replace what? Dr. Kissinger. Thirty to thirty-six missiles on the H-class submarine. QUESTION. How about the G-class?

That is what we are talking about, isn't it?

Senator STONE. Well, the H-class is counted here and the G-class is not.

Senator JAVITS. All right. This is his answer on the G-class question: "G-class submarines can be retired. If they are modernized, they are counted against the 950."

Do you see what I mean? They do not have to retire them. They do have to retire the H-class submarines if they want to go up to the 1,250. They do not have to retire the G-class submarines.

Senator STONE. Exactly.

Senator JAVITS. But if they modernize them, they are counted against the 950.

Senator STONE. But they are modernizing them, and they are not being counted because they are carrying these new SS–N–5 nuclear missiles and they are not being counted. That is the problem.

Senator JAVITS. Let me go on. This is still the same answer.

> First of all, the G-class submarines are diesel. Second, the range of their missile is between 370 and 700 miles. So, they are more comparable to our forward-based systems than they are to strategic systems. Third, if these missiles are modernized, if they have a more modern missile on the G-class submarine than the one there now, then that missile is counted against the 950 total and reduces their ability to build nuclear-powered submarines. It seems to us highly unreasonable to take this step, so we think that the G-class submarines are bound to get retired, simply because they wear out. They are the oldest missile-carrying submarine they have.

The only value that I see in that is the reference to the range, 300 to 700 miles, and apparently this is a carryover from the debate about SALT I where it was to our advantage to leave the G–class uncounted so that they could not be traded in or modernized without counting.

I thought this might be a useful reference.

Senator STONE. The only problem, Senator, with that is the SS–N–5 is not that low-range a missile.

Senator HELMS. Precisely.

SS–N–5 MISSILES ON GOLF SUBS VISITING CUBA

Senator STONE. It is counted and the SS–N–5 is on the *Golf II* submarine. When Admiral Hayward corrected the record of this committee, he said the following, which I will read:

GOLF–II diesel submarines carry the SS–N–5 SLBM, which is not accountable under the SALT I Treaty or the provisions of SALT II. The SS–N–5 SLBM is assessed to have a nuclear warhead.

The *Golf II* submarines which visited Cuba in 1972 and 1974 carry that warhead. I move that by appropriate amendment, and I will leave that to the staff, the *Golf II* submarines and the *Golf I*, which carry either SS–N–4's or SS–N–5's—those that have been modernized, in other words—be included and counted.

The CHAIRMAN. Senator Stone, in the procedures which the committee agreed upon, each member was asked to submit a proposal of that kind, whether it takes the form of an amendment, reservation, understanding, or declaration, if at all possible 48 hours before the committee considers that provision.

Senator STONE. I would be very happy to comply with that rule. I did not realize we were developing into this loophole until I heard the testimony today. But I would be very happy to work with the staff and submit such a proposal for consideration after 48 hours.

The CHAIRMAN. I thank the Senator. That will give both members an opportunity to read the proposal and the staff an opportunity to make its own appraisal, and, of course, the administration as well.

Senator SARBANES. Mr. Chairman, may I ask what the ranges of the SS–N–4 and SS–N–5 missiles are?

Mr. SLOCOMBE. Yes; Senator Sarbanes. The range of the SS–N–5 is under 1,000 miles. The SS–N–4, as I understand it, is less than that.

The *Golf* submarines, which are in question, have the same missiles on now that they had on them in 1972, which are the same that they had on them in the early 1960's. They have not been modernized.

Senator SARBANES. The question then is whether we are going to count against the strategic numbers that are permitted under the treaty a weapon, a submarine, a diesel submarine here that can launch a missile 1,000 miles which, of course, would bring the response of any system we have that can do the same thing to be counted.

Isn't that the issue that is being put?

Mr. SLOCOMBE. Yes, sir.

Senator BIDEN. Will the Senator yield for a question on a specific number?

Senator SARBANES. All right.

Senator BIDEN. What is the range of our SRAM missile?

Mr. SLOCOMBE. It is on the order of several hundred kilometers. No system is counted because it carries a SRAM.

Senator BIDEN. I understand that.

I just wanted to know the range, that is all.

Thank you.

Senator SARBANES. It seems to me, Mr. Chairman, in thinking this through that we have to distinguish two things. One is whether a system is reasonably counted as strategic in terms of coverage here and its numbers. There is a different question involving any weapon system

that is put, say, into Cuba, which is 90 miles from the United States. It seems to me that this problem is addressed by the 1962 agreement in terms of keeping them out.

In other words, I assume there is a whole range of Russian weapon systems which, if they could be positioned 90 miles from American shores, would be of extreme danger and concern to us, but these weapon systems have been encompassed within the SALT Treaty.

Now we don't want them positioned there and we are prepared to take whatever measures are necessary to prevent that from happening. But not because they are covered by the SALT Treaty.

Mr. SLOCOMBE. That is true, Senator, the most obvious case being the SS–4's and SS–5's, the land-based missiles, which were attempted to be deployed in Cuba in 1962 and which set off the missile crisis of that year. They are, of course, not included in the SALT II agreement.

There is, of course, the U.S. position with respect to their limitation from Cuba.

Senator SARBANES. Well, they are not included because their range is not 5,500 kilometers for a land-based ICBM, is that correct?

Mr. SLOCOMBE. Yes.

Senator SARBANES. But we are still prepared to take action if they are positioned within 90 miles of the United States, but that is action outside of the SALT Treaty.

Mr. SLOCOMBE. Yes, sir. Any nuclear system which is stationed in Cuba would be a violation of that 1962 agreement.

Senator STONE. Mr. Chairman, if I could pursue that, why, then, is the SS–N–5, which is the same kind of nuclear missile carried by the *Golf* submarine, included when carried by the H–II class submarine?

Is the H–II class submarine a nuclear submarine or is it a diesel?

Mr. SLOCOMBE. Because the H–II class submarine is a nuclear submarine, nuclear-powered submarine.

Senator STONE. In other words, it is the propulsion that makes this a strategic system, is that it. the propulsion of the nuclear submarine?

Mr. SLOCOMBE. That is an accurate description of the agreement reached in 1972, with the thought being, in particular, that a diesel submarine, at the kind of distances from the Soviet Union and closeness to the United States, is a different sort of proposition from a nuclear-powered submarine. That is the distinction that was drawn in 1972.

Senator STONE. But not if it gets refueled at a place like Cuba.

Mr. SLOCOMBE. The stationing of Soviet nuclear systems in Cuba, whether they are the kind you are describing, or other kinds, would be a violation of the 1962 and 1970 agreements.

Senator STONE. But not of the SALT II agreement?

Mr. SLOCOMBE. Not as such, no.

Senator STONE. Not as such. That is what I am going to move to amend, so that it is "as such."

I will take the 48 hours, though.

NUCLEAR WEAPONS ON NON-SALT LIMITED AIRCRAFT

Senator BIDEN. For purposes of clarification, if the Soviet Union were to put a nuclear missile on an aircraft which is not counted, a

fighter aircraft, and put it on an aircraft carrier and had that off the shores of the United States within the range of that missile, would that be included within the SALT agreement?

Mr. SLOCOMBE. You need to tell me the range of the missile.

Senator BIDEN. Whatever the range is. Tell me what nuclear missiles are carried on Soviet fighter aircraft. Just name me one.

Mr. SLOCOMBE. I believe, almost by definition, nuclear missiles are not carried on fighter aircraft.

Senator BIDEN. Well, on any aircraft that is not counted in this agreement.

Mr. SLOCOMBE. There are no Soviet ballistic missiles carried on aircraft now.

There are no Soviet cruise missiles with a range in excess of 600 kilometers carried on aircraft now.

Senator BIDEN. Are there Soviet cruise missiles with a range under 600 kilometers carried on Soviet aircraft?

Mr. SLOCOMBE. Oh, yes.

Senator BIDEN. On what aircraft?

Mr. SLOCOMBE. I can give you the details, but there are certain ones that are classified.

Senator BIDEN. Are they capable of being carried on an aircraft that could be carried on a carrier?

Mr. SLOCOMBE. But the Soviets do not have a carrier.

Senator BIDEN. I know that. I understand that. But I mean if, in fact, they were to build a carrier.

Mr. SLOCOMBE. If the Soviets were to build a carrier, yes, they could put cruise missiles with a range of less than 600 kilometers——

Senator BIDEN. And bring that carrier within 600 kilometers of the shores of the United States.

Mr. SLOCOMBE. Yes; and so can we.

Senator BIDEN. I know that. That would not violate the agreement, the SALT agreement, would it?

Mr. SLOCOMBE. That is correct.

Senator BIDEN. The only point I am trying to make is there are a lot of things which potentially could put the continental United States in jeopardy of being struck by a medium range or short range nuclear ballistic missile that would not be covered by the agreement.

Mr. SLOCOMBE. Yes.

Senator BIDEN. Just as we can do the same with them.

Mr. SLOCOMBE. That's true. There are a great many American systems which are now so deployed.

The CHAIRMAN. I believe the thing the committee should keep in mind is that we are talking about 20 older submarines, diesel-powered submarines, whose range is not as great as that of nuclear powered submarines. These 20 diesel powered subs carry approximately 60 SS–N–4 and SS–N–5 missiles, ballistic missiles.

There is not any question but that such a submarine could be refueled, could reach the coastal waters of the United States and could, in extremis, fire its nuclear missiles against American targets. On the other hand, we have how many aircraft carriers? Is it 10 or 12?

Mr. SLOCOMBE. How many aircraft carriers does the United States have?

The CHAIRMAN. Yes.

Mr. SLOCOMBE. Thirteen, I believe.

The CHAIRMAN. We have 13 aircraft carriers with scores of aircraft that can be deployed in the coastal waters off the Soviet Union, and those aircraft can be equipped with nuclear weapons with which to attack the Soviet Union. We also have scores of F–111's stationed in Western Europe which can carry nuclear bombs and which have a range that enables them to strike the Soviet Union. We also have scores more of F–111B's, stationed in the United States that have a range and a nuclear capability with which it would be possible to strike the Soviet Union.

Now, if we are going to include these 20 old Soviet submarines, then I think we can expect the Soviet Union to raise the question of our forward-based systems which, taken in their totality, constitute a far greater nuclear threat to the Soviet Union than any that could possibly be posed by these submarines. This, I think, must be considered by the committee before it passes judgment on the amendment which Senator Stone has suggested.

Senator BIDEN. Mr. Chairman, may I read into the record the exact numbers because I think it is important?

The CHAIRMAN. Yes.

Senator BIDEN. We have 156 F–111's in Europe and over 150 in the United States with a missile range and aircraft radius of over 2,000 kilometers. We have 120 A–6's at sea, with a missile range and aircraft radius of 1,200 to 1,600 kilometers. We have 290 at sea and 400 based in the United States of the A–7's, with ranges of 1,000 to 1,300 kilometers, for a total of 916 nuclear systems, if you will, capable of striking the Soviet Union that are not counted within this agreement.

Senator STONE. Mr. Chairman.

Senator BAKER. Mr. Chairman.

Senator STONE. I will be brief, very brief.

The CHAIRMAN. All right, then, Senator Stone.

Senator STONE. The Soviet submarines, old as they are, do cruise our waters. It is not a question that they might barely reach our waters if they could be refueled in Cuba. They are cruising our waters with these systems. This is our theater. We are not talking about Europe.

Second, all of these cited airplanes and systems that we have on a theater basis add up to far less than the nuclear capability that the Russians direct at our friends and at those systems in Europe. The proof of that is when the President said that we should not be deterred by the offer of Brezhnev to remove a few troops against trying to match their modernization of nuclear missiles by our own in Europe. The fact of the matter is they outmatch us in that theater. The fact of the matter is that those *Golf II* submarines are cruising our waters now. Their loiter capability would be greatly extended by being refueled in Cuba, and I am concerned about that.

The CHAIRMAN. I think there is some difference of opinion as to the accuracy of the statement that these particular submarines are cruising in American waters.

Can we hear from someone who knows about that on the executive side?

Mr. SLOCOMBE. To my knowledge, and I believe I am informed on the subject, they are not now cruising in American waters by any definition and certainly if by American waters you mean within missile range of the continental United States.

Senator STONE. Do you mean that they didn't come to Cienfuegos in 1974, loaded with nuclear missiles? Is Cienfuegos, Cuba, within 1,000 kilometers of Florida?

Mr. SLOCOMBE. But 1974 is not now.

Senator STONE. Now that is a little bit cute. I am not saying that they are offshore today. I am saying that their range is such and their mission is such that they can and they have done that.

I do not have radar on them this minute. But isn't it accurate to say that they have been in our waters?

Mr. SLOCOMBE. It is accurate to say that they have been in Cuba at the time you identify; that is not the same thing as saying that they are cruising our waters.

Senator STONE. Well, I happen to think that 90 miles away is our waters, when the range of what you carry is 800 or 1,000 kilometers.

Senator JAVITS. Mr. Chairman, I would like to ask one question, but first I will defer to Senator Baker.

The CHAIRMAN. Senator Baker.

Senator BAKER. I apologize to Senator Javits, but I must leave shortly. There is a meeting of ranking members in my office which has already commenced.

The CHAIRMAN. Senator Baker, excuse me. May I just ask a question at this point?

Senator BAKER. Yes.

OBJECTION TO COMMITTEE MEETING DURING SENATE SESSION

The CHAIRMAN. It has been the plan of the committee to proceed with the markup this afternoon. I understand that there has been an objection made from the Republican side preventing our doing that. Can you inform the committee whether or not we will be able to proceed this afternoon? Have you been advised of this development?

Senator BAKER. Mr. Chairman, as you know, the leadership on both sides serves one function, and that is to note objections of one type or the other. All I can tell you is that there is an objection that has been lodged regarding meeting of this committee beyond the first 2 hours of the convening of the Senate, as the rules provide. I can tell you further that I did not do that, but that I will honor that. Of course, we would be glad to negotiate further on it at another time.

But, right now, I think the answer is that we are stuck with it at the moment.

Senator PERCY. Is there any indication whether this objection will be made every day?

Senator BAKER. I have no information at all except for the routine notation of an objection on my calendar today.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. In that regard, I would like to make a comment on this.

MARKUP SCHEDULE

We are marking this treaty up with meetings on Monday afternoon and Friday morning, as I understand it, and with morning and afternoon sessions every day. I could not be here early this morning because

there was a hearing I was chairing which I had scheduled for a long time and just could not get out of. I have canceled two other hearings this week and put them off indefinitely and they concern matters that should be brought to the floor of the Senate and acted on in this session. I think every other member is probably faced with the same problem.

I brought some of this up the other day. I had suggested to our Chairman and staff director that perhaps we could work out something like half a day 3 days a week, or something like that, so that we would have reasonable time to consider these most important items and still perform some of the other functions that we have to do in the Senate.

I cannot be here morning and afternoon every day of the week. I will miss some things, I know that. There are things I am vitally involved with on this. There are a number of changes. We spent basically the last 2 years monitoring what is going on with this, and now, in a rush to finish, for reasons which have never been spelled out by anyone, except that we have to make the trains run on time in the Senate somehow, we are now rushing this thing through.

I think it probably would be good if we did lodge a permanent objection to any unanimous consent that we meet during the time the Senate is in session. I do not eliminate doing that myself, much as I would dislike doing it, in trying to get this thing through. But I really am concerned that all of us cannot be here all day, every day, until this thing is finished. We have other things we just have to do in the U.S. Senate. Our responsibilities are dual.

I have argued this before and will not make a motion now. But I would implore the leadership to please put this on a track, a schedule, where we can have the full committee here as much as possible. Give us a little time between sessions.

I am not trying to extend this thing out for months. But we are giving this a lick and a promise as we go through it now, and it deserves better than what we are going to be able to give it once this goes on for 2 or 3 weeks.

Senator JAVITS. Would you yield at that point?

Senator GLENN. Certainly.

TREATY RATIFICATION AND NATO TNF DECISION

Senator JAVITS. As to why the "rush," I am not a party to any rush. But I will tell you there is a reason why we should move.

The Russians would love it for the Western Alliance to be in grave peril of shaking apart. They are making bids exactly for that purpose.

In December, the NATO Alliance will decide whether it will or will not go with us on the program of TNF modernization which has been advocated here by every opponent of the treaty. If they make a decision against us at that time, you will be mighty sorry you did not work expeditiously.

This is a very urgent matter and I am not just the authority for it. You just had the report of the new NATO Chief, General Rogers, who told you exactly the same thing.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. I fully understand what Senator Javits is saying and I am sympathethic to what Senator Glenn has said. I have no desire to upset our NATO Allies, but I am not going to permit the schedule of the Senate on the basis of their concerns.

I intend to participate in these hearings to the full extent that I can, and I hope every member of the committee will do that. I have no desire to put over SALT until next year. But, by the same token, we have to set up a realistic and reasonable schedule of hearings.

I did not lodge the objection today, but I will honor it. I urge that we take Senator Glenn's advice and sit down and find a reasonable schedule of events so that all of us can be here.

I am willing to come early in the morning. I am willing to talk to Senator Byrd about convening late so that we will have more time. But this business of morning and afternoon sessions is going to turn out to be a fiasco.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Let me say that the committee gave this matter consideration. I have never known a time in my service in the Senate when Senators were not obligated beyond the possibility of being in all places where they were needed. That is a common occurrence and has nothing to do with the SALT II Treaty. We live with that every day.

Now, if there is going to be an objection lodged to this committee sitting in the afternoon, then we are going to have to prolong the morning sessions. The committee, if it wishes to have fewer sessions, has it within its power to so decide.

We have taken this up in an orderly way. We have taken it up in executive session. The committee has made its decision and the Chair is abiding by the committee's decision. If the committee wants to decide otherwise and proceed on a different schedule, that is up to the committee. But I would think that considering the progress we have made thus far, it is hardly fair to characterize these markups as being a "rush procedure." [General laughter.]

Senator BIDEN. Mr. Chairman, I would like to underscore what the Senator from New York, Senator Javits has said. He could not be more right.

Let me address Senator Baker's response.

Howard, you are saying that you are not going to set the Senate's schedule based on satisfying our European Allies. It is not our European Allies that we are satisfying. It is in the United States of America's self-interest. The self-interest of the United States dictates that the alliance must reach a decision and have some sort of continuity and coherence at the Minister's meeting in December. If, in fact, we do not arrive at that, it is not the Europeans we are hurting. It is not anybody else that we are not satisfying. Rather, it is our naked self interest. Our own security is at stake.

If, in fact, a decision is not reached, it will be a significant blow to our security and our interest. Coming on the heels of the neutron bomb fiasco that we had in Europe, I think it would do damage in the alliance that would take a long time to repair.

I don't know how we can possibly arrive at that decision on TNF absent some concrete decision on this. So, it is our interest and not that of the Europeans that we are satisfying.

Senator PELL. Mr. Chairman.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Pell.

Senator PELL. Mr. Chairman, I completely agree with Senator Javits. I think we should be realists. If we meet for 3 half days a week on this treaty, everybody in this room knows that we will not finish the treaty this calendar year. If that is the wish of those who want that schedule, so be it. But I think we should be realists and not talk about doing it this calendar year if we go on that kind of schedule, and if we go over to next year, I think we will do incalculable harm to the NATO alliance.

Senator BIDEN. The Appropriations and Budget Committees meet morning, noon, and night for 2-week periods and exclude everything else. I don't know why this is so different.

The CHAIRMAN. We all know that, Senator.

Senator Percy.

Senator PERCY. Mr. Chairman, I suggest that we set a schedule that will start us earlier in the morning, say at 9 or 9:30, and that we plan on going until 1 or 1:30. Let us try to accept Senator Baker's suggestion in that regard.

We could get as many working hours in that way as we could with a short morning and afternoon session combined. We also might have a larger quorum.

But I do think we ought to set a schedule that is realistic, that tries to aim to get this finished up at the end of this month. We could try to get it on the floor by the second week in November. In this way we would have a chance to see whether or not we could debate and vote this year.

I don't think that is a rushed schedule. We have all engaged in committee activities where we have tried to work on a time schedule. If we have an end objective, let's keep that in mind and set sufficient time so that we can achieve it.

The CHAIRMAN. I think we should try to ascertain whether this objection to the afternoon session will persist so that we can make the necessary arrangements along the lines Senator Percy has suggested, if we are faced with that kind of objection.

Senator BAKER. Mr. Chairman, I would be glad to try to ascertain that and pass it on to you.

The CHAIRMAN. Thank you very much.

Senator BAKER. I still have one question on this subject if I can get a turn at bat.

The CHAIRMAN. Yes.

SALT EXCLUSION OF OLDER DIESEL SUBS

Senator BAKER. As I interpret the agreed statement on page 4, the net effect is to say that we have created an exception, an exemption, for the Soviet Union in the SS–N–4 and SS–N–5 missiles that would not exist absent that agreed understanding.

Is that correct?

Ambassador EARLE. I think that is essentially correct, Senator Baker. It goes back to SALT I. I think there is a consideration that was suggested in the excerpt which Senator Javits read, which had a

bearing on the decision then. Had they been included in the freeze, these older diesel submarines, the Soviets then would have had the right to trade them in under the interim agreement freeze for modern nuclear submarines.

Senator BAKER. Thank you, Mr. Chairman.

Mr. Ambassador, thank you.

What I am reaching for is this. I wanted to first ascertain that what we have done was deliberate; that is, we have created an exemption for diesel-powered submarines in the Navy of the Soviet Union to carry SS–N–4 and SS–N–5 missiles which would not exist absent this agreement.

Ambassador EARLE. As I understand it, that was part of the negotiation of SALT I with respect to this particular number.

Senator BAKER. And, according to the line of inquiry put by Senator Stone, we know of *Golf* class submarines which, in fact, are known to carry SS–N–4 and SS–N–5 missiles, and which have operated at some prior time in these waters.

Ambassador EARLE. They have been in these waters.

Senator BAKER. My question then, Mr. Ambassador is, during the course of these negotiations, was the discussion of creating this exemption in favor of the Soviet Union because of the Cuban situation?

Ambassador EARLE. No. There was no mention of the Cuban situation in the SALT negotiations.

Senator BAKER. Was there discussion among our negotiating team on the applicability of this exemption to the Cuban situation?

Ambassador EARLE. Not in Geneva, Senator.

Senator BAKER. Was it recognized by the administration, by the Department of Defense, our intelligence community, or anyone else in those negotiations that we were deliberately creating an opportunity for the Soviet Union to deploy and utilize this missile system in the Caribbean waters?

UNITED STATES-SOVIET AGREEMENTS ON CUBA

Mr. CUTLER. Senator Baker, the question of deploying these submarines, using Cuba in one way or another as a base, was settled in the 1970 reconfirmation of the 1962 offensive weapon understandings between the United States and the Soviet Union. We regard that as a settled matter.

Senator BAKER. Yes. But, you know the old saying, the first time it is the mule's fault and the second time it is my fault.

What I am asking is whether or not by agreeing to this new undertaking—and this is a new undertaking regardless of its source and origin, and even though it is carried forward from a previous commitment and understanding—when we agreed to embed this exemption in this treaty, it was done deliberately. It may be good or bad. That is not the point I am arguing.

What I am asking for and am reaching for is whether or not we were aware of, discussed, and weighed the consequences of the fact that we were creating an opportunity for the Soviet Union to put nuclear weapons on diesel submarines in the Caribbean which they could not do absent the provisions we are discussing.

Mr. CUTLER. We were extending a preexisting exclusion of these submarines, and we regard opening the matter up as extremely dangerous because it is bound to bring up all of the other weapons that the United States deploys which are not counted in the agreement.

Senator BAKER. Mr. Chairman, I have to say just another word about that.

Throughout this thing, whether we are talking about Backfire, or SS–N–4's or SS–N–5's, we get around to the place where we say well, you know, we traded that off for our forward-based systems or we gave that up in deference to something or other.

Well, if we did, it was a bad trade. That really is the essence of the consideration of SALT. Did we get a good deal or a bad deal? Did we get out-traded or not?

It is not a question of whether we gave it up for something else. The question before the Senate, in my judgement, is whether it was a wise thing to give up.

Senator JAVITS. Mr. Cutler, I have one question of law which you may or may not be able to answer for me today.

Will the administration advise us what is the connection between a violation of the agreements on Cuba and SALT? This Cuba thing has been raised constantly in different contexts.

Now it is a fact that if these G–type submarines arrive in Cuban waters with missiles, ballistic missiles that are nuclear, that is a violation of the 1962 and 1970 agreements. So, what happens vis-a-vis SALT in that event.

Senator STONE. If the Senator would yield, the administration has advised me of this, and it is marked "Secret." I have been asking for it to be declassified in order to assist us all in the operations of this decision, because they have explained when it is and when it is not. I don't think there is anything that strategic involved in it, and I think it would be very helpful to us. We cannot really have this debate in the open without it being declassified.

Mr. CUTLER. I will do my best to get it declassified, Senator.

Senator STONE. I know, Lloyd. I know you are trying.

Mr. CUTLER. In answer to Senator Javits, if the Soviet Union violated the agreement relating to Cuba, the 1962 agreement as reconfirmed in 1970, we would be entitled, under article XIX, paragraph 3 of the SALT agreement, to treat that as an extraordinary event related to the subject matter of this treaty, jeopardizing our supreme interests, entitling us to withdraw from the SALT II Treaty or take whatever remedy we saw fit.

Senator JAVITS. That is an official declaration by the administration?

Mr. CUTLER. Yes, sir.

The CHAIRMAN. Is there further comment at this time on section 2 of article II?

[No response.]

ARTICLE II, PARAGRAPH 3: HEAVY BOMBER DEFINITIONS

The CHAIRMAN. If not, the committee will proceed to section 3 of article II, beginning on page 5.

Mr. Sauerwein, would you read this part for the committee.

Mr. SAUERWEIN. Yes, Mr. Chairman.

Paragraph 3 reads:

Heavy bombers are considered to be:

(*a*) currently, for the United States of America, bombers of the B–52 and B–1 types, and for the Union of Soviet Socialist Republics, bombers of the Tupolev-95 and Myasishchev types;

(*b*) in the future, types of bombers which can carry out the mission of a heavy bomber in a manner similar or superior to that of bombers listed in subparagraph (*a*) above;

(*c*) types of bombers equipped for cruise missiles capable of a range in excess of 600 kilometers; and

(*d*) types of bombers equipped for ASBM's.

That completes a reading of the paragraph.

There are quite a few agreed statements and common understandings, but I think perhaps you would like to discuss the paragraph itself before we go on to those.

The CHAIRMAN. Is there discussion of the paragraph itself?

Senator GLENN. Yes, Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Chairman, before I comment on the paragraph itself, I want to respond to Senator Javits' comments of a while ago regarding our scheduling.

It is not my intent in wanting a more realistic schedule that we push back this markup into December or anything that is going to interfere with NATO. I know the views of some of the NATO people on this. I want our action to be completed before they have their meeting.

I question whether the sky is going to fall in and NATO will be torn asunder if we do not have this done by that time. But I also am very concerned that we get the right treaty. I do not see how extending our schedule some would necessarily get into the December period.

We were being asked questions earlier in the week if we could complete this in one week or in 10 days. I think if it is extended considerably beyond that 10-day period we would still obviously be able to make our schedule for NATO.

Are we going to proceed today, Mr. Chairman?

The CHAIRMAN. I understand that the Senate is now in recess, so I had thought we might proceed until 12:30, and then we could adjourn for lunch.

BACKFIRE BOMBER TYPE

Senator GLENN. I had distributed and have an understanding that I would like to submit involving the Soviet Backfire. My proposal would clarify an ambiguity by inserting an understanding that any significant upgrade in the range/payload capability of the Backfire would be classed as an extraordinary event, jeopardizing U.S. supreme interests and grounds for withdrawing from the treaty.

The reasons for this I will have to explain.

In the statement that we had yesterday, Chairman Brezhnev's statement that we are accepting, but which was signed by Cy Vance, which we discussed in considerable detail yesterday—on June 16, President Brezhnev handed President Carter the following written statement, and I will quote from this.

The Soviet side informs the U.S. side that the Soviet TU–22M airplane, called Backfire in the U.S.A., is a medium range bomber.

This itself is questionable because we don't have an adequate definition of medium, long, heavy, light, and so on. But it says:

is a medium range bomber and that it does not intend to give this airplane the capability of operating at intercontinental distances.

Mr. Chairman, they go ahead further to explain this.

It says, "In this connection, the Soviet side states that it will not increase the radius of action"—that is the term, "radius of action," and I will come back to that in a minute—"of this airplane in such a way as to enable it to strike targets on the territory of the U.S.A., nor does it intend to give it such a capability in any other manner, including by in-flight refueling. At the same time, the Soviet side states "it will not increase the production rate of this airplane as compared to the present rate"—which is what we covered yesterday.

If you come back to the Soviet definition and what they accepted and what we accepted, they define the airplane in terms of not having intercontinental capability with regard to radius of action.

That is a big difference from range. Radius of action is a two-way operation. It is going out and coming back to the base you left, or a comparable distance coming back. There is no air force in the world using heavier bomber forces which uses—well, they use that type planning but, more realistically, they figure on their range as going out and landing at some other spot and not coming back.

So, the Soviets agreed to this statement, and says it does not have intercontinental distance by defining radius of action.

Now we attempted to clarify this at Vienna before the President signed the statement. The statement back from the State Department which I have is to this effect:

At the Vienna Summit, President Carter made clear that any significant upgrade in range/payload capability would be inconsistent with Soviet Backfire assurances.

Now that says "range."

"The Soviets responded that they would not be bound by U.S. unilateral interpretations of their statement."

In other words, when we pushed the idea of range, which the Backfire has now, to hit some major targets in the United States, even unrefueled, when we tried to define the range as the limiting factor, the Soviets not only did not reply to our unilateral statement, but they replied in the negative that they would not be bound by our statement.

I think this is a very important distinction. What we are dealing with is the Soviet version of our Triad, in which we place great store in our own country.

The resolution that I propose would clarify this. I will read the understanding:

Subject to the understanding which is to be made part of the instrument of ratification that any significant increase after the date of signature of the treaty in the range or payload of bombers of the type designated by the Union of Soviet Socialist Republics as TU–22M, known to us as the Backfire, constitutes an extraordinary event which is related to the subject matter of the treaty and which jeopardizes the supreme interests of the United States within the meaning of paragraph

so and so, and so on, until the end.

What this does is state that our view of this would be the prevailing view and it is important in that the Soviets have defined this as

"radius of action" and we have defined what we thought should be the case in terms of "range." This resolves it in our favor that it will be considered in range or it will be a violation of the treaty.

I would submit that this be considered as a category III understanding.

Thank you, Mr. Chairman.

Senator BIDEN. Mr. Chairman, may I speak to that, please?

The CHAIRMAN. The Senator from Delaware.

Senator BIDEN. Mr. Chairman, I think what Senator Glenn is attempting to accomplish and does accomplish by this language is important and needs to be done.

But I would suggest that perhaps what we should do is stop beating around the bush on this point and incorporate not only this understanding but the one that was passed earlier with regard to the Backfire bomber. I would like to consider the prospect of amending Senator Glenn's reservation to read:

> That the production of the TU-22M bomber, the Backfire, will not exceed 30 per year and that its capability of operating at intercontinental distances will not be increased.

This is straightforward and simple and speaks to both those questions.

I believe Senator Lugar joins me in this and may wish to speak to it. Then I would be curious as to administration comment on whether or not there would be any impediment to hitting this straight up. Why refer to Brezhnev's statements and why refer to everything else? We know what we mean. We know the Soviets know what we mean. Senator Lugar and I raised this issue with Mr. Kosygin pointblank, at length, for close to 2 hours. The Soviets know what is on our minds. They know how we will react if they do increase the Backfire's range and/or production.

So, why don't we just say it straight out?

Senator GLENN. Would the Senator yield?

Senator BIDEN. Surely.

Senator GLENN. This is what I proposed yesterday, that we do combine them. I would go either way, really. I would submit them separately or I would combine them. We left it up to the staff, the chairman, and the ranking minority member to pass on the staff functions. Apparently the staff got together on this last night and felt it was not desirable to put these two things together. It was decided that it would be better to consider them separately so as not to jeopardize the one we passed yesterday.

As I understood it, or as it was related to me, anyway, those were the feelings of the chairman.

PLACEMENT OF SUBSTANTIVE BACKFIRE PROPOSALS

The CHAIRMAN. This morning we passed on language which simply made the Soviet statements binding on the Soviet Union. It did not attempt to interpret the statements. But we did so with the clear understanding that we could pick up the very question you are now raising at an appropriate time.

Senator GLENN. I was willing to do exactly what Senator Biden was proposing, and the staff deemed it inadvisable to handle it in that way.

I guess you did, too, Mr. Chairman. That is the reason I am bringing it up now.

Senator SARBANES. As I understand it, it would be appropriate to take either your proposal or Senator Biden's proposal at the point that we reach the Backfire statement and consider it as an amendment or change in the content of the Backfire statement. All we separated out and wanted to do this morning was to make clear the status of the Backfire statement.

At some point we will reach it and at that point we can seek to change it.

Senator GLENN. Aren't we there now?

Senator SARBANES. No, we are not there now, are we?

Senator GLENN. But we are at heavy bombers.

Senator SARBANES. The Backfire statement comes later, doesn't it?

Mr. MCFADDEN. Yes, Senator.

Senator GLENN. I could withhold this if it is not applicable at this point.

The CHAIRMAN. Let me ask where it would be applicable. If not here, then where?

Mr. MCFADDEN. The Backfire statement does come at the end of the consideration of the treaty and the protocol. It is a separate exchange and separate statement.

Mr. TIPSON. Frankly, Senator, we did not anticipate on the agenda that we would be waiting until the Backfire statement appeared. The agenda, you will note, goes to the treaty and protocol and then proceeds to SALT III, the assumption being that when Backfire came up as an issue in our discussion of the treaty, we would consider all proposals dealing with Backfire at that time.

Senator GLENN. So, does that mean now or later?

Mr. SHEA. Senator Goldwater has offered an amendment to the definition of heavy bomber, where we are now. So you have an option. It can go into a discussion on the definition of heavy bomber. I take it from your amendment that it would be more applicable to the Backfire statement itself and, therefore, as we progress would come up as we reach that Backfire statement.

Senator GLENN. Can you tell me where in our markup sheets I would bring this up? Where would it be more appropriate?

Mr. SHEA. It would be on page 45, when we come to the Backfire statement.

Senator BIDEN. Sometime in March.

[General laughter.]

Mr. LAKELAND. Senator, let me say that the purpose of the original reservation of Senator Church and Senator Javits was to put the Backfire statement before the committee as it was not submitted as part of the treaty or protocol or common understandings or agreed statements. It was a separate exchange which was submitted to us for information.

One of the rationales for putting it in or giving it status was just that, that otherwise it would not normally be reached as we went through the documents which were submitted to the Senate for its advice and consent.

Senator LUGAR. Mr. Chairman.

Senator GLENN. I am happy to have this considered wherever it is most appropriate. I am not pushing for it today. I thought this was the most appropriate time. I understood from staff that in discussions of it yesterday afternoon it was pointed out that this would be appropriate at paragraph 3 this morning. That is the reason I was bringing it up here this morning.

Should we put this off, Mr. Chairman, until page 45? That would be fine with me if that is the way you wish to handle it.

The CHAIRMAN. I think the Senator has the option. I think perhaps it would be most appropriate to address it to the statement that deals with the Backfire, but I suppose it could be brought up at this time in connection with paragraph 3 if it is the Senator's preference to do so. I do think that more appropriately it belongs at page 45 than at page 5, however.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Mr. Chairman, it seems to me that regardless of how the problem is resolved, it was appropriate that it come up in this particular session.

I voted against the proposal this morning to elevate the language simply because I wanted to say that we simply do not accept the information that was being offered to us. To dignify it by putting it in the treaty I suggest is not a very good idea.

I still hold that viewpoint, although it is a minority viewpoint.

Having held that, Senator Biden's reservation hits this in a little bit different way. It says that the production rate of the TU-22M, the Backfire, will not exceed 30 per year and that its capability of operating at intercontinental distances will not be increased. That is better information. It does have an intercontinental capability, without any doubt.

As Senator Glenn has pointed out, it has the capability of getting to the United States, although Kosygin and everybody else in the Soviet Union will deny that; it just does.

Why do we accept information that is not very good information? That is not a very good idea.

Whether or not we go back to our vote or resolution of earlier this morning or whether we simply, as a part of the record of this session note that there still is a grave question hanging over that is up to the discretion of the committee. As far as I am concerned, maybe we should do this at page 45 and some days from now, but it was well that the two things were coupled together today because it is an unresolved issue.

The CHAIRMAN. I think the discussion was very helpful.

I would say that what the committee has already done today would seem to cover at least one aspect of Senator Biden's proposal. The Brezhnev statement to President Carter, the oral statement, appears to be clear. He said that the production rate of this bomber would not exceed 30 per year.

We have said that we regard that statement as legally binding on the Soviet Union, so at least that part of the Biden proposal would seem to be covered by the action already taken by the committee, the other part is not.

Senator BIDEN. I think the Chairman is right.

I think we probably could accomplish it in the way the committee had begun to do. I share the concern of Senator Lugar about elevating the statement to the level of the treaty because I think the opening sentence in the written statement is not an entirely accurate one.

At any rate, my only point is we know what we want to do. We want to make it very clear that if the Soviets modify the Backfire bomber to increase its range from what we believe it to be now or if they produce more than 30 per year, we are getting out of the treaty.

So, notwithstanding all of our inclinations, mine included, to dig back into my brief past as an attorney and to complicate the language, why don't we just say straight up front that if the Soviets produce more than 30 or modify the range, we are out. That is one simple sentence. It puts it in one spot. It lays it out straight.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. I just want to make a suggestion.

There are four points in the Soviet statement. There are the points that it is not intended to give this airplane the capability of operating at intercontinental distances; that the Soviet side will not increase its radius of action in such a way as to enable it to strike the United States or give it in-flight refueling, or produce more than 30 per year.

Yesterday, we discussed that question, Mr. Chairman. I think what we ought to do is simply to specify each of those items because, even as you have written it, it worries me. I will tell you why.

You talk about increasing it. They have represented that it is not capable of operating at intercontinental distances. So, even if it is and they are cheating us right away by a representation which is not true, we should nail that right away. In other words, part of our agreeemnt is that representation, and we are accepting it as saying that they cannot operate now at intercontinental distances.

BACKFIRE INTERCONTINENTAL CAPABILITY

Senator BIDEN. If the Senator would yield on that point, that could cause us a great deal of difficulty because, as a supporter of the treaty, I would be hard-pressed to make the counter argument when the Agency or anyone else comes forward and shows that it does presently have the capability of reaching the United States of America on a one-way mission.

If, in fact, we put this language in which the Senator is suggesting, and then it is proven at a later date in the course of debate that the plane does presently have that range, we have already given cause for us to pull out of the treaty.

Senator JAVITS. Not quite, and I will tell you why.

They say, their representation is that they do not intend to give this airplane the capability of operating at intercontinental distances.

Senator BIDEN. They may not have meant it, but they did it.

Senator JAVITS. Now that does not mean the airplane could not make it. It depends on what fuel you put in it, how you set it up, and so on.

They are representing that they do not intend to equip it for intercontinental distances. That is the point to which I think we should hold them.

Senator BIDEN. I think we should clarify it somewhere as the Senator is saying. You have elevated the Brezhnev letter, so it accomplishes what the Senator is going after.

Now, what I would like is to keep that, but also at another point include what Senator Glenn wants. Redundancy is not going to hurt us any.

Senator GLENN. I did not object to that. But I would respond to Senator Javits in a little bit different way.

If we are to accept every point in the treaty where they develop a capability beyond what we thought we were providing in the treaty, then we will leave them with a fantastically large potential at the end of this treaty. If we followed this same line of logic, it would seem to me, as they develop a greater MIRVing capability on their ICBM's, for example, we would use the same rationale and say that that is OK so long as they don't use it. I don't think we would want to follow that. It would give them a potential that we would not want.

What we are saying here is in this case we know the airplane already has intercontinental distance, so maybe they have misled us in the first instance. But what they have done is define what they will or will not do in the future in terms of radius of action, and when our President tried to push them to define this in terms of range, instead of radius of action, they not only refused, but responded that they would not be bound by our unilateral statement. This certainly makes suspect their views as to how they might use the airplane.

I want to clarify that and take the ambiguity away from it.

We are beyond 12:30, and I would be happy to put this off until we come to the Backfire statement at the end of this.

Senator JAVITS. I think that we have had the decission for me. I would like to settle it, but not necessarily today. I think we ought to get the mature thinking of the administration on the catechism which we use.

Senator SARBANES. Mr. Chairman, could I speak to that procedural question?

The CHAIRMAN. First let me say that I think the committee staff might assist in drafting a reservation or understanding, whatever it may be, blending the approaches taken by Senator Glenn, Senator Biden, and Senator Lugar.

Senator GLENN. That's what staff tried to do last night, Mr. Chairman, and failed. They came back and said I should present this separately.

What is new with our second attempt, now?

Senator BIDEN. My staff is involved now, and they weren't before.

Senator GLENN. That should complicate it even further.

[General laughter.]

The CHAIRMAN. We will have to make a second attempt to get at the points you have raised.

I think we have accomplished part of what we want to do by giving the Soviet statements legal status and making them binding on the Soviet Union. That is part of what we wanted to do.

But you have another point which needs to be addressed. I am suggesting that perhaps the staff could be of assistance in working out language and that we then get the benefit of any comments which the administration would wish to make.

Senator GLENN. I was going to suggest the same thing and would welcome that.

I would ask whether we are going to continue with it this morning. I think we could perhaps open with the response to this the next time around.

The CHAIRMAN. We are really operating beyond our permissible limits at the moment. I think I should adjourn the meeting.

Before I do that, however, I will recognize Senator Sarbanes, if he wishes recognition.

I would suggest that, in view of the likelihood that the committee will face a continuing objection to any afternoon session, we meet at 9:30 in the morning.

Senator Sarbanes.

Senator SARBANES. Mr. Chairman, I simply wanted to say two things. First, I think we need to respond to the substance of the point that Senators Glenn, Biden, and Lugar are making. But it seems to me that procedurally it should be done with a consideration of the Backfire agreement, which has now been put before the committee by the action we took this morning.

My understanding of the reason this proposal was not in a sense in order then was we had a two-step process: to get the Backfire agreement up and before us as part of the documents; then when we get to it, to consider what changes of substance we should make.

I also have a substantive reason for thinking it ought not to come in here and that is because this is a definition of heavy bombers and that is one of the problems involved with respect to the Backfire. I think we ought to treat it in the Backfire section.

I also want to say a point on the procedure. I think that the committee met and tried to work out what it considered to be a sensible procedure. We had some differences at the time in reaching an agreement, but we reached an agreement. That process we apparently will not be able to follow because any one member of the Senate can enter an objection to the committee meeting at any point 2 hours after the Senate goes into session. If that is going to be done, we are going to have to adjust to that.

I do want to say that I think the procedure we are following is an extremely helpful one. In my mind, there is something to be said to proceeding in this very careful way through this, considering proposals, without necessarily deciding all of the proposals as they are brought up. I think it is very helpful to get these questions raised, especially some of the questions that were raised this morning, in terms of the meaning of the treaty and get people's propositions before us and, in a sense, maybe sort of moving through on that sort of tentative basis. In this way we will have an overview of where we are after we have been through the whole thing.

I know the possibility of reconsideration contributes. But I also think having the proposals before us and knowing what they are is a good thing. We had some from Senator Stone and we are moving on. But it is there and we may well come back to it. It is a very helpful process.

We should focus on continuing in this manner, I think, because I think it is working well, although it appears to be somewhat slow and tedious.

The CHAIRMAN. Thank you very much, Senator Sarbanes.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I agree with Senator Sarbanes and I would like to say this.

I was led to bring this up this morning, as I said, because staff thought it was the proper spot for it. I will withdraw my understanding for consideration at this time with the idea that I will bring it up later on at the appropriate time.

The CHAIRMAN. Very well. Then we will begin with section 3, article II on page 5 of the markup at 9:30 tomorrow morning.

The committee is adjourned.

[Whereupon, at 12:40 p.m., the committee adjourned, to reconvene at 9:30 a.m., Wednesday, October 17, 1979.]

THE SALT II TREATY MARKUP

WEDNESDAY, OCTOBER 17, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to call, at 9:34 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

OPENING STATEMENT

The CHAIRMAN. The hearing will please come to order.

Yesterday the committee left off with paragraph 3 of article II of the treaty on page 5 of the markup book and Senator Glenn indicated that rather than offer the proposal discussed yesterday to this particular paragraph of the treaty that he would withhold until we reached a consideration of the Backfire statement which is presented on page 45 of the markup book. So if there are no other proposals relative to paragraph 3, I suggest, Senator Stone, that we move to paragraph 4.

Senator STONE. Mr. Chairman, my proposed amendment which I agree is subject to the 48-hour rule would be in order tomorrow rather than today and I would request that just prior to my offering it that we have a short executive session with the administration with regard to the *Golf II* submarines and other issues following which in open session I would offer it. I doubt that we will need too much presentation time in the open session because we have already discussed it and then we would have the closed session. I would ask in moving on from this section today that we schedule then at the opening of the hearing tomorrow morning.

The CHAIRMAN. That will be fine. We will have an executive session, if necessary, as you requested.

Senator STONE. Very well.

ARTICLE IV, PARAGRAPH 4: ASBM DEFINITION

The CHAIRMAN. That takes us then to page 7 which is paragraph 4 of article II. I would ask the staff to first read the paragraph and then any other comment that the staff would like to make.

Mr. Sauerwein.

Mr. SAUERWEIN. Paragraph 4 reads:

Paragraph 4 of article II defines ASBM's as air-to-surface ballistic missiles capable of a range in excess of 600 kilometers installed in an aircraft or on its external mountings.

This is basically the definition for air-to-surface ballistic missiles and introduces the acronym ASBM which is used throughout the treaty then to refer to such missiles. I would also note that such missiles are considered ASBM's only when installed on aircraft.

The CHAIRMAN. It is my understanding, Mr. Sauerwein, that neither the United States nor the Soviet Union have any ASBM's today.

Mr. SAUERWEIN. That is correct, and the data base so notes.

The CHAIRMAN. And nothing in the testimony suggested that it was a part of any American plan to develop any ASBM, is that correct?

Mr. SAUERWEIN. That is correct. Earlier options for the M–X were looking at that but due to the M–X basing decision that is no longer being considered.

The CHAIRMAN. Are there any agreements, statements or common understandings relative to this paragraph?

Mr. SAUERWEIN. No, Mr. Chairman, there are not.

The CHAIRMAN. Are there any proposals the committee would like to make relative to this paragraph?

ARTICLE II, PARAGRAPH 5: MIRV LAUNCHER DEFINITION

If not, the committee will move on to page 8 which is paragraph 5 of article II. I would ask the staff to read the provision, please.

Mr. SAUERWEIN. Paragraph 5 reads:

Launchers of ICBM's and SLBM's equipped with multiple independently targetable reentry vehicles (MIRV's) are launchers of the types developed and tested for launching ICBM's or SLBM's equipped with MIRV's.

This is the basic definition of MIRV. Associated agreed statements and common understandings introduce the MIRV counting rules which are important to verification.

The CHAIRMAN. Now in this connection there are a number of agreed statements and common understandings, and I think we should go through them.

Mr. SAUERWEIN. The first agreed statement reads:

If a launcher has been developed and tested for launching an ICBM or an SLBM equipped with MIRV's, all launchers of that type shall be considered to have been developed and tested for launching ICBM's or SLBM's equipped with MIRV's.

Would you like to take these one at a time or should I just go on?

The CHAIRMAN. Unless there is a question. That is a very clear statement so just go ahead.

Mr. SAUERWEIN. The first common understanding reads:

If a launcher contains or launches an ICBM or an SLBM equipped with MIRV's, that launcher shall be considered to have been developed and tested for launching ICBM's or SLBM's equipped with MIRV's.

The second common understanding reads:

If a launcher has been developed and tested for launching an ICBM or an SLBM equipped with MIRV's, all launchers of that type, except for ICBM and SLBM test and training launchers, shall be included in the corresponding aggregate numbers provided for in article V of the treaty, pursuant to the provisions of article VI of the treaty.

Article V contains those limitations on MIRVed launchers and article VI contains counting rules on how launchers are counted and how they are converted and how they will be considered to be counted.

The second agreed statement reads:

ICBM's and SLBM's equipped with MIRV's are ICBM's and SLBM's of the types which have been flight-tested with two or more independently targetable reentry vehicles, regardless of whether or not they have also been flight-tested with a single reentry vehicle or with multiple reentry vehicles which are not independently targetable. As of the date of signature of the Treaty, such ICBM's and SLBM's are: for the United States of America, Minuteman III ICBM's, Poseidon C–3 SLBM's, and Trident C–4 SLBM's; and for the Union of Soviet Socialist Republics, RS–16, RS–18, RS–20 ICBM's, and RSM–50 SLBM's.

Each party will notify the other party in the Standing Consultative Commission on a case-by-case basis of the designation of the one new type of light ICBM, if equipped with MIRV's, permitted pursuant to paragraph 9 of Article IV of the Treaty when first flight-tested; of designations of additional types of SLBM's equipped with MIRV's when first installed on a submarine; and of designations of types of ASBM's equipped with MIRV's when first flight-tested.

The third common understanding reads:

The designations by the United States of America and by the Union of Soviet Socialist Republics for ICBM's and SLBM's equipped with MIRV's correspond in the following manner:

Missiles of the type designed by the United States of America as the Minuteman III and known to the Union of Soviet Socialist Republics by the same designation, a light ICBM that has been flight-tested with multiple independently targetable reentry vehicles;

Missiles of the type designated by the United States of America as the Poseidon C–3 and known to the Union of Soviet Socialist Republics by the same designation, an SLBM that was first flight-tested in 1968 and that has been flight-tested with multiple independently targetable reentry vehicles;

Missiles of the type designated by the United States of America as the Trident C–4 and known to the Union of Soviet Socialist Republics by the same designation, an SLBM that was first flight-tested in 1977 and that has been flight-tested with multiple independently targetable reentry vehicles;

Missiles of the type designated by the Union of Soviet Socialist Republics as the RS–16 and known to the United States of America as the SS–17, a light ICBM that has been flight-tested with a single reentry vehicle and with multiple independently targetable reentry vehicles;

Missiles of the type designated by the Union of Soviet Socialist Republics as the RS–18 and known to the United States of America as the SS–19, the heaviest in terms of launch-weight and throw-weight of light ICBM's, which has been flight-tested with a single reentry vehicle and with multiple independently targetable reentry vehicles;

Missiles of the type designated by the Union of Soviet Socialist Republics as the RS–20 and known to the United States of America as the SS–18, the heaviest in terms of launch-weight and throw-weight of the heavy ICBM's, which has been flight-tested with a single reentry vehicle and with multiple independently targetable reentry vehicles;

Missiles of the type designated by the Union of Soviet Socialist Republics as the RSM–50 and known to the United States of America as the SS–N–18, an SLBM that has been flight-tested with a single reentry vehicle and with multiple independently targetable reentry vehicles.

The third agreed statement reads:

Reentry vehicles are independently targetable:

(*a*) if, after separation from the booster, maneuvering and targeting of the reentry vehicles to separate aim points along trajectories which are unrelated to each other are accomplished by means of devices which are installed in a self-contained dispensing mechanism or on the reentry vehicles, and which are based on the use of electronic or other computers in combination with devices using jet engines, including rocket engines, or aerodynamic systems;

(*b*) if maneuvering and targeting of the reentry vehicles to separate aim points along trajectories which are unrelated to each other are accomplished by means of other devices which may be developed in the future.

The fourth common understanding reads:

For the purposes of this treaty, all ICBM launchers in the Derazhnya and Pervomaysk areas in the Union of Soviet Socialist Republics are included in the aggregate numbers provided for in Article V of the treaty.

The fifth common understanding reads:

If ICBM launchers are converted, constructed or undergo significant changes to their principal observable structural design features after entry into force of the treaty, any such launchers which are launchers of missiles equipped with MIRV's shall be distinguishable from launchers of missiles not equipped with MIRV's, and any such launchers which are launchers of missiles not equipped with MIRV's shall be distinguishable from launchers of missiles equipped with MIRV's, on the basis of externally observable design features of the launchers. Submarines with launchers of SLBM's equipped with MIRV's shall be distinguishable from submarines with launchers of SLBM's not equipped with MIRV's on the basis of externally observable design features of the submarines.

This common understanding does not require changes to launcher conversion or construction programs, or to programs including significant changes to the principal observable structural design features of launchers, underway as of the date of signature of the treaty.

Mr. Chairman, that completes the reading of the agreed statements and the common understandings with respect to this paragraph.

The CHAIRMAN. Does the staff have any comment to make with respect to these common understandings?

Mr. SAUERWEIN. I would quickly summarize that the first agreed statement is the MIRV launcher counting criteria.

The second agreed statement, concerning ICBM's and SLBM's equipped with MIRV's, states that if a missile is once tested with MIRV, all missiles of that type will be counted even though they may have single reentry vehicle payloads. It lists the current MIRV missiles and requires future notification.

There is a common understanding that indicates the designations of current MIRVed ICBM's and SLBM's and quite importantly indicates that the SS–19 is the largest or heaviest light missile so that it sets that standard which is used later in paragraph 7 in this article. It also designates the SS–18 as the heaviest heavy ICBM because there is an upper limit set on the heaviest ICBM.

Finally then in the third agreed statement, independently targetable reentry vehicles are defined in the long technical definition. It has an associated common understanding which indicates that there was a question about the launchers of a type for the SS–19 at Derazhyna and Pervomaysk. Finally, the fifth common understanding requires that if MIRVed launchers undergo conversion they must be made distinguishable.

The CHAIRMAN. Are there any questions relating to these agreed statements and common understandings?

Any proposals relative to paragraph 5 of article II?

CATEGORY III AMENDMENT TO COUNT BACKFIRE AND FB–111

Senator BAKER. Mr. Chairman, before we get too far, I got here at about 20 of and I guess you had already passed by the section relating to the Backfire bomber. I think the committee knows because we have submitted in advance a package of three amendments that I will offer in that respect and that they relate not only to article II but they also relate to articles III and V of the treaty. I would be perfectly

happy to offer that package or to each amendment separately and to do it at this point or at whatever point.

The CHAIRMAN. I wonder if the Senator would oblige me and offer the amendments at the time that we come to article II and article III.

Senator BAKER. Agreed to do it as a package.

The CHAIRMAN. Excuse me. Are we at the place? If we are at the place, go ahead.

Senator BAKER. We have the fastest reader in the West. I missed 10 minutes and we passed by the Backfire bomber.

I want to make sure that the committee understands I have three amendments that deal with that subject, and while they deal not just with article II, they also deal with articles III and V. I am asking the chairman how to proceed.

The CHAIRMAN. I believe your amendment, if the staff informs me correctly, relates to paragraph III of this article and if you would like to present your amendment at this time it is perfectly in order.

Senator BAKER. I would be perfectly happy to do it but I don't want to interrupt the schedule you have in mind, Mr. Chairman.

The CHAIRMAN. You are on the schedule.

Senator BAKER. Fine.

Mr. Chairman, as I indicated previously, I have three amendments that relate to this subject, the Backfire bomber, and I offer them on my own behalf and at the behest of other Members of the Senate who are not members of this committee. Senator Garn, of Utah, in particular has a deep and concerned interest in this subject and is indeed the author of one of the amendments which I will offer today.

Since all three do pertain to the same subject I now offer them en bloc, Mr. Chairman. As I indicated previously, they have been submitted to the committee staff earlier so that there is no element of surprise. The entire committee membership is aware of the nature of this undertaking.

These amendments would affect article II, paragraph 3(a) of the treaty which is the point I believe we have now reached in the consideration of the markup of the treaty, and would include both the Backfire and the FB–111 as strategic nuclear delivery systems. The amendments would also amend articles III and V to provide counting rules to the effect that each Backfire bomber would be counted as three-fourths and one-half. These counting rules would match the respective capabilities of the aircraft involved and, I believe, include the intent of the repeated JCS recommendations on this subject.

Mr. Chairman, we have spent a number of hours now in the rather awkward attempt to square a circle; that is, to make legally binding the commitments in the Brezhnev statement for a system that the Soviets have successfully argued should not be included in the agreement to begin with. I, at least, am uncomfortable with that arrangement.

STRATEGIC CAPABILITIES CRITERION FOR COUNTING

I believe that we must stick to a definition of strategic as written in terms of capabilities. Our failure to do so in this instance would establish a precedent by which both sides could build strategic capable systems but disclaim their inclusion under SALT by virtue of the fact that they do not have a strategic mission.

If SALT III is productive, then both sides can consider more refined measures of what is strategic, peripheral and theater and weapons can be allocated to the various categories on both a capabilities and a mission basis, but we are not at that point yet. By leaving out Backfire the Soviets will have, according to my calculations, about 2,750 strategic nuclear delivery vehicles which is arrived at by allowing the 2,250 under the treaty plus 500 or so Backfire bombers. We would have 2,315 compared to their 2,750 which is the 2,250 plus 66 of our FB–111's by the year 1985.

Senator JAVITS. We would have 2,315 and they would have 2,750.

Senator BAKER. Yes.

Mr. Chairman, my point is that this arrangement will allow them to have more bombers than the United States. This is hardly the stuff that strategic equivalence is made of and hence the primary basis for my suggestion is that it is absolutely essential that we capture and count the Soviet Backfire bomber in this system of treaty understandings.

It is often argued that, well, we give up the Backfire bomber in exchange for our forward based systems. What I am saying now, Mr. Chairman, is that if we did, it was a mistake because I think there is simply no comparison between the strategic destructive ability of their modern Backfire bomber and the capability of our forward based strategic capable systems. This, of course, is a balancing judgment.

The Senate, in my view, in the exercise of its constitutional requirements to advise and consent to ratification of a treaty should not only examine the legal adequacy of the document but should make just such a balancing judgment and should decide whether we made a good tradeoff in allowing the Backfire bomber to go uncounted and uncontrolled, or whether we got outtraded or should have captured and controlled the Backfire bomber in the counting process. To meet that challenge, to meet that criticism, I am perfectly willing on my part to count some of our forward based systems in the same formula that would be used to count the Backfire bomber. The FB–111 is not the same as a Backfire bomber and hence the difference in the quality of the counting that is urged in this amendment.

I think that the approach has merit, Mr. Chairman, and I think it deserves the consideration of this committee. I think it goes to the very heart of the Senate's considera'ion of the SALT Treaty now before us. I think, Mr. Chairman, it would be appropriate for me to reiterate what I have said many times before on the floor of the Senate and elsewhere. I support the SALT process. I supported SALT I, I voted for it in the Senate. I voted for the Vladivostok agreements, the accords. I support the negotiating process. I support a SALT Treaty.

Mr. Chairman, I do not support this SALT Treaty unless we can amend it to remove disparities between the strategic opportunities of the United States and the Soviet Union. One of the principal disparities is our failure to negotiate a counting rule for the Backfire bomber. In my judgment anyone who claims that the Backfire bomber is not a strategic system is simply not looking at reality—it is.

In my judgment the Backfire bomber can reach and destroy any city in the United States. It is inconceivable to me that in a strategic arms limitation effort at this point, the third step in our effort to limit

strategic weapons, that we would let their advanced manned bomber, that leg of the Soviet triad, go uncontrolled and uncounted while they count our B–1 bomber. We have only four of them. They count our B–52's, even those that are disassembled and in mothballs in the desert, and we do not count their Backfire.

While this amendment by itself certainly is not offered by me as the price for support of SALT, I urge, Mr. Chairman, that this is one of the most fundamentally important elements to be considered for the Senate. I think it is a fair and equitable approach to the business of capturing and counting the Backfire bomber and doing it on the basis that is equitable, suitable and agreeable to our national defense requirements, and I urge the committee to consider it.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. I would like to hear first the summary of the administration because the principal thesis of Senator Baker's position is that we have made a bad trade. Now we have had a lot of testimony scattered through the record. I think this ought to be summed up by the administration so we have their position and then we can go from there. I make that suggestion.

The CHAIRMAN. It is a good suggestion.

May we hear from the administration.

PROPOSAL FOR EXECUTIVE SESSION ON BACKFIRE

Mr. CUTLER. Mr. Chairman, the administration's opposition to Senator Baker's proposal, as much as we desire his support for this treaty, is based on our views as to what the Soviet response would be likely to be and whether any ultimate trade that could be negotiated on this subject would be more in our interests than we have now. As I mentioned the other day, not only are the press and the public here, a member of the Soviet negotiating team is here. I would ask, if possible, that we have an executive session in which our views on this subject could be spelled out in greater detail.

Senator BAKER. Mr. Chairman, I am perfectly willing to do that. I prefer to have our testimony taken in public to the maximum extent. I have no way to judge the sensitivity of the information that the administration wishes to give and therefore I have no options except to say that if the committee wants to go into secret session I certainly won't object but I would prefer to do whatever we do in public.

The CHAIRMAN. I understand the Senator's position, and I would suggest that we present as much of this case in public as can be properly presented in public. I don't think that everything relating to the arguments on both sides is so sensitive that it needs to be treated in executive session. We had a good deal of testimony on this subject in public at the time we were conducting our hearing. Now if there is something that the administration wants to tell us that needs to be told to us in executive session, we will go into executive session for that purpose.

Senator BAKER. Mr. Chairman, could I ask, is there something that I have not been told or that the committee has not been told in a previous briefing?

Mr. CUTLER. We have testified both in executive session and in public session on this subject, Senator Baker. The point of concern to us is that in spelling out to you what we anticipate the Soviet response might be and what the ultimate outcome of the negotiation might be, we would prefer, should the amendment be adopted, not to have those arguments spelled out back to us in the negotiations as something we said in a public record.

The CHAIRMAN. That is perfectly acceptable but that relates to just one phase of the argument.

Mr. CUTLER. That is correct.

The CHAIRMAN. Now the issue here is whether or not the United States made a good tradeoff, and based on the testimony I have heard it seems to me we did. I think that that position was borne out by the military witnesses who appeared before us, including the commanding general of our SAC Forces. I think it ought to be clear at the outset that if this amendment is adopted, that is the end of the treaty as it is now written. I want to make that clear because it would go back to negotiation again involving, as it does, the change in the text of the treaty itself.

Now it has been my view, based upon everything that I have learned in the last 2 months, that our own military is better satisfied with the arrangement that has been made than with the revisions that would be incorporated in the text of the treaty in the event that Senator Baker's amendment were adopted because our F–111's and FB–111's are outside the framework of the treaty. If we begin to incorporate the Backfire and start counting it, then it is going to be necessary, if we are ever to have a treaty, to incorporate the F–111's and FB–111's and possibly other planes that are part of our forward based system.

The weight of the testimony, as I recall from our own military experts is that they don't want that done, and I think that we can discuss those general issues in public. I think that Senator Baker is entitled to have them discussed in public and then when we get to any sensitive matter of the kind that Lloyd Cutler has referred to, I would be glad to take the committee into executive session.

Senator JAVITS. Would the chairman yield?

The CHAIRMAN. Yes.

Senator JAVITS. I think we are all together too careless about what should be secret, and I think this is evidence of it. I think, with all due respect to the Chair, it would be taking the cart before the horse. I think this committee is entitled to have us first hear in executive session what the administration wants to say and then to go into public session. If we wish to, we can make them say in public session what they said in private session even if it is secret. I doubt that we would wish to.

Knowing the testimony as I do, I believe the sweeping momentum of testimony first given in public will tend to disclose matters which could easily be inimical to the interests of the United States. Frankly, Mr. Chairman, I think our country has over done this business by jeopardizing our security because we are all gung ho for putting everything out in public. It is time we realize this is not the kind of a world we are living in.

I personally, Mr. Chairman, deeply feel that the committee ought to be entitled first to hear in executive session what they want to tell

us and then go into public session. If the public has not got enough faith in us as Senators to reveal as much as we humanly can publicly, keeping in mind the security of our country, then we don't deserve to be in the Senate. We have got to take some responsibility.

Senator BAKER. Mr. Chairman, I would like to say that I am in agreement with Senator Javits' statement.

The CHAIRMAN. Let me just say in response to Senator Javits' remark that the sequence is not a matter of any consequence to me. I just wanted to make the point that the issue here is publicly disputable. We have discussed it in public for many long hours. We have had much testimony put on the public record concerning this issue.

If Senator Javits feels we should have our executive session first on the sensitive aspects, that is perfectly all right with me, but I do think that the issue itself is discussable in public.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. I agree with Senator Javits. I said at the very outset I have no way to judge the nature of the sensitivity of the material that Mr. Cutler proposes to give us in secret session; therefore, I leave it to him to decide and to the chairman and this committee to decide whether we should go into secret session. I expect to do as much in public as possible and Senator Javits is right, we owe a responsibility to the public to do as much in public as possible, but we have an equally solemn responsibility to make sure we don't damage the national defense of this country. I don't think that we are going to get much in secret session that we have not already had before but I will not challenge it and I have no objection to going into executive session.

The CHAIRMAN. I believe we are all agreed on the fact that any sensitive matter should be taken up in executive session, and I don't think we need to involve ourselves in an extensive discussion of something on which we all agree.

Senator GLENN. Mr. Chairman, I associate myself completely with what Senator Javits said a moment ago. I think we are missing one point and that is what Mr. Cutler said a moment ago. The difference here right now is that if this passes and the administration gives in public their positions, they are sort of giving away their bargaining position before we ever get to the negotiating posture that we are trying to get to and that is different from just giving the public testimony before. They may go into executive session here and say exactly the same things that have already been said openly but at least they will be said in the context that if this proposal passes they will not have given away their negotiating stance at least in public and I think that is the difference between now and what was said before.

Mr. Cutler, would you care to comment on that?

Mr. CUTLER. That is precisely the point, Senator. What we wish to say to you is not classified technical information but in essence it has to do with the negotiating position. Wouldn't we like to be present at a meeting of the Soviet negotiating team in which they discuss how to respond to a particular proposal or whether to put one forward? That is my point, and it is much better to do that in executive session.

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The CHAIRMAN. Well, I would suggest that we stop pushing an open door because everybody is in agreement, and so I suggest we go into executive session.

Senator STONE. Mr. Chairman.

The CHAIRMAN. Senator Stone.

VANCE LETTER TO SENATOR STONE ON CUBA

Senator STONE. Mr. Chairman, before you go into executive session, in line with the earlier agreement that we made before some of the members arrived, my proposed amendment on submarine inclusion in the count will be heard first in closed executive session tomorrow morning and then after that in open session we will vote on it. In line with that you may recall that yesterday I asked again for the administration to declassify the letter which it had sent me on the issue of servicing submarines in or from Cuba and as to what constituted a nuclear submarine.

I appreciate Mr. Cutler's efforts and the administration has now declassified that letter and I will submit copies of it now to the committee. I want to say in thanking the administration for making this letter public now which was dated August 30, 1979, and it was declasified October 17, I have not permitted even one comma to go in the public forum in all this time in all these weeks.

This list of proscribed activities is not comprehensive. It is the position of our Government that these are examples of the things that are not permitted but not the exclusive comprehensive list and therefore this letter should not be taken as the final word on our position. I want to make that clear because I am now going to let the press and the public have a copy of it.

Thank you, Mr. Chairman. I will pass out the copies of the letter now.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Before we go into closed session I would like to publicly state what I understand to be the problem but I don't think it breaches any security at all. I think Senator Baker has raised a very fundamental and basic point that any question if it is not felt here must be an urgent priority for SALT III. I will try to explain why this process has taken 7 years—it could easily have taken 7 years on the Backfire issue alone.

There has been a lot of disagreement with the administration and the Soviet Union on this point. The Soviets have argued, as I understand it, that if the United States included the Backfire they would have to include the forward based systems. Mr. Chairman, you have alluded to this. Our aircraft in Europe and our aircraft in carriers on the high seas they maintain would have to be included if the Backfire were included in SALT II.

We have resisted mightily including our forward based systems and I think we have done so rightly, and I think the administration is absolutely right in resisting that. Our NATO allies strongly were opposed to the inclusion of these weapon systems in SALT II. The topic of forward based systems I am sure will be a high priority in SALT III talks and I think we must work closely with our allies to

determine how they will be included but that is going to take a lot of collaboration with our allies.

Backfire now is deployed as a theater weapon as I understand it but it does have the capability, as Senator Baker pointed out, of one way subsonic intercontinental flights and we should address it I think at this time and get as detailed an understanding as we possibly can from the administration as to what arguments carried on for several years and what caused them to conclude that it should not be included in SALT II.

Senator BIDEN. I wish that we were not going into executive session for the reason that I think that notwithstanding the care and deliberation that Senator Baker has taken I think we can put to rest Senator Baker's amendment fairly rapidly on the merits. I would wish that we would in open session speak to not what would be the Soviet reaction but why this was a good deal, why we got what we got, why we did what we did and why it warrants not being included. Since we are going to go into executive session, maybe after that we can come out and, Senator Baker, you and others can discuss the merits of the amendment without the question of what the Soviet reaction to the amendment would be.

Senator BAKER. I might say that I think if we stick to the merits that it will so obviously prevail that even the Senator from Delaware will go for it.

Senator GLENN. Senator Javits adequately addressed that question of which should come first and I associated myself with his remarks. I wonder, however, in making the best use of our time—there are going to be a number of items that we will want to consider in executive session—I wonder if we could stockpile these and set them aside so that when we go into executive session we can consider a number of these items and not spend half the time clearing the room and letting the people back in.

Senator JAVITS. Senator Glenn, perhaps that suggestion could be somewhat limited to all the amendments that we have on Backfire. I understand that you have some, too.

Senator GLENN. I don't think I will require classified testimony on it or secret testimony on it but——

The CHAIRMAN. I think the only way we can really proceed is a step at a time, so if there is no further discussion as to the agreement among the members that we should go into executive session——

Senator JAVITS. Mr. Chairman, I so move.

The CHAIRMAN. The motion is made. Without objection, the committee will go into executive session in the next room at this time.

[Whereupon, at 10:20 a.m., the committee went into executive session.]

[The committee reconvened in open session at 11 a.m.]

The CHAIRMAN. The hearing will come back to order.

IMPLICATIONS OF PROPOSED AMENDMENT TO COUNT BACKFIRE

The question before the committee is an amendment offered by the distinguished Senator from Tennessee, Mr. Baker. He has stated his opening argument, and I would like to state my reasons for opposition to it.

First of all, this committee is confronted with a proposal that takes the form of an actual amendment to the text of the treaty. The treaty, like any other contract, once signed by the parties cannot be changed unilaterally. This amendment would have the effect of forcing the treaty back to the negotiating table at which time, not just the United States, but the Soviet Union could further proposals relative to further changes in the treaty.

Now the real question before this committee is whether we want to return the SALT II Treaty to the negotiating table on such an issue as that posed by this amendment, and I think we should not for the following reasons:

At Vladivostok the United States achieved a major breakthrough in the SALT process. For a long while the process was paralyzed by virtue of the Soviet insistence that the contemplated agreements between our two countries include not just the strategic system, the intercontinental system, with which one country could strike the other, but that it also should include theater systems; namely, the American forward bases in Europe and our naval capabilities that permitted us to reach the Soviet Union with nuclear weapons. At Vladivostok the Soviet Union gave up their position of insisting that such forward based systems be included within the context of the SALT agreement and that was considered then and has been considered since a Russian concession greatly in the interests of the United States and its allies.

I think that it is no secret that many would have preferred to have had the Backfire bomber included within this treaty because an argument can be made that under certain circumstances it can reach the United States. But we were unable to obtain from the Soviet Union any agreement which would have included the Backfire within the treaty. They claimed it was a theater weapon just like the SS–20 is a theater weapon, and since we were permitted to maintain our forward based theater weapons in Europe and in the Pacific, they would insist upon the right to maintain their theater weapons, including the Backfire, and keep them out of the treaty.

Now we have actually secured from the Soviet Union a commitment which will be legally binding upon them once they accept the articles of ratification, now that the committee has adopted such a provision by which the Soviet Union limits itself to a production rate of no more than 30 a year on the Backfire bomber. We have no such limitation upon production rates for our weapons in forward based deployment. There is no restriction upon the number of F–111's we can build, no restriction upon the number of FB–111's we can build, no restriction upon the number of aircraft carriers we can build or the number of planes that they can carry.

So in my view I think we have made a good deal, we have struck a good bargain. If we begin to insist that the Backfire be counted, then of course it is clear that our own theater weapons will be drawn into future negotiations, and we might well end up losing the good bargain we have made. For this reason I think it would not be wise for this committee to adopt the amendment proposed by Senator Baker, and I would hope that the committee would see fit to reject it.

Senator Javits.

Senator Javits. Mr. Chairman, I, too, shall oppose this amendment. It is a very portentous decision we have to make. Considering

the fact that it took 7 years to negotiate the SALT II agreement, this amendment would bring about a new negotiation and how many years that would take we don't know. It certainly would take considerable time as we have the testimony of General Ellis, the head of SAC, given before us at page 130 of part 3 of the treaty hearings in which he says:

> I am led to the conclusion that the SS–18 and Backfire are central to the Soviet side of SALT II, and efforts to further constrain these systems could very likely delay the treaty for an extended period of time or leave us with an incomplete treaty during a period when treaty constraints will be helpful—even necessary—to the strategic planner and commander.

Now that is our national security, and I believe for that reason plus the reason that it will involve immediately, as it must, a negotiation of the FB–111's and the F–111's, that this will immediately jeopardize the security in their view of our European allies because they do not want this. I can say this authoritatively because they now have what we consider to be an added threat of the Soviet missile, the SS–20, which is not affected by the SALT II Treaty and which is there.

Now, Mr. Chairman, one last point and that is again from General Ellis that naturally while our strategic air planners would like to have had the Backfire included if they didn't have to give up anything for it. Obviously we cannot get away with that; so if we negotiate it we are going to have to give up something for it, and he feels that this would be a bad trade for us and it would be politically, in my judgment, without any question in terms of European security.

I would like to point out, too, Mr. Chairman, notwithstanding Dr. Kissinger's opposition to the treaty, the fact is that Dr. Kissinger did not feel that this was a bad trade with respect to the Backfire. In fact, he thought that we had quite an achievement in limiting it.

So the conclusion that I come to is that, like every other deal, some of it we like, some of it we don't like, and we cannot have it all our way. All those who would renegotiate the treaty with the Russians had better remember if we want them to give, we have to give, too, and the question is always what. I come to the conclusion that considering that what we have to get to, what we have gotten, we are better off where we are, and that, I believe, is confirmed by our strategic planners and by Dr. Kissinger, one of the main negotiators in the treaty.

For those reasons, Mr. Chairman, I feel constrained because I believe this amendment definitely means new negotiations over an extended period of time and I believe Europe is not all that sure about its security so that we cannot take that time to renegotiate the deal. Now, I may vote for an amendment later on, but it would have to be one which I think deeply involves the security of our country, and I don't believe this one does.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

KISSINGER'S VIEWS ON RENEGOTIATING BACKFIRE

Senator PERCY. Mr. Chairman, because I did ask the question and I felt it was pertinent in our classified session what the Ford adminis-

tration and Secretary Kissinger's position was, as Senator Javits has mentioned we wanted to hear from the negotiators as to what went on because much of this argument on the Backfire went on during the Ford administration. I think it would be well to just read right into this record what was said by Secretary Kissinger. Senator Baker asked him a question:

> What about the Backfire bomber? Would you consider that now in the context of this treaty, or would you postpone that consideration to a future possible SALT III?
>
> Secretary KISSINGER. My recommendation with respect to the Backfire bomber is to handle it in the follow-on negotiations to the protocol, that is to say, to bring its limitations into relationship to limitations on cruise missiles or overseas deployed missiles by the United States and airplanes and to seek equivalence in theater-based striking forces in that manner.

The last question Senator Baker put to Secretary Kissinger—I will read it at this time.

> Senator BAKER. Let us assume for the sake of argument that we can do this. Would you agree with me that if we can obtain some changes in this treaty, if not by amendment, then at least by mutual understanding between the United States and the Soviet Union with respect to heavy missiles, the Backfire bomber, noncircumvention, or verification—if we can do it now, wouldn't it be better to do it now than to do it later?
>
> Secretary KISSINGER. What has to be judged at that point, certainly, is whether we can achieve it now; one would have to judge that on the merits of each of these proposals.
>
> My particular proposal on Backfire, the relationship of Backfire and cruise missiles, would have to begin in the real world to be implemented almost immediately if we were to negotiate it. If my proposal were accepted, we would have to begin negotiating it almost immediately if it were to become effective by the end of 1981.

I think that fills in, Senator Javits, the argument at the time and what the Ford administration's position was.

The CHAIRMAN. Senator McGovern.

Senator MCGOVERN. Mr. Chairman, I just want to associate myself with the point that you and Senator Javits and Senator Percy have made. It seems to me if there is one part of the negotiations where we clearly came out with the best part of the bargain vis-a-vis the Soviet Union, it is on the Backfire. We had two counting alternatives, as I understand it, on this issue: We could count the Backfire and count the American forward-based systems or we could give up the idea of a SALT Treaty. We chose the alternative of not counting either our forward-based systems or the Backfire.

The fact that when we are all through with our work here we are going to have to make it clear that the Soviets are limited to a production rate of 30 per year on the Backfire whereas there are no limits at all in this treaty or in any of the understandings on the production of our forward based weapons, it seems to me this is clearly in our interest. I think it would be a setback for America's position if this amendment were to be adopted. I think it would mean either we would have to surrender the concessions we got on our forward based systems or else give up the idea of SALT II as a means of limiting weapons, so under those circumstances I hope the amendment will be defeated.

The CHAIRMAN. Thank you, Senator McGovern. I concur in your statement.

Senator PERCY. Could I just supplement a final question to Secretary Kissinger in which his reply fully states his position.

Senator ZORINSKY. Mr. Secretary, what would you envision in the event that the Senate approves a direct amendment to the treaty? Do you feel that would put us back to square one?

Secretary KISSINGER. No. I expect that in case of an amendment by the Senate, it would probably end any negotiations until our election. I believe that there would be a tremendous blowup, a crisis atmosphere, and that nothing further would happen until after our elections. In all probability, the administration would follow, as the President has already indicated on a number of occasions, the SALT limits. We would not get the higher defense program that I am talking about, and therefore the process of rectification that I consider essential will be delayed by 2 or 3 years, at which point probably negotiations would start again. This is why, on balance, I prefer to find a way to implement the remedial measures now.

Thank you, Mr. Chairman.

The CHAIRMAN. Is there further discussion?

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. You know, Mr. Chairman, it occurs to me in hearing the arguments in rebuttal that we miss one basic, fundamental point and that is if all of us asserted and agreed that the Backfire bomber is a strategic system it would be included and counted without any amendment. The problem is we took the Russians' word for it, we accepted their argument. The Russians are the only ones that I know of that contend that the Backfire bomber is not a strategic system. They contend that B–1 is. Backfire is about the same size, a little smaller. They contend the B–52 is.

Some people make the distinction, well, you know, Backfire can't attack the United States and return to home port without refueling. Well, neither can the B–52 or the B–1 or anything else. That has never been a definition of a heavy bomber, at least not since 1942. The reason we are in this pickle now is because we accepted the rational allegation that the Backfire is not an intercontinental bomber, and it is.

Now it is true that the Ford administration—I don't doubt a single syllable or your view or that of Senator Percy or Senator Javits or anyone else. The Ford administration tried hard to count the Backfire bomber, but I would point out the Ford administration did not arrive at a treaty without counting the Backfire bomber. The Backfire bomber should have been counted. The Backfire bomber can reach the United States and destroy everything living in every city in the United States and it should have been counted.

Now the reason I offered this amendment, and frankly Senator Garn is the one that came up with this amendment and he is an expert in this field but I wholly support it and adopt it, is not because there is a basic equity in the symmetry of three-fourths versus one-half of an FB–111 and the Backfire which are not comparable airplanes. The reason I offer this amendment is because it is the only way I could think of to get us off dead center in trying to get away from the forward based systems argument. The Backfire is not a forward based system; only the Russians contend it is a forward based system. General Rowny says it is not, General Ellis says it is not. I don't know anybody who says it is except the Soviets.

Now, Mr. Chairman, I think that for whatever reason, we ought to count the Backfire bomber. I think the only thing worse than rejecting the SALT Treaty would be ratifying a bad SALT Treaty. I think that we have caved in on a point that gives a significant and

substantial strategic advantage to the Soviet Union by not counting the Backfire bomber. I think we ought to adopt this amendment in this committee.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Mr. Biden.

Senator BIDEN. Mr. Chairman, I would like to respond to Senator Baker's two primary points.

The first is that this is a strategic system and it was only the Soviets that indicated that it was not a strategic system and we accepted that.

I would suggest that our intelligence community and the past administration knew what the Backfire was. They knew that it could have the capability, under the circumstances which Senator Baker and others have recited, to reach the United States and that it could be characterized by some as a strategic system. But they opted not to count it as a strategic system within the meaning of the agreement for the reasons that go to the whole asymmetry of this agreement: That when it was weighed against other advantages on the United States side, there was a reasonable balance.

So I think we should lay to rest the idea that somehow Dr. Kissinger was duped into thinking that the Backfire was an animal that it is not. I think he full well knew what it was. President Ford full well knew what it was. They opted to deal with what it was within the context of the SALT agreement in the way they did, which was not to include it.

Second is the statement that no one believes that the Backfire is a theater system. Now General Rowny and others have emphasized what its intercontinental capability is, how in a one-way mission from an Arctic base it would have the capability of reaching the United States. The CIA and DIA estimates differ as to what that capability is. We have been focusing on what the Backfire bomber can do if extended to the worst case scenario for it. But there is ample testimony as to what we believe the Backfire bomber to be designed for, what its primary purpose is, and that is a theater weapon. Even General Rowny in response to questions from me before the committee said, yes, it was primarily an antiship weapon to deal with our naval lanes in the North Sea and in the Atlantic off of Europe and that it was designed for other theater missions.

Every evidence that we have as to why they built it, where they have it based, how they practice with it all add up to the conclusion that it fits into the overall Soviet strategic mix as a theater weapon. Two separate points, two separate arguments.

The CHAIRMAN. Senator, would you yield at that point for just a short observation?

Senator BIDEN. Yes; I bet I know what the observation is going to be; you are looking at the clock.

The CHAIRMAN. No; that is not what the observation is. I do look at the clock frequently.

JOINT CHIEFS OF STAFF ON COUNTING BACKFIRE

In the Senate Armed Services Committee in public session Senator Goldwater put the proposition to General Jones whether it would not be a good idea to count both our F–111 and the Soviet Backfire within

the limitations section of the treaty and General Jones made this reply. He said:

Senator Goldwater, if that could have been achieved within the Treaty I think it would have been a very good step forward. My concern is in reopening negotiations it has been clear to me that the Soviets have reluctantly accepted nominal restrictions on cruise missiles and that is the area they would like most to restrict the United States further.

I am concerned that in reopening the negotiations, for whatever the reason, that they are likely to push hard for further restrictions on the cruise missile. I would prefer the current situation rather than having the Backfire counted and substantial restraints on the cruise missile.

That is my basic concern about reopening the negotiation.

Senator BIDEN. I think that is a valid point, Mr. Chairman.

In open session, General Ellis granted that the military would probably, if they could get Howard Baker's deal here, like it—that is the FB–111 for the Backfire bomber.

Senator BAKER. If the Senator would yield, I can relieve his mind. At least one piece of testimony on that subject is in part 3 of the SALT Treaty hearings on page 129 and General Ellis at that point says that there are two principal concerns they had with the SALT II Treaty: "The SS–18, the Soviet heavy, modern ICBM, which we are not permitted to duplicate, and the Backfire bomber." He goes on to say that that complicates our strategic challenge and the like, but that was in public testimony.

Senator BIDEN. There is no question, I should note for the record, that Joe Biden or General Ellis or Howard Baker or any American would like to include Backfire bomber.

The question is not whether or not the military would want the Backfire included but how much the military is willing to pay for its inclusion. That is really the issue. The testimony in closed session that I am commending to my colleagues relates to the tradeoff that they are willing to make or not make.

Would any of the negotiating team like to comment on that?

Mr. SLOCOMBE. I think the section that Senator Biden is referring to is on page 145, part 3.

The CHAIRMAN. If I understood General Ellis correctly—and please listen closely to this, General Ellis, because I want to state your position accurately—General Ellis has said that if we could have obtained a deal with the Russians that would have included the Backfire in the aggregate limitation of the treaty, and the FB–111 in the aggregate limitation, that would not have been a bad deal. But if we could have only agreed upon counting the Backfire in return for which both the FB–111 and our F–111 were both counted in the aggregate limits, that would not have been a good deal.

That is an accurate statement, is it not?

General ELLIS. That is an accurate statement.

Senator BIDEN. That is what I was referring to.

Senator MCGOVERN. Didn't the military expert testify that while it is conceivable the Soviets could use the Backfire in a strike against the United States that that would be a foolish waste of that weapon on their part, that they would be much better advised to reserve the use of that bomber for the purpose that it was designed for and that is strikes, as you have said, against shipping or against theater targets or against China or other purposes? It would take a mentally retarded military commander to use it as an intercontinental weapon.

Senator BAKER. Would the Senator yield to me on that point?

Senator MCGOVERN. Yes.

Senator BAKER. I think General Rowny had a most eloquent answer. He pointed out in his testimony that unlike the Soviet Union we have no air defense and Rowny testified in his testimony that with 375 Backfires carrying approximately 4 mililon pounds of payload, the Soviets increase one-third their potential and that it would cost us by the year 1985 between $8 million and $10 million to try to counter that threat from that bomber.

Senator BIDEN. If I could attempt to counter that statement, the question comes back to what would be done in a nuclear exchange. I wish the negotiating team would elaborate on this a bit. Let us talk about a realistic scenario.

Senator BAKER. Would the Senator yield to me before the team answers. If we are going to doubt the credibility of the Russian Backfire bomber's ability to damage the United States, I wonder if they would also comment on the third leg of our triad.

Senator BIDEN. Yes.

Senator BAKER. If they are not any good for the Russians, we ought to make sure they are no good for us if we are giving away one leg of our triad to them with nothing in return.

The CHAIRMAN. Let me just make this one point. I think we are getting a little bit off this issue. There are any number of scenarios. You can proceed with the scenarios of how nuclear war might develop ad infinitum. The end result is always calamity if not oblivion. The real point at issue here, it seems to me, is not to contest Senator Baker's argument that the Backfire bomber may have the capability of reaching the United States and could be, however inefficiently used for that purpose in extremis. But we also have FB–111's stationed in the United States and F–111's stationed in Western Europe which are primarily designed as theater weapons but which have the capability in extremis of reaching the Soviet Union with nuclear weapons.

Now the real question we face is whether it is in the national interest of the United States to try to renegotiate this treaty to include the F–111's and FB–111's along with the Backfires in the count and I think for the reasons we have already brought out in the debate that would not serve the national interest of the United States because it would raise the whole specter of our entire forward based system which has been excluded from the reach of the treaty.

Senator BIDEN. Mr. Chairman, if I can just conclude, and I promise I will conclude.

Senator BAKER. Again.

Senator BIDEN. Again. I want to make sure you understand it, Howard.

Senator BAKER. It is going to take a little bit more than you have done.

Senator BIDEN. I don't doubt that.

Here we go. It is going to be a good one when it gets started.

Senator BAKER. We have not warmed up yet.

Senator BIDEN. The point I wish to emphasize is that the Backfire was excluded in the basic bargain struck at Vladivostok, which also excluded our forward-based systems. Also excluded was the independent nuclear capability of our allies in Western Europe who are part of NATO.

I believe that if we delay SALT on this issue, we thwart our own purpose, by postponing a SALT III negotiation through which we could seek to get a hold on the Backfire problem.

Thank you, Mr. Chairman.

The CHAIRMAN. I agree with the Senator.

Any further discussion?

Senator Baker.

Senator BAKER. Mr. Chairman, let me also conclude again. I would like to recast and restate my major premise. I began by stating it is often alleged that we gave up the counting of the Backfire in exchange for our forward based systems and indeed the amendment that I have offered proposes a trade of that sort that I would like to see us try to negotiate with the Soviet Union. I think it would be a markedly superior arrangement to the arrangement we have now but I was just looking at the testimony of Ambassador Earle who is with us at the counsel table on this subject. His statement was:

> What did we get in exchange for Backfire? I think what we got was nothing in exchange for Backfire. Once the Soviets had taken the position that it was a medium bomber, what we got was a restriction on medium bombers.

Now, Mr. Chairman, I am not trying to put Ralph Earle on the spot, I am simply pointing out that it is not the major premise on which I proceed that we did in fact give it up. I started by saying it is alleged that we gave it up. I went on to say if we did, it was a mistake, we got outtraded. That is where I would like to conclude.

I think it would be a far better amendment to this treaty simply to amend it to count the Backfire. We would have counted the Backfire if we had not accepted the Russian argument which is a bunch of nonsense if we had not accepted the Russian line that this is not a strategic weapon, if we had accepted that and it is not so. If we had not accepted that, we would be counting Backfire. So the best amendment is not my amendment.

The next best amendment I would consider if we are going to let people decide what the mission of the system is—and that is what lots of this argument is based on, the Russians never intended it to be a strategic system—is not to count the B–52. Although we have used the B–52 as a strategic weapon, we actually have used it most frequently as a theater weapon.

So if you are going to take that argument, the Russians ought not to be required to count Backfire because they never meant it to be a strategic weapon, then let's have an amendment that excludes the B–52. I believe this is a reasonable amendment, I believe it is a better arrangement than the Carter administration gave us. I think we got outtraded and I think it is up to the Senate to do something about it.

Senator BIDEN. Would the Senator yield for a real question. Does the Senator believe that if this amendment were adopted that we really will have a consummated SALT Treaty within the next year? Does he believe that?

Senator BAKER. I believe, as I said a moment ago, that the only thing worse than rejecting a SALT Treaty would be to ratify a bad one. I believe the only way you are going to get a good SALT Treaty is to convince the Soviet Union that the United States has the will to strike back and we are not going to be pushed around with a con-

trived definition according to their desires of their weapons. I think our amending this treaty in this way will enhance not only this treaty, but you would predispose the negotiations on SALT III to a much more attainable goal.

Senator BIDEN. Does he believe it would be consummated in a year or not?

Senator BAKER. I don't think it would be a year. I think it would be a life time, a century, a millennium or longer if we ratify a treaty that gives the Russians strategic superiority.

The CHAIRMAN. This is really a good place to suspend the argument out there in space.

Senator Lugar.

IMPROVING TREATY VERSUS SOVIET REACTIONS

Senator LUGAR. Mr. Chairman, I think it is important at this juncture because we are involved in a serious amendment and it is being debated in part on whether it would be helpful to the treaty that we question. How much we would be willing to pay if we renegotiated.

Then it comes down really much more to the point that Senator Biden just raised and that is simply the basic question of whether a SALT Treaty will occur soon in the event this amendment is adopted. Now this same argumentation is likely to be raised a number of times in the future because serious amendments are going to be offered. I characterize this as a serious amendment simply because it is not an amendment offered to count the Backfire, for example, without any quid pro quo. The formula that Senator Baker and Senator Garn offer is one that has something in it for the Soviets as well as for ourselves.

Now I think it is probably important to say that we are in a posture now not only with regard to the SALT Treaty but I think with the whole negotiating style situation. We have just been through the Cuban combat brigade episode. The Soviet posture was that what we were looking at was not a combat brigade. As a matter of fact, after many sessions and finally in a public lecture before the United Nations, the Soviets continue to say it was not a combat brigade and we ought to stop calling it that, that we were menacing the peace simply by this sort of characterization.

It would appear to me that there is a parallel to what the Soviets have done with the Backfire bomber. They have consistently said and made it almost a national point of pride that this is not an intercontinental system. Yesterday, in discussing Backfire, nearly all members of the committee agreed that the Backfire had an intercontinental capability. Some have said it was not the basic intention but warned that the adoption of the merits of the amendment jeopardizes the treaty situation along the lines of Secretary Kissinger's testimony. I recall someone said Kissinger felt there would be no SALT Treaty until after the 1980 election in this country; as a matter of fact, Kissinger suggested in the testimony quoted today that even our own defense programs might flag. Why this is necessarily so I am not able to gather although I appreciate that is a point in argument almost every day.

Finally, Kissinger said the President should maintain SALT I limits or SALT II limits as he saw them in an arbitrary way which I pointed out in a magazine interview he might do all of this as a result of adopting this amendment and others.

Now I must say that as far as I am concerned, I am not bluffed out of offering amendments that I believe are going to improve this treaty. As a matter of fact, I don't think the treaty is going to pass unless it is improved substantially. I think that that needs to be taken seriously, too. Members of the committee that are prepared to vote down each constructive amendment on the basis that it is inconvenient in making this hearing run along on time may be faced with the fact that it runs along on time to an uncertain conclusion and it may be a fatal one.

I think, therefore, to balance off the sort of weapons throwing back and forth in the committee as to who is the destructive party, that we really ought to take a look at these on their merits, and on the merits this one has a lot to be said for it. My guess is that as the scenarios have been painted, the Soviets might object very strenuously and might for a while continue an Alice in Wonderland scenario of definitions on their own terms without relevance to anything else going on in the world but eventually they will have to get over that, or at least if they don't we ought to be proceeding with our defense posture whether they do or not.

Senator BIDEN. Would the gentleman yield?

Senator LUGAR. Yes; I am happy to yield.

Senator BIDEN. If capability is the point, will the Senator agree then that the Soviets should look at our systems based on capability and so define them? Obviously anything that hits their territory is a system that is of consequence to them. Can I assume that the Senator would be willing to include the forward-based systems because of their capability to strike the Soviet Union?

Senator LUGAR. I think that is clearly our posture. I would not give away anything and I am sure the Soviets are going to be willing and able to define in their best interest what they want to throw into the bargain. I am just suggesting in our particular case it is in our best interest to get Backfire counted and put these particular cards on the table. So I would simply argue for the adoption of this amendment on the merits and I am suggesting that there will be other opportunities to improve the treaty as we proceed.

The CHAIRMAN. Thank you, Senator.

I simply want to say very briefly that I oppose this amendment on its merits. I think it is inherently flawed. One cannot possibly argue that the Backfire is a strategic weapon because of its capability of it reaching the United States without also conceding that the F–111 is also a strategic weapon for the same reason by the same definition. We have a good bargain made by leaving out our weapons of that character, and it would be a grave mistake to reopen this treaty for a renegotiation on this basis.

Senator STONE. Mr. Chairman, I have listened to all of the good arguments on both sides but I think that the Soviet Union itself considered the Backfire bomber as an integral part of the strategic systems and the SALT II Treaty when, in response to our President's last-minute urging, it agreed through President Brezhnev's statement

to a production limit. We ourselves in the committee have included the production limit in counting in this treaty and I think that Senator Baker's amendment is a modest, evenhanded, reasonable improvement. In the administration when we urge that Backfire bombers be somehow limited in connection with the SALT and whenever the Soviet Union volunteered a limitation on its production annual rate, it is appropriate therefore to adopt this amendment and that is why I am going to vote for it.

The CHAIRMAN. Any further discussion before we go to the vote?

Mr. Sarbanes.

Senator SARBANES. Mr. Chairman, I oppose the amendment without invoking these overreaching arguments about the NATO alliance and so forth and so on on the very simple grounds that it is my assumption that when we treat the Backfire later in the consideration that we will effectively secure in a binding way all of the representations, intentions, and statements that were made with respect to the Backfire and that the consequence of that is that the Soviets will be held to a production rate of no more than 30 per year.

Therefore, a limitation has been placed upon the accession of the Backfire to the Soviet arsenal and that the FB–111 and the F–111 which, as I understand, an argument can be made or not, be equivalent of the Backfire but which nevertheless possess certain capabilities that are of an offsetting nature and advantageous to us have no limitations placed upon them and therefore we are in a position, if we choose to do so, to produce them in very significant numbers.

Now it seems to me that is advantageous to our position. There is a limitation placed on the Soviets with respect to the Backfire and the rate at which they can add them and there is no limitation placed upon us. The amendment would, in effect, place limitations upon us. It seems to me we have a greater option available to us without the amendment than we would have with the amendment.

The CHAIRMAN. Thank you very much.

Senator Glenn.

Senator GLENN. Mr. Chairman, I will vote against this proposal. I think we should have included the Backfire in the treaty from the word go. Twenty-twenty hindsight is beautiful. We didn't know some of the capabilities the Backfire might develop during 7 years of negotiations. But having said that, I think you have to consider what the real strength to the United States is. The Backfire being the initial wave in an attack on the United States is highly unlikely, unless this first wave attack was also accompanied by many incoming ICBM's along with it. So as I see it, the real threat to this country only comes from the Backfire if it is in a second or third wave or in a mopup operation.

Now I do not, on the other hand, buy the argument that just because this was designed for one purpose that it should not be considered as a valid weapon system for another purpose. It will, in fact, reach this country; it will, in fact, hit Wilmington, Del., and continue on to a third-country base.

Senator BIDEN. That is hitting pretty low, John.

Senator GLENN. Well, not if you consider Wilmington, Del.

Senator BIDEN. How can a guy from Cleveland say that? Gee.

Senator GLENN. Lots of aircraft are designed for one thing and are later found to be capable of performing other missions and that is the case with the Backfire now. It is an intercontinental weapon system whether we like it or not. To my way of thinking, however, the thing we should consider is the likelihood of it being a real threat to this country. In this context, it seems to me we go through several higher orders of magnitude of danger before we get to the Backfire being the main threat to this country.

Now that being the case, I do not want to see the whole treaty be in effect shot down by having to go back and renegotiate. I have no qualms about a delay, as several other members have indicated but I don't think it is important enough to go back and open up the whole treaty again on what I perceive to be lesser than a first rate threat. I think it would be a second or third order threat.

Senator PERCY. I have not stated how I intend to vote and I would like to do so certainly to Senator Baker. I do not consider this a bad treaty even if we do not adopt this amendment. I have concluded that this treaty is no brief step forward for mankind but it is a modest step forward and we are better off in our national security interests with this treaty than without.

I concur with Senator Baker on the process. I think the process should keep going. I have concluded that this amendment, if adopted, would in a sense shoot down the treaty now and would delay the process for several years and on that I concur with Secretary Kissinger. I think it will send us back to square one and we will start all over again. We will lose several years momentum. Certainly if we negotiate this point in SALT III, as we must negotiate it in SALT III, at this stage what we might have to give up on it to count the Soviet aircraft would be totally unacceptable so far as our defenses in Europe are concerned. It is our defense as well as the European theater defense and that is our first line of defense out there.

Though I am fully sympathetic with what Senator Baker and Senator Garn are trying to accomplish on balance, I would have to conclude that if we adopt the amendment we would be worse off than if we would be without the amendment.

The CHAIRMAN. Is there any further discussion?

If not, the clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye—No.

Senator BAKER. Off to a good start.

Mr. BADER. Mr. McGovern.

Senator MCGOVERN. No.

Mr. BADER. Mr. Biden.

Senator BIDEN. No.

Mr. BADER. Mr. Glenn.

Senator GLENN. No.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. No.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.

On this vote the ayes are 6, the nays are 9. The amendment is rejected.

The committee had proceeded to a consideration of paragraph 6. We had just reached—I thought we had finished 5.

Does the Senator have anything to bring up in connection with paragraph 5?

Senator GLENN. Yes.

LIGHT MISSILE SIZE AMBIGUITY

This is on the launch-weight and throw-weight understandings, Mr. Chairman. I would go back to explain for just a moment what happened to us in SALT I and where I feel we at least partially failed again in SALT II to define adequately the upper limits of launch-weight and throw-weight for permitted light ICBM's.

This flaw did plague us in SALT I. If you go back to SALT I, at that time the Soviets had the SS–11 and at that time we in the Senate thought it would be the upper limit on new boosters built. The United States made a unilateral statement to the effect.

Although the Soviets disagreed with our proposal, this was not made clear to the Senate. Therefore it came as somewhat of a shock later on when they developed the SS–19, and it is 40 percent larger than the SS–11.

Now we are in SALT II and once again we find ourselves in this situation. We have said that the SS–19 will be the largest missiles permitted. It will set our sizing limit as far as what can be built in the future. The Soviets have agreed with that, with the SS–19 limitation.

We further tried to define the SS–19. For planning purposes we said the SS–19 had a launch-weight of 90,000 kilograms and a throw-weight of 3,600 kilograms. This time the Soviets were silent, they did not confirm nor deny, which puts us in a position similar to what we had in SALT I. In other words, we are set up to be duped again.

Now my original understanding that I was going to submit was going to take those exact weights and make them the limiting factor. We have discussed this with Ambassador Earle, the Secretary of State, and the Secretary of Defense at length a couple of days ago and they make the point that what we need to know is that there has not been an

increase beyond the SS–19 whether our current estimates are valid or not. So 90,000 may be too high, 90,000 may be too low, but we hope we will be able to measure whether their launch-weight and throw-weight is going up on the SS–19. If it is, then any increase, even 1 kilogram of increase, would be a violation of this treaty.

This brings me to the second point. We have not established a very good track record, it seems to me, in taking violations to the Standing Consultative Commission.

UNDERSTANDING PROPOSED ON SS–19 SIZE

So what I propose with this understanding would really put the heat, I hope, on our own Government to be more forceful in taking these things to the Standing Consultative Commission and in demanding that the Soviets live up to this and it would state "that any increase"—any increase, I will repeat that—"that any increase in the launch-weight or throw-weight in the Soviet light missiles beyond the current U.S. estimates of the launch-weight or throw-weight of the SS–19 missile, would be a serious violation jeopardizing the supreme interests of the United States justifying withdrawal from the treaty."

Now that puts it straight to our own Government that if we detect any increase in the estimates of the launch-weights of the SS–19 or throw-weights of the SS–19 that we would take this to the SCC and be very forceful in pushing this as a violation.

Senator BAKER. Mr. Chairman.

Would the Senator yield to me for a question?

Did I understand you to say that you would offer this as an understanding?

Senator GLENN. Yes.

Senator BAKER. Which would not then require a formal concurrence?

Senator GLENN. It could be made a category III which would require that those changes be communicated and agreed to by the Soviet Government.

Senator BAKER. In advance of the ratification documents?

Senator GLENN. Yes.

It is my understanding that category III would have to be agreed to before those documents would be sent.

Senator BAKER. That is my understanding as well.

Would the Senator consider offering it in that form?

Senator GLENN. I would, and I thought originally that that might be the best way to do it but rather than open the whole treaty up again for negotiations, which this probably would do, my main effort in this was to hold our own Government's feet to the fire because I think whether this whole treaty will work is going to be determined largely by the willingness of our own Government to be as hardnosed as they can possibly be in taking things to the SCC and pushing every possible violation of the treaty.

Senator BAKER. Would the Senator yield further?

Senator GLENN. Certainly.

Senator BAKER. I don't mean to try to complicate his presentation, I intend to support it. Would the Senator also consider the expression at the same level of concern, say, with respect to the SS–20? The SS–20,

while I suppose it is a theater type weapon, probably need not always be and it would take a fairly small change to convert the nature of that weapon, I am not certain that we fully provided against that or resolved that such a change would be inimical to the U.S. security interests to the point where it would justify withdrawal from the treaty. Did the Senator consider such an understanding?

Senator GLENN. I have not included the one with the SS–20 in this but we could talk about that. I would not want to make a commitment.

Senator BAKER. I understand, and I would like to talk to the Senator about that as well.

I might say then, Mr. Chairman, that I would want to make sure that at least my rights to offer a similar understanding later in these proceedings would not be precluded by moving on from this point.

The CHAIRMAN. The Senator knows that his rights to——

Senator BAKER. It always gives me a warm feeling though to hear the Chairman say it.

The CHAIRMAN. Any proposal that might occur to him will be fully protected by the Chair.

Senator BAKER. I depend on it and I thank you for it.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Yes, Senator Biden.

Senator BIDEN. I would like to compliment Senator Glenn on this proposal. I raised this question before the committee in closed session. I think he has reached a reasonable compromise on this matter that insures our interest.

I think this does no damage to the treaty.

The CHAIRMAN. I was going to suggest this has been offered as a category I.

Senator GLENN. Senator Baker asked about category III. In considering this, I have thought it would have to go back to the negotiation phase if we want category III, I would welcome any comments by administration representatives as to whether that is their opinion or not. I would prefer a category III but as long as we can hold our own administration's feet to the fire on this so that they consider the Soviets going over by even 1 kilogram is a violation, and we can determine that, I am satisfied.

One reason I backed off on the 90,000 kilograms launch-weight and 3,600 kilograms throw-weight is that I don't know how accurate those figures are to begin with. We can perhaps more accurately determine a small increase in launch-weight and throw-weight by what we are proposing here today than by going with the specific numbers, if you follow all that.

That is the reason I changed my proposal. I will not propose category III myself. If the Senator wishes to propose that, I will probably vote with him. I don't know whether we would prevail or not but we will come back to this. In any event, I will propose it as a section 1.

The CHAIRMAN. Could we ask Mr. Cutler for comment.

Mr. CUTLER. Mr. Chairman, we would oppose Senator Glenn's proposal if it were a category III proposal. As a category I proposal we would be prepared to consider it. We would like an opportunity, if we could have it, to study the language and perhaps discuss it with Senator Glenn, since this version I think was first made available to

us only this morning. Would it be possible after this discussion of the principle to have an opportunity to consult among ourselves and with Senator Glenn and possibly vote on it tomorrow morning?

Senator GLENN. I apologize for not getting a copy to you sooner so we could discuss it now, but this was developed last evening. Things develop rather rapidly around here as you are probably aware.

The CHAIRMAN. May I suggest this as a possible solution, that the committee will come back into session at 2 o'clock this afternoon and between now and then the administration would have an opportunity to look at this last version of the proposal and then I would hope they will be able to proceed to a vote.

CLARIFICATION OF CHANGE IN CATEGORIES

Senator GLENN. Let me get a clarification on categorization. Senator Biden was suggesting that we move this to a category II to be communicated to the Soviets. I did not move from category III to I without considering category II last night and I wanted to get a clarification on this before we go further.

Is it assumed that with a category I any instructions will be instructions within our own U.S. Government concerning the terms and conditions of SALT II and need not be communicated to the Soviet Government in any formal way? In other words, that it is an understanding strictly within our own Government.

Now, if we move to category II, does it include all of those conditions in category I except it also has to be communicated to the Soviets, or is it just communicated to those governments? This was not clear to me and I went from category III to I last night with the idea that category II did not bind our Government as much as a category I. Is that a correct interpretation?

The CHAIRMAN. I think the reason for the three categories is as follows: The proposal you make seems to me ideally to fit category I because it is meant to be an instruction to our own Government. It contains the Senate's position and therefore is binding within our own Government. It really is not any of the Soviet Union's business on what basis we feel a treaty has been violated as to justify our withdrawal. That is a decision for us to make, but it is important that we communicate to our own Government that this particular violation should be regarded as sufficiently serious as to justify our withdrawal. So I think it is a category I type of understanding.

The difference between category I and category II is not that the Soviet Union won't know what every understanding may be that we decide to place in category I—of course they will. They will know of it informally, they will know of it through the press, they will know of it in any way, but in category II we give them formal notification and include that as a part of the instrument of ratification so that they are put on formal notice although they are not asked to accede. They are put on formal notice and there will be, I think, some proposals that would suitably fall in that category. It seems to me ours fits category I.

Senator GLENN. Do the admonishments to our own Government contained in category I also apply? Do we have a category II understanding?

The CHAIRMAN. Yes.

Senator GLENN. That was not clear. If that is the case, we should reword our explanation of the categories so that those are done that way. Otherwise, I was just thinking the way to do this thing would be to make it both category I and category II effort. In other words, we would submit it so that it is binding on our own Government plus formally communicated to the Soviets, but with no requirement for them to accept it.

The CHAIRMAN. It could be both categories. Category II would accomplish both purposes.

Senator BIDEN. Mr. Chairman, I think that although I am not as concerned about this matter as Senator Glenn is, I would like to make a statement here. I think there are those that are going to be very concerned about it. I think there are those who are going to go back and look at the history of SALT I and think that the Soviets would be able to make an SS–19-type leap again, a quantum change of 40 percent as they did in SALT I within the letter of the SALT I Treaty.

I don't think they can do that within the SALT II Treaty because if the Soviets made such a quantum gain this time it would be disastrous for the treaty.

Rather than instruct our own Government, I think it would be useful to communicate to the Soviets so they understand it is a matter of gravity. If they were to do again what they did in SALT I, stretching the letter of the agreement, it would be devastating. I don't think they can or will, but if they did it would be devastating. I think the formality of a communication to the Soviets would be useful, so I would respectfully suggest that it be a category II item which includes the admonition to our Government and further formally communicates it to the Soviets.

Senator GLENN. I was talking to staff, and in talking to staff there seems to be some disagreement as to whether category II automatically includes category I or whether we would have to change some of the formal wording here. Perhaps we can have that ironed out by the time we meet this afternoon.

The CHAIRMAN. The internal substance of the proposal has something to do with the binding effect upon our Government and its proper place in this order.

Senator GLENN. My intent in this, Mr. Chairman, that it would be an admonishment to our own Government; and second, formally communicated to the Soviets, that it would not require their agreement.

The CHAIRMAN. I believe, that being your intention, Senator, category II is the proper category.

Mr. SHEA. Category II would be the position of the United States. If the administration did not accept the position the Senate had taken on a category II or a category I the treaty could not be ratified by the President.

Mr. CUTLER. I want to make it clear that in my view at least there is no question that the administration, the United States, is equally bound by a category I condition or reservation as by a category II condition or reservation. Any condition that you place on your advice and consent is going to bind the administration. The only question is whether it is formally communicated to the Soviet Union and whether that might provoke some countercommunication of theirs.

The CHAIRMAN. Senator Hayakawa, did you wish to speak?

Senator HAYAKAWA. I just want to associate myself with Senator Biden's argument for putting this in category II.

The CHAIRMAN. Mr. Pell.

Senator PELL. I am concerned with the words "the current U.S. estimate of." You ought to put yourself always in the skin of the other side. What if the amendment said any increase in the launch-weight of an American light missile beyond the Soviet estimate? Should we not have a more specific figure there or just none of those five words and have it as a subjective statement?

Senator GLENN. That is what we would be basing our objection on in any event. I would suggest it read, "any increase in a Soviet light missile based on the launch-weight or throw-weight of the SS–19."

The CHAIRMAN. That would be the better drafting.

Senator BAKER. Is that item included in the data base that was exchanged?

Senator GLENN. No. We talked about that the other day. The data base will not include specifics like that. It will include numbers but not the qualitative performance characteristics.

The CHAIRMAN. If there is no further——

Senator PERCY. I just would like to speak to the administration that even if the administration were to oppose having this a category I, I would support it, I think it is that important, but I should like to have the judgment whether it is category I or II and for any further administration to be on notice how the Senate would look at this. I would want to support it but I would like to hear your arguments.

Mr. CUTLER. Senator Percy, I did not say we would oppose it in category I. I said we would oppose it in category III, but that it offered as a category I proposal—since it was only made available this morning—we would like to study the language. We believe we could consider something based on this principle, with minor modifications in the language that we think would better achieve Senator Glenn's purpose. We would prefer category I.

Senator STONE. Mr. Chairman, on the basis of the committee procedure on which we adopt these understandings and the like on a tentative basis, why don't we go ahead and vote on this and if the administration has directive language to propose when we do a final on all of these votes we can consider it then.

Senator SARBANES. Mr. Chairman, I would like to dissent to that. It seems to me at 2 o'clock this afternoon we are going to be in a position of having the benefit of the consultation between Senator Glenn and Mr. Cutler and the other members of his team and that it would be better simply to wait until then and then make in effect the first decision rather than try to redo it.

Senator STONE. We are going to work on it at 2 o'clock. I forgot the session of the Senate was postponed. Sure; let's wait until 2 o'clock.

The CHAIRMAN. I think we have discussed this well and after we have heard from the administration we should be ready to vote early in the session this afternoon.

Senator SARBANES. I think it will be strengthened by the Glenn proposal.

Senator GLENN. That would read now for the administration's consideration—on the first line just mark out the first five words, "cur-

rent U.S. estimate of the." Strike that out so that it will now read that "Any increase in he launch-weight or throw-weight of a Soviet light missile beyond the launch-weight or throw-weight of the SS–19 missile would be a serious violation," et cetera.

The CHAIRMAN. I think that does improve the language.

Very well. It is 20 minutes after 12.

Senator BIDEN. Parliamentary inquiry if I may.

The CHAIRMAN. Yes.

Senator BIDEN. We have all been adhering to the 48-hour rule on amendments. Maybe you can tell us now so those of us who want to look at them and maybe be prepared to discuss them would know?

Senator BAKER. No.

Senator BIDEN. Then I would like to invoke the 48-hour rule.

The CHAIRMAN. Let me make it clear that the 48-hour rule is not really a rule.

Senator BIDEN. I guess I cannot invoke it then. I just appeal to Howard's sense of fairplay.

The CHAIRMAN. It's kind of a gentlemen's agreement. Wherever possible we will strive to give the committee 48 hours notice.

Senator BIDEN. If any gentleman wants to communicate with me——

Senator PERCY. I don't know of any who would.

The CHAIRMAN. The committee is adjourned until 2 o'clock.

[Whereupon, at 12:22 p.m., the committee adjourned, to reconvene at 2 p.m.]

AFTERNOON SESSION

The committee met, pursuant to recess, at 2:02 p.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

The CHAIRMAN. The hearing will please come to order. The committee, when we adjourned this morning's session was about to vote on a proposal offered by Senator Glenn, and I would like to recognize Senator Glenn at this time.

Senator GLENN. Mr. Chairman, if I might have a couple of minutes to speak on a different subject, it will not take more than a couple of minutes, but it is appropriate to our going into executive session and to——

The CHAIRMAN. All right, now.

SECURITY OF CLASSIFIED INFORMATION

Senator GLENN. Mr. Chairman, prior to going into executive session, I would like to address another matter for just a couple of minutes because I think it is so important. That is a matter of security when we are in executive session or dealing with matters surrounding this whole treaty consideration.

I was appalled to go back to my office at noon and read this in the morning paper, the Evans-Novak report verifying the verification report. And, I think that to have that in public print is atrocious. And, if you read through that, where this is a comment made by me—and the comment made directly and quoted by me is accurate that I still have problems with verifying certain parts of this treaty, but I would not comment on it otherwise. But to imply, if you read the whole writeup here, that I was perhaps the source of the quotes from the Intelligence Committee's report or of critical comments with regard to Senator Bayh which I find absolutely incorrect and indefensible.

And, I think we must make every effort to find out who is putting this out now. There are direct quotes from the top secret code word Intelligence Committee report that now are in public print. And, I do not know how we dry these leaks up or what action we take in conjunction with the Intelligence Committee, but I think since it is our request that they have worked on the last couple of years, that we cannot let this lie.

I would say for Senator Bayh, that in our closed session, contrary to the indications in this writeup in the paper, he was very forthcoming, he was most cooperative, and he was very fair in his addressing, as was Senator Goldwater. very fair in addressing all phases of the In-

telligence Committee report, the staff director for the Intelligence Committe was also very forthcoming.

And, I do not think they showed any bias one way or the other in trying to give us a fair appraisal of the work that that committee did over the past year.

And, I wanted to put that on the public record, because I think Senator Bayh will undoubtedly be receiving criticism at home because of this. I think it will be unwarranted and unjustified. They did a tremendous job on that report. There are parts of the report that I may or may not agree with. I for instance, did not agree with the unclassified version of the report in the area where it came to our ability to monitor what the Soviets are doing now in their testing program, and I have questions as to whether the full report backs up the conclusions that completely. But those are comparatively minor matters compared to the general tone of this writeup today.

I think Senator Bayh and Senator Goldwater did their very best to present an unbiased view to us. They answered every question that was asked of them in the best way that they possibly could. And, I think that this news report was very unfair to Senator Bayh. I do not know how we tighten up around here, but leaking this material now that is top secret code word material has to stop. I am becoming, on this committee, sort of the common scold, I guess, on matters dealing with security, but I think it is a critically important point.

I have talked about it so much that no one listens any more. But, I think this is a good example of the type of thing we absolutely must get control of.

The CHAIRMAN. Senator, I agree completely with the need to investigate this matter. I am happy to participate along with Senator Glenn in any way that he would suggest to try and determine——

Senator GLENN. I wish I had some idea.

The CHAIRMAN. I wish I did, too, but I will make this much clear. That if we are able to determine that such a leak came from any member of the staff of this committee, there is no doubt about the action that I will take. That staff member will be dismissed. The committee, the Foreign Relations Committee, does not have access to this report according to Mr. Bader.

We received testimony from Senator Bayh and Senator Goldwater. And, at the time the testimony was given, we had copies of the report that we read from.

Senator GLENN. Well, we have full access to that report, Mr. Chairman.

The CHAIRMAN. Well, Senator——

Senator GLENN. Any Senator who wants to go——

The CHAIRMAN. Will the chief clerk speak to this question? I mean the report, I do not believe, is in the custody of the committee or the committee staff.

Senator GLENN. No, but any Senator and any one of our staff cleared code word can go over there and read it, as I have done.

The CHAIRMAN. Yes, I know that. I am saying in our efforts to determine where this leak may have come from—perhaps, I feel a little protective about this committee and its staff, but I think that until we have some evidence that anyone on this committee is responsible for

a leak, we ought not to leave the implication that it necessarily came from this committee. And, so, I will be happy to investigate in any way I can, and do the best I can to track down any possible leaks that have occurred. In that connection, it is at least relevant to say that the text of this particular report was not left in our custody.

And, though, it is available to Senators who may wish to go to the Intelligence Committee to get it, it is to the Intelligence Committee they must go. Now, I agree completely. I just do not want to leave this committee or its staff indicted without evidence, because this town, in my experience, is a town that looks quite like a sieve when it comes to leaking.

And, the executive department, as the Senator knows, sometimes will leak this kind of information and other committees with access to it may be the source of the leak. And so in fairness to this committee, I just wanted to take note that there may be some other source for this leak.

But, nevertheless, I will do the best I can to identify any possible source on this committee or on its staff. I would take very serious action. I think dismissal is the appropriate action for anyone who is found to have taken classified information and leaked it to the press.

Senator GLENN. Mr. Chairman, if I may respond. I was not making any direct accusations of anybody. I am pointing out the care that we have to exercise when we are in executive session, which we will be in and out a number of times, undoubtedly, during the debate on various amendments or understandings.

I, on the other hand, do not absolve this committee automatically either because of the experience I had personally a week ago when we were in executive session and it turned out somebody went out and gave the vote and gave all the information——

The CHAIRMAN. Does the Senator know it came from this committee?

Senator GLENN. Well, it did not come from the Intelligence Committee. We were in executive session at the time. I know it was in the paper the next morning. I had not released it, so I presume it was either staff or some member of the committee that released it.

The CHAIRMAN. I think that is a presumption that does not take into consideration all of the possibilities. If the Senator—there is no reason for the two of us to argue about this because we are agreed. But, I just feel that however the Senator may intend his words, they also seem directed at this committee.

And, I think the Senator, in fairness, would have to say that we have tried to be very careful about executive sessions. We have had a great deal of sensitive information relating to the national security given to us that was not leaked in any form.

In connection with this particular matter, we took the added precaution of keeping the text before us only during the presentation, after which they were all collected and taken back by the Intelligence Committee. I do not know how much more care we could try to take procedurally with these matters.

Senator GLENN. In that matter, I agree with the chairman completely. And my principle purpose today was to caution that we have to be continuously careful on this and to set the record straight for Senator Bayh, whom I think has been dealt with very unfairly in this write-up here.

I am not making allegations against members of this committee nor of our staff. But, I do know that we are not immune from being suspect either because of what happened to me last week.

I take executive sessions of this committee very seriously. I was asked after our meeting for comments and refused because we were in executive session. I read a full account the next morning. I do not know how that could have come from anybody except a committee member or staff member here. That did not involve any other committee.

So, I think that, as we go through this, I hope we do not give away any national secrets that would put our country in jeopardy.

I just wanted to clarify that I think Senator Bayh has been very unfairly dealt with here. If you read this casually, I think perhaps it might be read as I was the source of the leak, which I can assure everybody I was not.

The CHAIRMAN. Senator Percy.

Senator PERCY. I would like to state I am glad the Senator brought this up. The article bothered me this morning very much indeed. I felt it really grossly unfair to Senator Bayh. I was there for 2 days. I read the classified and the unclassified versions. I listened to his testimony. I did not come to the same conclusion that this column does.

I just think that it is an unfair representation, whoever reported that in Evans-Novak did a disservice to them. And, I deplore reporting of any classified material.

Could somebody answer the question for me as to whether this quotation is from the unclassified or the classified version of the Intelligence Committee report? It is quoted verbatim. Now, there were large sections of the unclassified that were drawn verbatim from the classified. But is this contained in the classified or the unclassified section?

The CHAIRMAN. Senator Percy, I have——

Senator PERCY. If it is the unclassified, we have nothing to be concerned about on that score.

The CHAIRMAN. I will ask Bill Bader, the staff director, to commence a thorough investigation into this matter as soon as possible and have answers to such questions as you have raised. We will do the best we can to try to get to the bottom of it.

Senator Glenn, we were coming to a vote on a proposed understanding you had before the committee. Could you report to what transpired during the noon hour?

DISCUSSION OF CATEGORY II UNDERSTANDING ON LIGHT MISSILE SIZE

Senator GLENN. Yes, I can. I believe the appropriate parties have met. I think we have an understanding on launch-weight and throw-weight that I believe would be acceptable to the administration and accomplishes all the things I wanted to accomplish in making clear to our own administration how seriously we view this matter and also making certain that it does get communicated to the Soviet Union.

And the resolution in—in section II of the resolution of ratification, we would include the following understanding:

> That any increase in the launch-weight or throw-weight of a Soviet light ICBM or of a Soviet SLBM or ASBM beyond the launch-weight or throw-weight of the SS–19 ICBM as of the date of signature of the treaty would be a violation of fundamental provisions of the treaty justifying withdrawal from the treaty.

And, I think that accomplishes everything we have discussed. I will not go through all the argument or the background on this that we covered before the noon break. I think that is fresh enough in our memory. I do not need to repeat them unless somebody wishes to discuss it further.

The CHAIRMAN. I think we did discuss it this morning. Mr. Cutler, do you have a comment you would like to make?

Mr. CUTLER. Mr. Chairman, the administration has no objection to the revised language itself as just read by Senator Glenn. We would still prefer that any such understanding be included in category I rather than category II. Anything in category I, of course, becomes known to the Soviet Union because the proceedings of these bodies are public. If it is in category II, it must be officially communicated to the Soviet Union and it could well invite a series of counter communications from them also in a category II form either on this subject relating to our ICBM's or on some other subject.

For that reason, we would prefer that the language be included as a category I understanding.

Senator BAKER. Could I make a parliamentary inquiry?

The CHAIRMAN. Certainly.

Senator BAKER. I do not ascertain from the language of the proposed amendment what is intended in respect to the category. Is it——

Senator GLENN. The intent was as per our discussion just before the break, that category II would automatically include the provisions of category I. And that was my intent for putting it into category II. When we talked last night about whether it would be a category III or not, we decided no, we would not go that route for other reasons.

At that time, we were not certain that category II would include category I automatically. Now, there appears to be some difference still on the legal staff of the committee as to exactly how the category should be worded to make sure that is the case.

But, my intent with this, and I want this to show very clearly in our hearing record, my intent is that we not only include the provisions of category I, but category II along with it, notifying the Soviet Union. And, if there is any question between the categories, I would want it entered at both category I and category II to make certain that both provisions are included.

Senator BAKER. The reason for my parliamentary inquiry, Mr. Chairman, is underscored by the statement by Senator Glenn. That is if I wanted to make an amendment to the amendment to move it to category III, I do not know where I would put it; but I would assume I would just offer an amendment to transfer it into category III. Would that be in order?

The CHAIRMAN. As to the Senator's motion, I would hope that he will not feel it necessary to offer the motion because we really have accomplished all that needs be accomplished for the purpose for which this proposal has been offered. By putting it into category II it was meant to be an instruction to our own Government as to how any possible increase in the launch-weight or the throw-weight of the Soviet SS–19 would be treated by the American Government.

So, I think that it belongs in either category I or II, but not in category III.

Senator BAKER. Might I inquire, Mr. Chairman, of the Senator from Ohio whether he is satisfied that a category II understanding is adequate? What I am thinking about is this. Is there some factual basis for a dispute with the Soviet Union on whether there has or has not or might or might not be a change in the throw-weight of the SS–19?

Senator GLENN. Well, I do not know if we want to go back through all the arguments of the morning. But we are setting this as a limit because in SALT I we thought we had an agreement as to what the size of the missile was and through an ambiguity and a loophole, they far exceeded what we thought had been the limit that was set.

What we are trying to do is tie this down. What they have agreed to now is that any missile they build will not be larger than the SS–19. What we are doing is pinning this down so that we will make this a factor at the SCC if they do, in fact, exceed the SS–19 weight and that the Soviets are on notice that that is a factor.

Senator BAKER. And, I notice it is as of the date of the signing of the treaty. That would be the time of the ceremony in Vienna?

Senator GLENN. That is correct because any increases in weight might be occurring right now should not be permitted what we thought we were signing at that time. We agreed to what the status quo was at that time at the day of the signing. I think there is some question about whether there are different mods of the SS–19 now. I might ask our chief negotiator at SALT to what his opinion is as to whether this does, without further language changes, would this automatically apply to the heavier of the diversions of the SS–19 or the lighter? I would presume it would apply to whatever the heaviest version of the SS–19 was?

Ambassador EARLE. Yes, that is correct, Senator Glenn, and I think it is implied in the common understanding where the SS–19 is described as the heaviest in terms of launch-weight and throw-weight, and certainly the negotiating discussions that we had with the Soviets confirmed that.

SOVIET RESPONSE TO U.S. SS–19 SIZE ESTIMATES

Senator BAKER. Mr. Chairman, I am wondering though, and this is what I keep reaching for, if we are walking into a situation where we already have a problem. I looked at page 10 of the comparative print under executive branch comments and the remark here is made that on August 16, 1977, in a preliminary statement:

> The United States informed the Soviet Union that for planning purposes with respect to ICBM's, it might develop to test or deploy in the future, the United States considers the launch-weight limit on light ICBM's to be 90,000 kilograms and the throw-weight limit to be 3,600 kilograms. These figures are based on our estimates of the SS–19.

The Soviet Union did not respond to this statement. My question is, Is there a statement implying in this executive branch comment that our assumption with respect to the throw-weight of the SS–19 might be inaccurate? Is there some concern or fear it has been changed since Vienna? Is there already a variation from what we agreed to at that time that prompts this proposal?

Senator GLENN. No; I do not base it on that. Originally, as I said this morning, I had planned to go with those specific figures. Now, it seems to me that perhaps it is better to go the way we are going, because if we note, through monitoring, any change, whether it comes up to this number or not, any change, then we will have our own Government on notice that we expect them to complain at the SCC, try to work it out there, and the Soviets are also on notice by making this a category II, formally on notice that we will complain at the SCC if they exceed the current weight of the heaviest version of the SS–19.

Senator BAKER. The point I am reaching for may be a little more indirect than that and I apologize for it, but the example is this. If the Russians are in full compliance with the characteristics of the SS–19 as they existed at the time of Vienna, then I am inclined to think that a category II understanding is adequate to simply express our intention in the event of a future occurrence, a future happening.

If there is any reason to think, and I am prompted by the quote I read from page 10 of the comparative print, if there is any reason to think that the Soviet Union has already deviated from that throw-weight, then you have a fait accompli or the possibility of a changed situation that would require instead a category III understanding; that is, the formal concurrence of the Soviet Union.

Senator GLENN. If the Senator would yield, I know of no such information nor did I base this change on any such information.

RELATIONSHIP OF SS–19 SIZE TO NEW TYPE RULE

Senator ZORINSKY. Would the Senator from Ohio yield for a question? Would the specific reference to the SS–19 negate any previous understanding concerning the 5-percent upgrading differential with respect to other ICBM systems. Could it then be said that any upgrading on those systems is not in violation of this specific limitation of not being of heavier throw-weight than the SS–19.

Senator GLENN. I do not believe that would apply in this case. I would ask Ambassador Earle if they would respond also.

Ambassador EARLE. No, it would not. The limitation we are discussing here is that it may not be increased whatsoever. Smaller ICBM's may have their launch-weight or throw-weight increased up to 5 percent.

Senator SARBANES. But not to exceed 5 percent?

Ambassador EARLE. No.

Senator SARBANES. But then the argument could not be used that it was not exceeded beyond the SS–19 throw-weight, even though it might have been 10 percent?

Ambassador EARLE. The other missiles would be measured against themselves and would be held to the 5-percent increased limitation and no missile may exceed that of the SS–19, no light ICBM.

Senator GLENN. Do you want to so move, Howard?

Senator BAKER. Yes.

Mr. Chairman, might I make a proposal?

I would like to examine another piece of information which I do not have readily at hand in respect of this matter. I don't think it will take long. I am speaking only of minutes, about 15 to 30 minutes. I

would hope that the Chair would indulge me long enough to do that and that we could move on to another item and save this for a later disposition—I say in a half hour.

Senator GLENN. If the Senator would yield, I concur with what Senator Baker wants to do. I think it important that we are able to clarify this matter. The staff can check it out in 10 or 15 minutes and we can get back to it then.

Senator PERCY. Senator Glenn, I wonder if you and Senator Baker would also agree that possibly the administration should be asked whether we have an estimated approximate throw-weight or launch-weight that we want to be specific about in here, rather than leaving it open as to what is a figure as of an approximate date of the treaty. Let's put in some sort of estimate, maybe.

For some reason we may not want to put that in.

The CHAIRMAN. Senator, there is a reason which we have discussed before. I think that is why Senator Glenn has drafted his amendment in the way he has.

Senator GLENN. May I respond by saying that my original intent was to put it in with a specific weight in there. But if we can monitor that there is any change, then if our figures of 90,000 and 3,600 may be somewhat in error, if we can detect any change, then perhaps the amendment, the way I have submitted it, would allow us grounds for complaining at the SCC that it might well be under the total weight limits that we would have set with this 90,000 figure and 3,600 figure.

Perhaps it gives us a better handle on this than we would have had with the specific weight limits.

Senator BAKER. I agree with Senator Glenn. I think if we are not careful we will disturb certain other figures that are built into other systems that interrelate to it.

Senator GLENN. Right.

The CHAIRMAN. That's correct.

Are we going to wait now for a few minutes, Senator?

Senator BAKER. Mr. Chairman, there is a matter that Senator Glenn and I would like to ask staff to check. It relates to this question. If we could have a few minutes, we would appreciate it.

The CHAIRMAN. All right.

[Pause.]

The CHAIRMAN. We may be able to get this matter taken care of in the next few minutes.

SERVICE OF SELECT COMMITTEE ON INTELLIGENCE

Meanwhile, I want to say, having had an opportunity to read the Evans and Novak column for the first time, I believe a serious disservice has been done to Senator Bayh and possibly to Senator Goldwater as well. They undertook to present the findings of the Intelligence Committee to the Foreign Relations Committee. The two of them have a different view about the SALT II Treaty itself, and yet, they undertook in the most objective way to present the findings of the committee relative to the verification of the SALT II Treaty. I thought they did a remarkably good job in laying out in a factual way the findings of the committee itself. Both Senator Goldwater and Senator Bayh avoided ever allowing their personal views to color the

presentation of the facts as they had been found by the committee.

I, as one who heard their presentation, feel that it is necessary to say that in their defense.

I think both of them actually deserve the highest commendation for the objective way that they treated their assignment and for the manner in which they discharged their duty. I want the record of these proceedings to show my feelings on this matter.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. I heard the whole direct presentation of Senators Bayh and Goldwater. As ranking member of the committee I participated in approximately one-half of the cross-examination that took place on the afternoon of the full day of their appearance.

I was not there the following morning when some additional questions were asked. But I gather they did not concern this matter.

I would like to associate myself completely with the chairman's views. I think they have been a fine example of the ability of Senators to serve the whole Senate objectively, without allowing their personal views to intrude, and yet in no way compromising their personal views for the future.

I believe it would be a great disservice to the Senate to have any impression created abroad that Senator Bayh's summary report was in any way biased, slanted, or selective. The same goes for Senator Goldwater, who is likely to take the opposite position on ratification.

I thought they did a magnificent job and made a magnificent presentation. It left me with the feeling that certainly all questions are not ended and satisfied by this report. But certainly I would have no feeling of deep concern on the issue of intelligence, should I decide finally to cast my vote for ratification.

The CHAIRMAN. Thank you, Senator, very much.

While this question is being settled and before we proceed to a vote on Senator Glenn's proposal, I would suggest that the committee proceed where it left off, which is at the top of page 10 of the markup print, with paragraph 6 of article II.

ARTICLE II, PARAGRAPH 6: MIRVED ASBM DEFINITION

I would ask the staff, Mr. Sauerwein, to please read article II, paragraph 6, together with the agreed statements relating to it.

Mr. SAUERWEIN. Yes; Mr. Chairman.

Paragraph 6 reads:

> ASBM's equipped with MIRV's are ASBM's of the types which have been flight-tested with MIRV's.

The first agreed statement reads:

> ASBM's of the types which have been flight-tested with MIRV's are all ASBM's of the types which have been flight-tested with two or more independently targetable reentry vehicles, regardless of whether or not they have also been flight-tested with a single reentry vehicle or with multiple reentry vehicles which are not independently targetable.

The second agreed statement reads:

> Reentry vehicles are independently targetable:
> (a) if, after separation from the booster, maneuvering, and targeting of the reentry vehicles to separate aim points along trajectories which are unrelated

to each other are accomplished by means of devices which are installed in a self-contained dispensing mechanism or on the reentry vehicles, and which are based on the use of electronic or other computers in combination with devices using jet engines, including rocket engines or aerodynamic systems.

Senator STONE. Mr. Chairman.

The CHAIRMAN. Senator Stone.

Senator STONE. Is there really a necessity to have staff orally read all of these provisions? Couldn't we, rather, simply go to any amendments and if there are any, have them summarized?

The CHAIRMAN. I am just being extra cautious to make sure that the attention of members is focused not only upon the provision in the treaty itself but also on the interpretive provisions and material.

Senator STONE. Still, it is like having a bill read in its entirety. We all have been working on this for some months, now.

The CHAIRMAN. Yes; we have.

Senator STONE. In the interest of time, I just wonder whether anybody really cares to have it all read like that.

The CHAIRMAN. Well, I grant you that it does not have the uplifting effect of great literature. [General laughter.]

Senator STONE. The Chairman has stated my reaction in its entirety.

The CHAIRMAN. However, Mr. Sauerwein, since you have gotten through part (a) of the definition of the reentry vehicle, would you just complete the exercise, please, by reading part (b). Then we can decide how to proceed with the other articles and paragraphs as we moving along.

Mr. SAUERWEIN. Yes; Mr. Chairman.

Part (b) reads:

If maneuvering and targeting of the reentry vehicles aim points along trajectories which are unrelated to each other are accomplished by means of other devices which may be developed in the future.

Senator STONE. Mr. Chairman, I will offer a compromise. How about if we just have him read the treaty and, unless someone raises a point about the agreed statements, we won't have that read. Let's just read the treaty. That points us to where our consideration should be focused.

The CHAIRMAN. Very well. I would be willing to go along with that suggestion if other members of the committee agree.

First of all, let me just remind members of the committee that neither side has any ASBM's, whether MIRVed or un-MIRVed. Insofar as we know, it is not at least a part of present planning on either side to build any ASBM's, whether MIRVed or un-MIRVed. Nevertheless, they have been included in the treaty. If either side were to build any, they would be counted against the aggregate ceiling.

Does any member of the committee have any proposal to make relative to paragraph 6 of article II?

[No response.]

The CHAIRMAN. If not, we will proceed to paragraph 7 of article II.

This time I will ask Mr. Sauerwein to read just from the text of the treaty.

Senator BAKER. Mr. Chairman, do you want to dispose of the matter we had reserved or do you want to go ahead with this?

The CHAIRMAN. Are we prepared to dispose of it?

Senator BAKER. Yes.

The CHAIRMAN. Then I would like very much to do that.
Senator BAKER. Shall I speak first?
The CHAIRMAN. Sure.

CATEGORY II UNDERSTANDING BANNING SS–19 SIZE INCREASE

Senator BARKER. Mr. Chairman, Senator Glenn and I have conferred on this subject. We have compared notes and sought information from our respective staffs and from the administration. I am not certain it is possible to resolve the factual issue at this point and I have no desire to delay the situation.

I am prepared, for my part, to go ahead and support a category II understanding, that is, a clear statement of the intention of the Senate, which will be an instruction which is binding on the administration to the effect that a change in the throw-weight or launch-weight of the SS–19, as of the date of the signature of the treaty, would be a violation of fundamental provisions of the treaty justifying withdrawal from the treaty.

I am perfectly prepared to do that provided Senator Glenn, as the author of this understanding, will represent to me that this means that the United States would be justified in withdrawing from the treaty, declaring a breach of the treaty, or treating the treaty on whatever basis it chose if it discovered that after Vienna, after the signing of the treaty, there had been a significant change in the launch-weight or the throw-weight of the SS–19.

If that is clearly understood—we are not talking about the ratification date, we are talking about Vienna—then I am prepared to go ahead with a category II understanding.

Senator GLENN. That is very well stated and is exactly my understanding. It is exactly what I intended this to show, that it would be as of the date of the treaty. If there were changes since that period of time, they would be in violation of the treaty.

I would like the administration's comment on this indicating that they understand that this is exactly what this amendment intends to do.

Mr. CUTLER. Senator Glenn, that is also our interpretation of this amendment and of the treaty.

The CHAIRMAN. A rare moment of common agreement having occurred, I believe we should vote.

The clerk will call the roll.

Mr. BADER. Mr. Pell.
Senator PELL. Aye.
Mr. BADER. Mr. McGovern.
Senator GLENN. Mr. McGovern votes aye by proxy.
Mr. BADER. Mr. Biden.
Senator BIDEN. Aye.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. Aye.
Mr. BADER. Mr. Muskie.
[No response.]

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Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
[No response.]
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.

On this vote, the ayes are 13 and the nays are nothing. Senator Hayakawa was later polled in the affirmative.

It is difficult for me to mix up that vote.

The proposal has been adopted by the committee.

Senator GLENN. Mr. Chairman, I have just one further comment, please.

Our staff worked long and hard on these things. Sometimes a few lines require a great deal of work. There were many hours spent yesterday in working out some of the details and going back into some of the testimony on this. In particular on our staff, Carl Ford, Pat Shea, Clark McFadden, Harry Sauerwein, and Fred Tipson worked very long and hard hours on this. I want to give them credit. Too often these are our unsung heroes and I know they spent a lot of hours yesterday working this matter out.

Gentlemen, thank you all very much.

The CHAIRMAN. Thank you very much, Senator Glenn. Your kind words are appreciated. I, too, thank the staff for its hard work.

ARTICLE II, PARAGRAPH 7: HEAVY ICBM DEFINITION

We proceed now with paragraph 7 of article II on page 10 of the markup print.

Mr. Sauerwein.

Mr. SAUERWEIN. Mr. Chairman, might I propose that I read the paragraph and then just give a short one-line description of each of the agreed statements and common understandings? If there are questions, we could then read the whole "Agreed Statement and Common Understanding."

The CHAIRMAN. Very well.

Mr. SAUERWEIN. Paragraph 7, article II, reads:

> Heavy ICBM's are ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the light ICBM's deployed by either Party as of the date of signature of this Treaty.

Associated with this paragraph are two agreed statements and one common understanding.

The first agreed statement is a definition of launch-weight. The second agreed statement is a definition of throw-weight. It has three subparagraphs, (a), (b), and (c), which indicate, in paragraph (a), that reentry vehicles are included in throw-weight, in paragraph (b), that targeting, releasing, and dispensing devices—their weight is also included in throw-weight, and in subparagraph (c) that penetration aids' weight is included in the throw-weight definition.

In the common understanding, a post-boost vehicle is distinguished from a final booster propulsion stage.

Senator PELL [presiding]. Are there any further thoughts or suggestions?

[No response.]

Senator PELL. If not, I would suggest that we move on to page 12, paragraph 8 of this article.

ARTICLE II, PARAGRAPH 8: CRUISE MISSILE DEFINITION

Mr. SAUERWEIN. Paragraph 8 is the cruise missile definition.

It reads:

> Cruise missiles are unmanned, self-propelled, guided, weapon-delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight-tested from or deployed on aircraft, that is, air-launched cruise missiles, or such vehicles which are referred to as cruise missiles in subparagraph 1(b) of Article IX.

That last reference to article IX refers to cruise missiles based on the seabed.

Associated with this paragraph are three agreed statements and five common understandings.

The first agreed statement is a type rule for cruise missile range capability, a counting rule for cruise missile range. The first common understanding states that cruise missiles flight-tested to a range in excess of 600 kilometers shall be considered to be capable of a range in excess of 600 kilometers.

The second common understanding states that type is based on range, and is distinguished by externally observable design features.

The second agreed statement is a cruise missile range definition.

The third agreed statement agrees that unarmed cruise missiles of the same type as armed cruise missiles are considered to be armed. It is a type rule relative to the payload of the cruise missile.

Then there are three other common understandings. The first states that payload type is distinguished by externally observable design features.

Another common understanding bans conversion of unarmed cruise missiles to armed cruise missiles, and vice versa.

A last common understanding declares that the sides have no plans to test or deploy unarmed air launched cruise missiles during the period of the treaty.

CATEGORY II UNDERSTANDING ON CRUISE MISSILE RANGE

Senator PELL. Do the Senators have any comments?

Senator GLENN. Mr. Chairman, I have another understanding on cruise missiles that has been distributed. The treaty text appears to

contain an ambiguity regarding how the range of a cruise missile should be calculated. I don't know that we ever can determine with any finality how to calculate the range of a cruise missile. That is a vexing problem, to say the least. But I think we can probably define it better than we have done.

Let me give a little bit of background on this.

First, the text indicates that a missile's maximum range is the distance it flies until fuel exhaustion. However, the text then continues with the phrase "which is determined by projecting its flight path onto the earth's sphere from the point of launch to the point of impact."

These two concepts really are contradictory.

It does not necessarily follow with cruise missiles that point of launch to point of impact will determine the range of that missile.

Our negotiators attempted to persuade the Soviets to accept the principle of assuming the range based on estimates of fuel and of remaining fuel. Unfortunately, as the State Department has replied to us:

> The Soviets replied that the cruise missile range definition had already been agreed to and no further clarifications were required in this connection.

Now I do not believe that we should leave this important matter open to differing interpretations at the SCC. My proposal would require an understanding that both parties agree, or in this case we have moved it to section 2, to a method of calculating the maximum range of cruise missiles and that circumvention of this would be grounds justifying withdrawal.

Let me read the understanding:

> That with respect to determining the maximum range of which a cruise missile is capable the United States shall insist that the principle of fuel exhaustion requires consideration of fuel capacity and standard payload weight.

This would be in section 2 of the resolution of ratification.

Senator PELL. Would this be a category I item?

Senator GLENN. Category II. I believe section 2 and category II are the same thing. Correct me if I am wrong.

Is that correct?

Mr. MCFADDEN. That is correct.

Senator PELL. What are the reactions of the administration?

Mr. CUTLER. Senator Pell, I will have to turn this matter over to my colleagues who are more technically experienced with it. But first let me say, as I understand it, that this attempt to arrive at a more refined technical definition proposes principles that we have not ourselves raised with the Soviets up to this time. It is not even in the category of a unilateral statement by us which we are trying to pin down.

Since, again, it is something we have just seen for the first time today, and it does involve very close technical issues, we would request that we have an opportunity to study it further and perhaps to discuss it further with Senator Glenn and his staff before you vote on it.

Senator PELL. Are there any other comments or reactions from the committee?

[No response.]

Senator PELL. I think that the request of the administration is a reasonable one.

Senator GLENN. What did they ask for?

Senator STONE. Basically just time to look at it further.

Senator GLENN. Of course.

Senator PELL. Mr. Cutler, would you consider being able to do this in the next few minutes in the back room?

Mr. CUTLER. I am afraid it is more complex than that and would involve consulting not only with our technicians here but with military people as well.

Senator PELL. Then my judgment is, since there are no other comments concerning it, that we would do best to defer on this until either later this afternoon or tomorrow morning.

We can go on to the next item if there is no further discussion.

Senator GLENN. Mr. Chairman.

Senator PELL. Senator Glenn.

Senator GLENN. Before we leave this item, the State Department letter of August 15, which responded to my request, lists all of the unilateral items that were brought up and has this on page 5, at the bottom, and at the top of page 6. For your reference, it is this document that I quoted earlier. There is reference to it in the negotiating process.

Ambassador EARLE. Mr. Chairman.

Senator PELL. Ambassador Earle.

Ambassador EARLE. Let me make two preliminary comments, please, Mr. Chairman.

The point I think Mr. Cutler was making was with regard to the reference to fuel capacity and standard payload weight, which are not phrases that we had used.

I would also like to address Senator Glenn's initial comment that there was an internal inconsistency in the second Agreed Statement. I think the last phrase that is, "determined by projecting its flight path," should be read as a modifier of "the maximum distance." If you read it as modifying the noun "distance," which is the way I think it should read, then it is not inconsistent with the fuel exhaustion and impact point.

Senator GLENN. The point I was making and the reason for this is it is subject to two different interpretations and was so interpreted during the negotiating process. The fact that it flies until fuel exhaustion does not necessarily mean that it was done in a straight line, which obviously does not mean its range then could be projected onto the earth's sphere from the point of launch to the point of impact and come up with a true measure of range.

That, apparently, is what was at odds during the negotiating process.

Ambassador EARLE. I think here it was quite clear that the flight path of the distance flown, whether in a circle or a straight line, projected onto the Earth's surface, would give the total range of the missile up to the point of impact.

Fuel exhaustion is another issue.

Senator GLENN. All right, we can go over this later.

Senator PELL. I would suggest that Senator Glenn and the administration get together on this after today's hearing and hopefully come in tomorrow with a "common understanding" of their own.

ARTICLE III: OVERALL AGGREGATE LIMITATIONS

Let us move on to article III, paragraph 1.

Mr. Sauerwein.

Mr. SAUERWEIN. Article III, paragraph 1 reads:

Upon entry into force of this Treaty, each Party undertakes to limit ICBM launchers, SLBM launchers, heavy bombers, and ASBM's to an aggregate number not to exceed 2,400.

There are no agreed statements or common understandings associated with this paragraph.

Senator PELL. If there is no particular comment or disagreement on this, I would suggest that we move on to paragraph 2.

ARTICLE III, PARAGRAPHS 2–6

Mr. Sauerwein.

Mr. SAUERWEIN. Paragraph 2 reads:

Each Party undertakes to limit, from January 1, 1981, strategic offensive arms referred to in paragraph 1 of this Article to an aggregate number not to exceed 2,250, and to initiate reductions of those arms which as of that date would be in excess of this aggregate number.

Senator STONE. Mr. Chairman.

Senator PELL. The Senator from Florida.

SENATOR HATFIELD FREEZE AMENDMENT

Senator STONE. I would like to ask the staff if this is the appropriate place for the Hatfield amendment to apply, or would that be at another place in the treaty? I believe the staff knows what the Hatfield amendment is. It is a freeze.

Mr. SAUERWEIN. Senator Stone, my recollection is that it would apply to the modernization article, Article X.

Senator STONE. Thank you.

Senator PELL. If there are no further comments, let us go on to paragraph 3.

Mr. Sauerwein.

Mr. SAUERWEIN. Paragraph 3 reads:

Within the aggregate numbers provided for in paragraphs 1 and 2 of this Article and subject to the provisions of this Treaty, each Party has the right to determine the composition of these aggregates.

The CHAIRMAN [presiding]. Is there any comment with respect to paragraph 3 of article III? Are there any suggestions or proposals?

[No response.]

The CHAIRMAN. If not, let us proceed with paragraph 4.

Mr. SAUERWEIN. Paragraph 4 reads:

For each bomber of a type equipped for ASBM's, the aggregate numbers provided for in paragraphs 1 and 2 of this Article shall include the maximum number of such missiles for which a bomber of that type is equipped for one operational mission.

The CHAIRMAN. Are there any comments, proposals, or suggestions?

[No response.]

The CHAIRMAN. If not, let us proceed to paragraph 5.

Mr. SAUERWEIN. Paragraph 5 reads:

A heavy bomber equipped only for ASBM's shall not itself be included in the aggregate numbers provided for in paragraphs 1 and 2 of this Article.

The CHAIRMAN. Are there any comments, proposals, or suggestions?

[No response.]

The CHAIRMAN. If not, please proceed to paragraph 6.

Mr. SAUERWEIN. Paragraph 6 reads:

Reductions of the numbers of strategic offensive arms required to comply with the provisions of paragraphs 1 and 2 of this Article shall be carried out as provided for in Article XI.

The CHAIRMAN. Are there any comments, proposals, or suggestions.

[No response.]

ARTICLE IV: SPECIAL ICBM LIMITATIONS

The CHAIRMAN. If not, I think the committee is prepared to move on to consideration of article IV.

Mr. Sauerwein, would you read the first paragraph, please.

Mr. SAUERWEIN. Article IV, paragraph 1 reads:

Each Party undertakes not to start construction of additional fixed ICBM launchers.

The CHAIRMAN. Are there any questions, comments, or proposals?

[No response.]

The CHAIRMAN. There is a short agreed statement that relates to this article.

Mr. SAUERWEIN. Mr. Chairman, that agreed statement relates to paragraph 4 of this article.

The CHAIRMAN. Very well, then. Let's go through the first three paragraphs and we will take it up along with paragraph 4.

Mr. SAUERWEIN. Paragraph 2 reads:

Each Party undertakes not to relocate fixed ICBM launchers.

Paragraph 3 reads:

Each Party undertakes not to convert launchers of light ICBM's, or of ICBM's, of older types deployed prior to 1964, into launchers of heavy ICBM's of types deployed after that time.

The CHAIRMAN. Now we get to paragraph 4.

Mr. SAUERWEIN. Paragraph 4 reads:

Each Party undertakes in the process of modernization and replacement of ICBM silo launchers not to increase the original internal volume of an ICBM silo launcher by more than 32 percent. Within this limit each Party has the right to determine whether such an increase will be made through an increase in the original diameter or in the original depth of an ICBM silo launcher, or in both of these dimensions.

The CHAIRMAN. You might read the agreed statement on that particular paragraph.

Mr. SAUERWEIN.

The word original in paragraph 4 of Article IV of the Treaty refers to the internal dimensions of an ICBM silo launcher, including its internal volume, as of May 26, 1972, or as of the date on which such launcher becomes operational, whichever is later.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

EQUAL NUMBER HEAVY ICBM'S

Senator BAKER. I have two matters which deal with article IV which I am not prepared to offer today. I will try to do this tomorrow. One is the one I spoke of yesterday. It has to do with clarification of our right to deploy the M–X in the mode that we have chosen. The other has to do with an item related to paragraph 4 of article IV, which has been suggested by Senator Garn.

I say this for the record today so that my colleagues on the committee will be aware of it.

The CHAIRMAN. Will you have copies of those proposals to distribute to the Senators?

Senator BAKER. I do have copies of one, but not of the other. We will try to have both shortly.

Senator BIDEN. What is the second one, Howard?

Senator BAKER. Mr. Chairman, the one authored by Senator Garn is printed and will be distributed momentarily. It is an amendment at the end of paragraph 3, article IV: insert a comma and the following:

> except that the United States of America may convert into launchers of heavy ICBM's a number of launchers of light ICBM's not to exceed the number necessary to enable the United States of America to deploy as many heavy ICBM's as were deployed by the Union of Soviet Socialist Republics.

The CHAIRMAN. That is a killer diller, isn't it?

Senator BAKER. It should brighten up your afternoon a little bit. [General laughter.]

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. May I inquire of the staff—I cannot seem to locate it at the moment—as of what date do these undertakings come into effect?

Mr. SAUERWEIN. The day that the treaty comes into effect. The day it comes into force.

Do you mean these paragraphs in this article?

Senator SARBANES. Yes.

Mr. SAUERWEIN. That would be the date the treaty comes into force, upon exchange of the instruments of ratification.

Senator HAYAKAWA. Mr. Chairman.

The CHAIRMAN. Senator Baker, do you have your own proposal circulated, too? Is that already available?

Senator BAKER. No, Mr. Chairman, it is not. It will deal with the matter that I raised yesterday; that is, the clarification of the right of the United States to deploy the M–X missile in the mode that we have apparently selected.

The CHAIRMAN. When I was temporarily called away a few moments ago, a proposal was evidently raised and I have not seen it. Something has happened in my absence that I am unaware of. Would someone inform me of the disposition of this matter.

[Pause.]

The CHAIRMAN. I see. That one will go over until tomorrow morning.

Senator GLENN. Yes, Mr. Chairman. That's right.

The CHAIRMAN. All right.

Senator Baker, I take it from what you have said that we can proceed with the understanding that tomorrow you will have these two proposals to make, along with the Glenn proposal, which we will also take up tomorrow.

Senator Hayakawa.

VERIFICATION OF 32 PERCENT INCREASE PROVISION

Senator HAYAKAWA. Mr. Chairman, I want to refer to article IV, paragraph 4. Has it been stated by the intelligence people that this is an item that can be verified; that is, whether or not they increase the depth or volume of their launcher by 32 percent? Has that question of verification been dealt with adequately?

The CHAIRMAN. Yes; in my opinion it has, Senator Hayakawa.

As I recall the testimony of the various intelligence experts, this particular paragraph was not regarded as one that creates any special problem for them. It is one of the provisions that can be monitored with a high degree of confidence, as I recall it.

Senator GLENN. Mr. Chairman.

Senator PELL. If the Chairman would yield for a moment.

The CHAIRMAN. Senator Pell.

Senator PELL. The only point I would make here is from the Soviet viewpoint, they spent a couple of years trying to persuade us to take off the canvas covers that we had had. We finally did remove them.

I would say that this provision probably is more directed at us and I would hope we would honor it.

Senator HAYAKAWA. I see.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Mr. Chairman, I would just like to make a general comment in response to Senator Hayakawa's question and your response.

It seems to me, at least speaking as one of the members of the Intelligence Committee, the general thought that we had and were hoping to convey is that each member will read the Intelligence Committee report. There simply is no way for any one of us individually to characterize that evidence as to whether it is more or less adequate.

I have no dispute necessarily with what you are saying with regard to the 32-percent situation. But the facts are that in 176 pages, more or less, each of the terms of the treaty is detailed and the degree of difficulty of monitoring, as opposed to verification, is made fairly explicit. After that, each one of us is on his own. We can draw different conclusions as to how confident we feel.

I think this needs to be said because this sort of question might arise with regard to many portions of this treaty, and with differing response.

The CHAIRMAN. Senator Biden.

Senator BIDEN. Mr. Chairman, as the other member of that committee serving on this committee, I do not take issue with what Senator Lugar stated. But as I understood Senator Hayakawa's question, this is one of the items about which the intelligence community is not very concerned.

Now there is a 5-percent provision in others which creates much more problems. But this is not a troublesome one, I am 99 percent sure.

The CHAIRMAN. That has been the impression that I had received from the testimony.

Senator GLENN. Mr. Chairman, I am not sure I would quite go 99 percent on anything.

Senator BIDEN. I'll go 100 percent on that.

Senator GLENN. Oh, I know I would not go 100 percent.

At any rate, on this particular item, I have gone back into how it is figured and how we get this information, and I think we can verify, or monitor adequately this particular item.

As Senator Biden said, when we get to some of the other issues, we might want to go into executive session to discuss some of those. But as of this one, I believe we should accept it.

Senator LUGAR. Mr. Chairman, might I add one thought without being tedious on the subject?

The CHAIRMAN. Senator Lugar.

MONITORING DISCUSSION IN OPEN SESSION

Senator LUGAR. The problem of this sort of question arising in open testimony, it seems to me, is on this particular one we could say that it is our recollection that there was a high degree of probability that we could monitor adequately. The problem is when we begin to discuss this, there will come other times in which I am not certain that in open session we will want to say for the benefit of the world that we think there are real deficiencies.

That is the other side of the coin.

I don't think I would want to comment in that way for the same reason we went into executive session this morning. That is a part, unfortunately, of our relationship with the Soviet Union, and this is not the place and time to discuss our deficiencies.

Senator GLENN. That's a very good point.

Senator LUGAR. I would just hope that this type of question, if it arises, might be dealt with in this cumulative executive session or in some other forum, as opposed to our characterizing our degree of probability.

The CHAIRMAN. I agree with what you have said, Senator Lugar.

If there are no further proposals that we can deal with now relating to article IV, I would suggest that we go to paragraph 5 of article IV, which appears on page 16 of the markup.

Mr. Sauerwein, would you please read paragraph 5.

Mr. SAUERWEIN. Yes, Mr. Chairman.

ARTICLE IV, PARAGRAPH 5: ICBM OR LAUNCHER AREA PROVISIONS

Paragraph 5 reads:

Each Party undertakes:

(*a*) Not to supply ICBM launcher deployment areas with intercontinental ballistic missiles in excess of a number consistent with normal deployment, maintenance, training, and replacement requirements;

(*b*) Not to provide storage facilities for or to store ICBM's in excess of normal deployment requirement at launch sites of ICBM launchers;

(*c*) Not to develop, test, or deploy systems for rapid reload of ICBM launchers.

There is one associated agreed statement, which reads:

The term "normal deployment requirements", as used in paragraph 5 of Article IV of the Treaty, means the deployment of one missile at each ICBM launcher.

The CHAIRMAN. Is there any staff comment relating to this particular provision?

Mr. MCFADDEN. I might point out, Mr. Chairman, that storage facilities are prohibited at launch sites of ICBM's. It is unclear from the text of the treaty how large an area a launch site would constitute. This may have a bearing on our deployment of the M–X. It is a relevant consideration.

Senator BAKER. Mr. Chairman, may I inquire of staff how that would affect our options to deploy M–X?

Mr. SAUERWEIN. The current deployment mode for M–X, with the horizontal shelter or garages—the garages will be facilities in which the mobile launcher is parked. It might be thought or there might be an argument that such a garage would constitute a storage facility.

STORAGE FACILITY PROVISION AND M–X BASING MODE

Then the second part of the language would have to be looked at if it is thought to be a storage facility to see if the launch sites was, in effect, next to that storage facility and it could be used to store excess missiles.

It is a technical sort of argument.

Senator BAKER. But it is an important one.

Mr. SAUERWEIN. Yes.

Senator BAKER. It bears directly on whether we have the right under the treaty beyond dispute to deploy M–X in the mode we have chosen.

Mr. SAUERWEIN. It is one of the three areas that I think we listed earlier, where the M–X and the MPS kind of system might provoke a question about whether or not the launcher is fixed, whether or not these shelters are storage facilities, and finally, whether or not it would violate the prohibition on deliberate concealment.

Senator BAKER. Can you, off the top of your head, tell me the language that would be required to clarify that so that there was no possibility of disagreement on it?

Mr. SAUERWEIN. No, sir, I cannot now.

Senator BAKER. Are you willing to cooperate with my staff to prepare such an amendment for tomorrow?

Mr. SAUERWEIN. Yes, sir.

Senator BAKER. I would be happy to bring that up again tomorrow, Mr. Chairman.

M–X DEPLOYMENT DATE AND TREATY EXPIRATION

Mr. LAKELAND. Mr. Chairman, may I just make the observation that all provisions of this treaty expire prior to the time we would be considering deployment of M–X and therefore would not apply. An adjustment, if there is a SALT III, could be made. But the provisions of this treaty will have expired actually under their own terms before we deploy the M–X or begin to deploy the M–X.

Senator BAKER. When do we plan to deploy M–X?

Mr. LAKELAND. I understand that at the beginning of 1986, we are going to begin the deployment.

Senator BAKER. And this expires in 1985?

Mr. LAKELAND. Yes, sir.

I will defer to Ambassador Earle or the administration on the question of our deployment schedule.

Senator BAKER. Peter, wouldn't we still be in trouble if we began building such a system while the treaty was in effect, whether or not we completed it?

Mr. LAKELAND. If you want my personal view, Senator, I don't know at what stage we would be, whether we would have everything all ready to go, whether the launchers would be at that stage of construction before the expiration date of the treaty. I just have no information on that.

But, according to the testimony, I gather that we are not going to get into M–X deployment, or even begin it, until a year or so after these treaty provisions expire under their own terms.

I was just making that observation. I am not trying to argue in any way.

The CHAIRMAN. Ambassador Earle, do you have anything to say on that subject?

Ambassador EARLE. I think that is correct about the dates, as I understand them, Senator Baker.

Senator BAKER. But it is also clear that the administration has designed the system so that it complies with the terms of this treaty.

Ambassador EARLE. Yes, sir.

Senator BAKER. If there is a substantial question about that, then I would like to see language which would remove that doubt so that we could consider it.

I think staff has a good point, that we are not likely to have M–X deployed operationally until after the expiration of this treaty.

But, in light of the fact that the administration has widely advertised that this is verifiable and is in compliance with the provisions of SALT II, that it does not violate any of the provisions of SALT II, that if there is remaining staff doubt, as there appears to be, then we ought to address that question.

So, once again, Mr. Chairman, I would propose to do that tomorrow.

The CHAIRMAN. Very well.

Senator SARBANES. Mr. Chairman, may I follow up on Senator Baker's questioning?

The CHAIRMAN. Yes, Senator Sarbanes.

Senator SARBANES. I would like to ask the administration if the treaty expires in 1985 and the M–X would not be deployed until afterwards, why are you designing the M–X in order to comply with the terms of the treaty?

Mr. CUTLER. We would anticipate, Senator Sarbanes, if SALT II is ratified that in due course it would be followed by a SALT III and that SALT III would, to a considerable extent, carry over many of the definitions of SALT II. I think Senator Baker's point is well taken.

We believe we are designing M–X to comply with the treaty.

On the substance of whether there is an ambiguity as to the storage point worthy of an amendment, I think we would differ on that.

But, certainly, the point is entitled to consideration.

The CHAIRMAN. Very well.

Does any other member of the committee have further questions?

Senator JAVITS. Do we understand this mobile business clearly?

As I understand it, there is no prohibition in this treaty—let's forget the protocol; I am talking about the treaty—respecting a mobile missile, except for heavies. We don't have any heavies, right?

Ambassador EARLE. Right, Senator Javits.

Senator JAVITS. Well, according to this treaty, absent the protocol, we could deal with mobile missiles on January 1, 1982.

Ambassador EARLE. That's correct.

Mr. CUTLER. And it is theoretically possible, Senator Javits, that one or more M–X's could be deployed before the end of the treaty.

Senator JAVITS. Right.

But the protocol, however, prohibits certain things about a mobile, and one of those things about the mobile which it prohibits is obviously deployment. Also, as I understand it, it prohibits testing of the launcher and the missile together; correct?

Correct?

Ambassador EARLE. Correct.

Senator JAVITS. So, we cannot test the missile with the launcher which we might have ready on January 1, 1982, and it is acknowledged that you are not going to put a missile in service until you test it.

Now, assuming that you did a Manhattan-type project—I think that is what Senator Baker has in mind—so that you could get an M–X missile. How long would it be between January 1, 1982, and the day you could deploy it? I am asking not for a specific date, but in general.

Give me a general idea.

Mr. SLOCOMBE. The M–X missile is now scheduled for its very first flight test after the protocol will have expired, to begin operational deployment in 1986, and to reach full operational capability in 1989.

Those dates can be accelerated somewhat by massive infusion of funds. I believe, and we have looked at this quite carefully, that no plausible increase in funding for the M–X program could produce flight tests earlier than the expiration of the protocol. Although you might be able to accelerate deployment by a matter of months, or perhaps a year, it would not be more than that. Neither the treaty nor the protocol has any impact on our schedule for the M–X program, which is a very rigorous schedule. The degree to which it is a vigorous schedule is measured by the fact that, even with massive additional funds, it cannot be accelerated very much.

Senator JAVITS. Then we pass on to the treaty stage and to Senator Baker's question. What I understand Senator Baker's question to be is what in the treaty would constrain or inhibit the testing and deployment of the M–X missile?

Mr. SLOCOMBE. In practice, nothing.

Senator JAVITS. Are you speaking into a microphone? It is very hard to hear you.

Mr. SLOCOMBE. Is that better? Is this microphone better, Senator?

The CHAIRMAN. Yes, that one is on.

Mr. SLOCOMBE. There is no practical impact on the M–X schedule from either the protocol or the treaty. In that connection, Senator, to meet the 1986 initial operational capability for the M–X, we will

probably, in 1985, or we will certainly, in 1985, during the time the treaty still is in effect, be constructing the basing shelters, constructing the roads and railroads, and probably will have some missiles on their launchers beginning to be installed. It is not in any way our position that the only reason M–X is consistent with this treaty is that the treaty will expire before it is deployed.

If the M–X were deployed, even fully deployed, before the treaty expires, it would still be consistent with the treaty.

Senator JAVITS. There were some points raised in the testimony that the Soviets claim M–X to be a violation of the treaty.

What is there to that, if anything?

Ambassador EARLE. Senator Javits, at no time have the Soviets even suggested that the M–X missile would be in violation of the treaty. The concerns which they expressed were with respect to the basing mode, the mobile basing mode, and they were raised in the context of the vertical shelters. Our view is that the vertical shelter program would have been adequately verifiable and would not have constituted construction of new fixed ICBM launchers.

M–X RACETRACK BASING MODE AND TREATY

Be that as it may, in our view the present plan for the so-called loop road with the horizontal shelter also is consistent with the verification obligations of the United States, and with the prohibition against construction of new fixed ICBM launchers. As far as I know, the Soviets have not addressed that new basing mode as such.

Senator JAVITS. Of course, there is nothing to stop them from addressing it.

Do you represent to us that there is no basis whatever in the treaty for any such construction?

Ambassador EARLE. I do.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Senator Pell.

Senator PELL. Ambassador Earle, my recollection is that there was a conversation in Vienna between Defense Minister Ustinov and Secretary Brown in which Ustinov said that he considered the M–X, as he understood it, to be in violation of the treaty.

I have been trying to get a reply to the administration, a letter to that effect, asking them this question. Do you know the answer here?

Ambassador EARLE. I do not.

Senator PELL. Do you recall the conversation?

Ambassador EARLE. I was not present, Senator Pell. I am aware of your request and it will be replied to as soon as possible.

The CHAIRMAN. Did that conversation relate to the earlier plan for deploying the M–X in vertical silos?

Ambassador EARLE. I don't know, Senator.

At that time we had not announced the loop road horizontal shelter plan; it was only announced in September. It was one of several under consideration in June.

I think we have to bear in mind that the Soviets do not like it and that they are going to complain about it on whatever grounds they can conjure up, with or without substance, and I think in this case without.

Mr. CUTLER. Senator Church, I want to add that it is my understanding of the discussions in Vienna that at that stage, after we had announced the decision to go ahead with the M–X and had not yet announced a basing mode, the only question that the Soviets had raised with respect to the horizontal basing mode, which they knew was under consideration, was whether in the end it would turn out to be verifiable. They have not raised a question with respect to that mode, about whether each hole, because there would not be silo holes, would itself constitute a launcher.

I believe that is the position as of now.

The CHAIRMAN. Thank you, Mr. Cutler.

I think the committee is ready, then, to move on to paragraph 6 on page 17.

Mr. Sauerwein.

Mr. SAUERWEIN. Paragraph 6 reads:

Subject to the provision of this Treaty, each Party undertakes not to have under construction at any time strategic offensive arms referred to in paragraph 1 of article III in excess of numbers consistent with a normal construction schedule.

The common understanding associated with this paragraph reads:

A normal construction schedule, in paragraph 6 of Article IV of the Treaty, is understood to be one consistent with the past or present construction practices of each Party.

The CHAIRMAN. Are there any questions?

[No response.]

The CHAIRMAN. There being no questions, let us proceed with paragraph 7.

Mr. SAUERWEIN. Paragraph 7 reads:

Each party undertakes not to develop, test, or deploy ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's deployed by either party as of the date of signature of this treaty.

Associated with this paragraph are two agreed statements, which are just repetitions of a launch-weight definition and a throw-weight definition, and a common understanding, which is also identical to a common understanding that was previously associated with this.

The CHAIRMAN. Let me ask you this question.

ARTICLE IV, PARAGRAPH 7: CURRENT ICBM'S HEAVIEST ALLOWED

Paragraph 7 reads:

Each party undertakes not to develop, test, or deploy ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's deployed by either party as of the date of signature of this treaty.

How does that affect the M–X missile?

Mr. SAUERWEIN. Mr. Chairman, it does not in that this is setting an upper limit on the size of heavy ICBM's.

Currently, the Soviets are the only ones who have modern, heavy ICBM's. In effect, this sets an upper limit on the size of the SS–18. So, they cannot make the SS–18 any larger.

The CHAIRMAN. Why does it not apply to the M–X?

Mr. SAUERWEIN. The M–X will have to be a light ICBM because the one new type each side is allowed is limited to be a light ICBM.

The CHAIRMAN. You keep telling me that. Will you show me where that is spelled out. Perhaps I misread this provision.

It says:

> Each Party undertakes not to develop, test, or deploy ICBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's deployed by either Party.

In other words, do you read that as meaning that we are not limited by the largest ICBM in our arsenal?

Mr. SAUERWEIN. That's right.

Senator STONE. Mr. Chairman, what you are saying is that we can build up to the largest weight that the Soviets have and not the largest weight that we have. Is that the way you interpret that?

The CHAIRMAN. That is the interpretation about which I am asking.

I am somewhat confused by the wording as to the precise meaning. Obviously it does not mean that we cannot build a bigger ICBM than we presently have in our inventory; right?

Mr. SAUERWEIN. That's right.

This paragraph is not the one that actually limits the throw-weight of the M–X. The M–X throw-weight or size is limited by two other paragraphs, the one that says you are not allowed to convert a fixed light launcher to a heavy, and you are not allowed to have a mobile heavy.

PROVISIONS AFFECTING U.S. RIGHT TO BUILD HEAVY ICBM

The CHAIRMAN. On the other side of the coin, could we, if we chose, under the language of this paragraph, build an ICBM up to the size of the SS–18?

Mr. SAUERWEIN. Under just this paragraph, Mr. Chairman, yes.

The CHAIRMAN. Now what other paragraph would prevent us from doing that——

Mr. SAUERWEIN. There are two paragraphs, I think.

The CHAIRMAN [continuing]. That have to do with the commitment to build no other than a light missile?

Mr. SAUERWEIN. It is paragraph 3 of this article, which is the ban on converting light ICBM launchers to heavy, as in existence now. Both sides have only fixed launchers. So that limits the fixed launcher side of it, if we want to put M–X in fixed launchers.

Then the mobile side of it is limited in Article IX, paragraph 1(d).

What I am saying is the mobile side is also limited to be light, too.

Senator GLENN. Would the chairman yield?

The CHAIRMAN. Yes.

Senator Glenn.

Senator GLENN. I would like to ask Ambassador Earle or Mr. Cutler to comment on this, the purpose of this paragraph, and on what we have just said.

Ambassador EARLE. Senator Glenn, the purpose of the paragraph, which I think it achieves, as Mr. Sauerwein said, is to put a ceiling on the SS–18.

Senator GLENN. But why did we need that with the other paragraphs? I think the chairman is right in that it is somewhat confusing, when we have other paragraphs that define the limits of anything new that can be developed. Then we have a paragraph like this.

Ambassador EARLE. Because this prevents the SS–18 itself from being increased 5 percent. This restricts the SS–18 to its present launch-weight and throw-weight, just as the paragraphs we were discussing earlier restrict the SS–19.

Senator GLENN. Too big is big enough, without a percentage increase.

Senator BAKER. If I may ask a question in that same connection, I understand there is more than one type of SS–18, that there are two or three modifications of it?

Senator GLENN. [Nods affirmatively.]

RELATION OF THE HEAVY ICBM SIZE LIMIT TO NEW TYPE RULE

Senator BAKER. Does this also mean that you could put the lighter ones up to the heaviest of the SS–18?

Mr. CUTLER. Senator Baker, I had to be taken by the hand through these very same provisions you are now going through.

What controls any new type is article IV, paragraph 9, which we will get to in a moment. That prohibits each side from building any new type, except that either side may build one new type of light ICBM.

The provision we are now reading relates only to building heavies, which operationally applies only to the Soviets. But the test is the largest which they now have.

Senator SARBANES. It would run to the 5-percent assertion of Ambassador Earle with respect to the SS–18 if they are different types, would it not, that is the question Senator Baker asked.

Senator BAKER. May I try to restate my question. Perhaps we can have this all put into context, if the chairman would yield further.

The CHAIRMAN. Certainly. Please continue.

Senator BAKER. I get a little confused when I read here that we are not going to develop, test, or deploy with a launch-weight greater or a throw-weight greater than the heaviest, in terms of either launch-weight or throw-weight, respectively, of the heavy ICBM's deployed by either party.

We don't have any. So, No. 1, it applies just to Russia.

Ambassador EARLE. That's correct.

Senator BAKER. Therefore, we are just talking about heavy missiles that are in the Russian arsenal, and, presumably, that is just SS–18.

Ambassador EARLE. No—and SS–9's, too.

Senator BAKER. All right. It applies to the two, to SS–9's and SS–18's.

There are two parts of the treaty, then, that would constrain changes or variations. Let's talk just about the SS–18 for a moment.

The one is the 5-percent solution. This would simply say that you cannot change an existing missile by more than 5 percent in certain characteristics without it being a new missile under another prohibition of the treaty.

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But that is not the question I am putting.

What I am saying is that there is more than one SS–18. There are a number of modifications. Some of them are lighter and some of them are heavier than others.

My first question is can they take the lighter SS–18's and make them up to the heaviest modifications without any violation of either the new type rule, the 5-percent rule, or of the proviso contained in paragraph 7 of this article?

My second question will be whether or not the absence of a data base, the absence of a knowledge of what the heaviest launch-weight or throw-weight really is, makes it impossible to administer this section of the treaty.

Ambassador EARLE. May I comment?

Senator BAKER. Please.

Ambassador EARLE. With respect to your second comment, Senator Baker, I would say that we have exactly the same issue here that we had with respect to the earlier discussion about the SS–19. The points at issue are exactly the same. I will not repeat them.

With respect to your first comment, with respect to the modifications, I can give you an answer, but I don't think it would make very much sense to you in an open session.

Senator BAKER. It would not be especially unique or special if it didn't make much sense, so why don't you go ahead and try.

Ambassador EARLE. I am not going to try, Senator Baker, because I think we should discuss it in executive session, as it regards the models of the SS–18.

Senator BAKER. All right. I will be happy to do that.

The CHAIRMAN. It seems to me that the answer, based upon the language here, would be that the limitation, Senator Baker, as I read this paragraph relates to the heaviest of the Soviet missiles. So, I would think this would mean if there are variations in weight relating to different models of the SS–18, the limitation relates to the heaviest of those models.

Senator BAKER. This would mean that they could upgrade their old ones to the heaviest level.

The CHAIRMAN. I would think so, because the language speaks of the heaviest as being the upper limit.

Senator HELMS. Would the Senator yield?

The CHAIRMAN. Yes.

Senator HELMS. I would like to know how you monitor, let alone verify, a 5-percent change.

Ambassador EARLE. Again, Senator Helms, it seems to me that this is a subject for executive session.

The CHAIRMAN. We will take that up with the provisions that relate to the 5 percent.

There is one other question I have about this, Mr. Sauerwein.

It seems to me that it is written in terms that could apply either to new missiles or to old.

Mr. SAUERWEIN. That is correct, Senator.

The CHAIRMAN. Your interpretation of it, then, is that the real effect of this relates to the Soviet Union since they alone have the heavy missiles and it says they cannot build a new missile or modify an old

missile that would exceed, in throw-weight or in launch-weight, the largest of the missiles that they now possess.

Mr. SAUERWEIN. That's correct, Mr. Chairman.

ARTICLE IV, PARAGRAPH 8: CONVERSION OF IRBM'S TO ICBM'S

The CHAIRMAN. May we go to paragraph 8.

Mr. SAUERWEIN. Paragraph 8 reads:

Each Party undertakes not to convert land-based launchers of ballistic missiles which are not ICBM's into launchers for launching ICBM's, and not to test them for this purpose.

There is a single common understanding associated with this paragraph, which reads:

During the term of the Treaty, the Union of Soviet Socialist Republics will not produce, test, or deploy ICBM's of the type designated by the Union of Soviet Socialist Republics as the RS–14 and known to the United States of America as the SS–16, a light ICBM first flight-tested after 1970 and flight-tested only with a single reentry vehicle; this Common Understanding also means that the Union of Soviet Socialist Republics will not produce the third stage of that missile, the reentry vehicle of that missile, or the appropriate device for targeting the reentry vehicle of that missile.

The CHAIRMAN. Does the staff have any comment to make with reference to this paragraph?

STATUS OF SOVIET SS–16 PROGRAM

Mr. SAUERWEIN. I would point out that relative to the wording "will not produce, test, or deploy," it is not clear from this prohibition what the Soviets must do with any existing SS–16 ICBM's.

The CHAIRMAN. Prohibitions apply to missiles and not to launchers. It is not clear from this prohibition what the Soviets must do with any existing SS–16 ICBM's.

Well, they must be counted against the agreed ceiling, mustn't they?

Mr. SAUERWEIN. If they were deployed or in other statuses that are counted.

Mr. MCFADDEN. The aggregate ceiling applies to launchers.

Mr. SAUERWEIN. I'm sorry, that is correct. The missiles themselves would not count.

The CHAIRMAN. So, as long as the missile is not deployed in the launcher, it would not be counted against the aggregate ceiling.

Mr. SAUERWEIN. Yes, sir.

The CHAIRMAN. We have been told of the number of SS–16's that we believe the Russians possess.

Is that a classified figure?

Ambassador EARLE. Yes.

The CHAIRMAN. I can ask and you can answer in open session that the material is classified. With respect to those missiles, do we believe that any of them are deployed in launchers at the present time?

Ambassador EARLE. Senator, I think with respect to deployments of missiles in particular launchers, that this should also be deferred to an executive session.

The CHAIRMAN. I did not ask for particular launchers. I just asked whether—is the answer to my question no?

Ambassador EARLE. Some launchers appear to be compatible with more than one missile. I think it would be inappropriate for me to answer further in open session.

The CHAIRMAN. Very well. I will not press the question.

Mr. SLOCOMBE. I can give you a limited unclassified answer.

Considerable uncertainty exists with regard to the status of the silo-based version of the SS–16.

The CHAIRMAN. That is very helpful. [General laughter.]

We will pursue this matter in executive session.

Are there any other questions relating to paragraph 8, any other suggestions or proposals?

[No response.]

The CHAIRMAN. If not, the committee will go on to page 18, paragraph 9.

Mr. Sauerwein, would you take that up for us, please?

ARTICLE IV, PARAGRAPH 9: ONE NEW TYPE ICBM ALLOWED

Mr. SAUERWEIN. Paragraph 9 reads:

> 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.

Associated with this, Mr. Chairman, are two agreed statements and four common understandings that are mainly definitional. The first agreed statement defines what is meant by a new type of ICBM. The second limits changes to the exempted new type during development and freezes to a single set of deployed new type characteristics and requires flight-test notifications.

The common understandings are similar technical requirements. We could go through those if you wish.

The CHAIRMAN. The flight-test notifications apply simply to flight-tests of a new type of missile?

Mr. SAUERWEIN. That's right. This is not for all flight-tests. That is a separate article. This is just to give prenotification as I recall, before the first flight-test takes place.

The CHAIRMAN. Would you explain for the record how a new type missile, one of which is allowed to each side, that is, a new type light ICBM, is defined?

Mr. SAUERWEIN. Yes, Mr. Chairman. I think it would be best if I just read the first agreed statement to answer that question.

It reads:

> The term "new types of ICBM's," as used in paragraph 9 of Article IV of the Treaty, refers to any ICBM which is different from those ICBM's flight-tested as of May 1, 1979, in any one or more of the following respects:
>
> (*a*) The number of stages, the length, the largest diameter, the launch-weight, or the throw-weight of the missile;
>
> (*b*) The type of propellant (that is, liquid or solid) of any of its stages.

So, in effect, whenever any of these criteria is exceeded, the missile is automatically considered to be a new type.

NO DIFFERENCE OVER 5-PERCENT LIMIT ON NEW TYPE ICBM

The CHAIRMAN. How does that tie in with the 5-percent rule?

Mr. SAUERWEIN. I should have continued, Mr. Chairman. That 5 percent is in the next common understanding.

The first common understanding reads:

As used in the First Agreed Statement to paragraph 9 of Article IV of the Treaty, the term "different," referring to the length, the diameter, the launch-weight, and the throw-weight of the missile, means a difference in excess of five percent.

That is the magnitude of the change that would constitute a difference.

The CHAIRMAN. Are there any other questions?

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Mr. Chairman this may have been answered before, but do we have once again the SS–18 problem in the fact that the 5 percent is not applicable with regard to that?

Mr. SAUERWEIN. There are thresholds set on the size of light and heavy missiles. First of all, to draw a line and make a distinction between light and heavy missiles, the SS–19 size, its launch-weight and throw-weight sets that standard. So, any missile having a launch-weight or throw-weight that is greater than those of the SS–19 by any amount—even 1 kilogram, as Senator Glenn notes—would be considered a heavy missile. Therefore, if a side were not allowed to have a heavy missile, as the United States is not, any missile larger than the SS–19 would be a violation. The Soviets would be limited, too, except for substitutes for the SS–18 launchers.

Paragraph 7, which we just passed, set an upper limit on the size of heavies and, in effect, sets an upper limit on the size of the SS–18 such that its throw-weight or launch-weight cannot be increased at all above the largest size such SS–18. So, the 5 percent does not apply to those thresholds on light and heavies.

Senator SARBANES. Mr. Sauerwein, you said in excess of any of these items, but it really is simply different from any of these items. A decrease of more than 5 percent also is precluded by these terms.

Mr. SAUERWEIN. That's true. That is relative to defining a new type. If you make it smaller by 5 percent, it becomes a new type, too.

Senator GLENN. It is any change of more than 5 percent.

The CHAIRMAN. Are there any other comments?

Senator GLENN. Mr. Chairman, we might want to come back to this later in executive session. There are some aspects of these different percentages that I think we should discuss in executive session. We should be aware of them before we give full approval to this particular section. So I would not want us to pass this particular part just now.

I have no amendment to offer to this, or understanding to offer to it, but I think it is extremely important that all members, before they vote, do understand some of these parameters.

The CHAIRMAN. We will have an executive session for taking up the various points we have been unable to pursue in public session.

Senator GLENN. If the staff is keeping a list of things that we are going to bring up in executive session, would it make sure that this subject is on the list to be brought up for further discussion?

The CHAIRMAN. Very well. The staff will take note of this, please.

If there are no further proposals or suggestions with reference to paragraph 9, we will move on to page 20, paragraph 10 of this article of the treaty.

Mr. Sauerwein.

ARTICLE IV, PARAGRAPH 10: ICBM RV LIMITS

Mr. SAUERWEIN. Paragraph 10 reads:

Each Party undertakes not to flight-test or deploy ICBM's of a type flight-tested as of May 1, 1979, with a number of reentry vehicles greater than the maximum number of reentry vehicles with which an ICBM of that type has been flight-tested as of that date.

The CHAIRMAN. Then we have, in that connection, an agreed statement which specifies the number of reentry vehicles associated with each different type of missile.

Mr. SAUERWEIN. Yes, for MIRVed ICBM's, SLBM's, and so on, Mr. Chairman.

The CHAIRMAN. Yes—of the MIRVed missiles.

Mr. Sauerwein, would you read that first agreed statement.

Mr. SAUERWEIN [reading]:

The following types of ICBM's and SLBM's equipped with MIRV's have been flight-tested with the maximum number of reentry vehicles set forth below:

For the United States of America:

ICBM's of the Minuteman III type—seven reentry vehicles;
SLBM's of the Poseidon C–3 type—fourteen reentry vehicles;
SLBM's of the Trident C–4 type—seven reentry vehicles;

For the Union of Soviet Socialist Republics:

ICBM's of the RS–16 type—four reentry vehicles;
ICBM's of the RS–18 type—six reentry vehicles;
ICBM's of the RS–20 type—ten reentry vehicles;
SLBM's of the RSM–50 type—seven reentry vehicles.

Our designations on those, by the way, respectively, are SS–17 SS–19, SS–18, and SS–N–18.

The CHAIRMAN. Why don't we accept the Russian designation just to avoid the confusion that results from having two different numbered systems?

Mr. SAUERWEIN. We did not learn the Russian designations until this negotiation, and we had our own designations before that time.

I think that is the answer to your question, Mr. Chairman.

Senator JAVITS. What were those numbers again?

Mr. SAUERWEIN. They start from RS–16, which is the SS–17; the RS–18 is the SS–19; the RS–20 is the SS–18; and the RSM–50 is the SS–N–18.

The CHAIRMAN. It seems to add another element of confusion.

Senator SARBANES. I take it that they designate ours the same way we designate ours?

Mr. SAUERWEIN. For purposes of this treaty, that is true.

The CHAIRMAN. The significance of this paragraph is it establishes for the first time a ceiling, albeit a high ceiling, on the number of warheads, the maximum number of warheads, that either side may deploy.

Is that correct?

Mr. SAUERWEIN. That is correct.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Senator Helms.

Senator HELMS. Perhaps I ought to ask our resident semanticist, Senator Hayakawa, this question.

I am not nitpicking, but why didn't it just say "agrees not to flight-test?" The word "undertakes" is somewhat of a qualified word, isn't it?

Ambassador EARLE. I'm sorry, Senator, I'm looking for the word.

Senator HELMS. The paragraph begins: "Each party undertakes not to flight-test" and so on. Why don't they just say, "agrees" instead of "undertakes."

Ambassador EARLE. It is traditional treaty language, Senator Helms, as I understand it.

Senator HELMS. My semanticist says it is all right. [General laughter.]

The CHAIRMAN. Are there any further proposals to make?

Senator GLENN. Yes, Mr. Chairman.

CATEGORY II UNDERSTANDING DEFINING RV MANEUVERS

This would be an understanding better defining the word "maneuvers."

The reason this is important is that after a December 1978 test of an SS–18 with 10 RV's and 2 additional simulated RV's, which gave them a total of 12 positions that they had tested, and with estimates that they could go higher than that, our negotiators pressed the Soviets to include an agreed statement specifically including certain maneuvers of a post-boost vehicle simulating the dispensing of RV's as part of the total count of allowed warheads.

This had been the U.S. practice for many years when estimating Soviet capabilities.

The Soviets agreed to this provision. What we were unable to do or failed to do, however, was to define adequately the term "maneuvers." The Department of State has reported, and I quote:

> In connection with the four identical Agreed Statements in paragraphs 10 through 13 of Article IV concerning reentry vehicle testing, the United States stated in plenary that "maneuvers of a missile associated with targeting and releasing or dispensing" include changes in orientation as well as changes in position and velocity.

It added that in the event a question arises concerning procedures for targeting and releasing reentry vehicles which do not involve such changes, this could be a subject for discussion in the Standing Consultative Commission. The Soviets made no comment.

My proposal would require that the word "maneuvers" be defined as changes in not only position and velocity, but also orientation of the vehicle, which tightens up the ability to monitor their simulations of additional RV's which they might wish to make and which they already have done on the SS–18.

We were not able to get them to agree to this. My understanding defining "maneuvers" would read as follows: In section 2 of the resolution of ratification includes the following understanding:

> That a failure to construe the phrase "procedures for releasing or for dispensing," contained in the agreed statements relating to paragraphs 10 through

13 of article IV of the treaty, as including changes in position, velocity, and orientation of the post-boost vehicle, would be a violation of fundamental provisions of the treaty justifying withdrawal from the treaty.

It tightens up on the definition of "maneuvers." It is important, because our best estimates are that in addition to the 10 RV's, ten that they are permitted on the SS–18, by the treaty, it actually has a weight-carrying capabilty sufficient so that we could possibly go several time over multiples of that 10 in future developments. If they wished to develop such a bus, they perhaps could do so, maintaining each test with 10 actually released, but by simulating additional positions at somewhere along the launch line.

Now I don't know whether or not they will attempt that, but they already have shown their intent by going to a testing program where they actually released 10, but simulated an additional two, which goes beyond the treaty provisions already.

In the treaty, we tightened that up, of course, as I am sure Ambassador Earle will point out, so that the number of simulations and the number of actual releases are to be included as an aggregate total in considering the number. But, nevertheless, if they go through maneuvers, the maneuver should be well defined. We are unable to get that during negotiation. This will make our intent with regard to maneuvers very, very clear.

The CHAIRMAN. Senator Glenn, may I ask just what provision of the treaty contains the language to which this refers, that a failure to construe the phrase "procedures for releasing or for dispensing."

Senator GLENN. That is in the middle of page 20, in the second column from the left, under agreed statements and common understandings.

The CHAIRMAN. It is part of the agreed statements, then, rather than of the treaty text.

Mr. SAUERWEIN. It is the second agreed statement.

Senator GLENN. That's right.

The CHAIRMAN. Thank you.

Senator GLENN. Mr. Chairman, I would welcome any administration comment on this.

Ambassador EARLE. Of course, we would like to look at Senator Glenn's proposal, along with the others.

The CHAIRMAN. I think we should discuss it at this time. I would not propose that we take a vote on it. We should give the administration a chance to look at it overnight. We will have plenty of action tomorrow. We have stacked up about four matters for consideration tomorrow.

Senator GLENN. I think it is desirable to let the administration peruse this overnight. I would be happy to put it off until tomorrow to give them a chance to look at it.

Ambassador EARLE. I would like to make one preliminary comment with respect to Senator Glenn's comment.

As far as the possibility of testing an SS–18 with a large number of stations, but actually releasing only 10, smaller, reentry vehicles, I would draw your attention to subparagraph (a) of the third agreed statement of paragraph 10 of this article in which there is a prohibition on the testing of lighter reentry vehicles, that is, reentry vehicles lighter than the lightest which had been flight-tested as of May 1, 1979.

I think it meets that point.

Senator BIDEN. Do you think that takes care of the concern that Senator Glenn is addressing his understanding to?

Ambassador EARLE. No.

I think Senator Glenn's point is a somewhat different one.

Senator GLENN. It is.

Ambassador EARLE. But I wanted to make that comment because I think it takes care of a large part of that concern.

Senator GLENN. I would not agree with that, but we would have to go into executive session to discuss it. I don't think we want to do that at this time, however.

The CHAIRMAN. Very well. I would suggest that the administration take a look at the proposed language and discuss it with Senator Glenn and with members of the committee staff. We will then be in a position to proceed with it tomorrow at the proper time.

Senator GLENN. Mr. Chairman, if I might have just another moment, the question the Ambassador has addressed on a big booster like this is where they could make any redesign that would not require lighter weight vehicles, to which you are referring here, and go to additional number of RV's with existing weights of RV's.

Is that correct?

Ambassador EARLE. That may be possible in this case. But, Senator Glenn, if I remember correctly, you did talk about a huge increase in the number of RV's, and I don't think that is possible, given the restraints on the RV weight.

Senator GLENN. OK. That is one we would have to talk about in executive session.

The CHAIRMAN. Fine.

If there are no further proposals to be made relative to this paragraph, let us move on, then, to page 21 and paragraph 11 of article IV.

Mr. Sauerwein.

ARTICLE IV, PARAGRAPH 11: RV LIMIT ON NEW TYPE ICBM

Mr. SAUERWEIN. Paragraph 11 reads:

> Each party undertakes not to flight-test or deploy ICBM's of the one new type permitted pursuant to paragraph 9 of this article with a number of reentry vehicles greater than the maximum number of reentry vehicles with which an ICBM of either party has been flight-tested as of May 1, 1979, that is, ten.

There are two agreed statements associated with this paragraph. The first agreed statement freezes the number of reentry vehicles to the maximum number tested as of the 25th launch, or the last launch before deployment, whichever is earlier on the new type. So, it tells you when the number is frozen. The second agreed statement is just a repetition of the second agreed statement of paragraph 10 concerning RV release events, to which Senator Glenn previously referred.

The CHAIRMAN. So Senator Glenn's proposal would have equal application to this as it relates to a new type missile?

Mr. SAUERWEIN. Yes.

Senator GLENN. I have another understanding on this one. Mr Chairman.

The CHAIRMAN. Senator Glenn.

CATEGORY II UNDERSTANDING LIMITING LIGHTER RV'S

Senator GLENN. An ambiguity exists in regard to the weight of RV's and the provision permitting each side one new type of light ICBM. Since neither side has flight tested such a missile yet, the size and weight of the Soviet RV's that eventually will be deployed are unknown.

We do not, in other words, require that they use the same weight RV's on a brandnew ICBM development.

Accordingly, they may decide to design their system with a total potential capacity of, say, 25 to 30 warheads, but confine their initial tests to the limits established by SALT II; that is, 10 RV's.

Anticipating this problem, and I will quote:

> The United States made an informal statement that if a side tested RV's on the permitted new type of ICBM for which the total weight of ten such RV's was less than 40 percent of the throw-weight, it would raise serious question whether the new system was really designed to be one in which the payload would not exceed 10 RV's.

We further stated that if such a problem arose in the future, it would be an issue for discussion and resolution in the Standing Consultative Commission. Now, the Soviets did not reply.

We apparently felt that our unilateral statement was an adequate safeguard. But I disagree that this unilateral statement which we made and to which the Soviets did not reply would be adequate, as we learned from our earlier experience.

So, I would propose an understanding, a section 2 understanding to the resolution of ratification, which would state:

> That the flight-testing or deployment of a new type of light intercontinental ballistic missile (ICBM), within the meaning of the First Agreed Statement to paragraph 9 of Article IV of the Treaty, equipped with 10 reentry vehicles the aggregate weight of which is less than 40 percent of the throw-weight of the respective missile would be a violation of fundamental provisions of the Treaty justifying withdrawal from the Treaty.

This would be a category II or section 2 understanding.

Once again, I am sorry I could not get this to you earlier, and you are building up quite a list of things to respond to tomorrow, but it is hardly fair to ask you to agree to this immediately.

The CHAIRMAN. Would you review this overnight, please, Mr. Ambassador.

Senator GLENN. Do any other members have comments or questions on this?

The CHAIRMAN. It is obvious that tomorrow the committee's time will largely be occupied with disposing of the various proposals we have taken up and considered in a preliminary way today.

I would like to complete today's work, if possible, by reaching article V, which is on page 23. We are presently on page 21. We could then have before the committee all of the proposals which members have submitted for the consideration of the committee tomorrow, through article IV.

The following day, then, perhaps we could take up article V.

With that in mind, if there are no further suggestions with reference to paragraph 11, can we proceed to page 22, paragraph 12.

ARTICLE IV, PARAGRAPH 12: SLBM RV LIMITS

Mr. SAUERWEIN. Paragraph 12 reads:

Each Party undertakes not to flight-test or deploy SLBM's with a number of reentry vehicles greater than the maximum number of reentry vehicles with which an SLBM of either Party has been flight-tested as of May 1, 1979, that is fourteen.

There are two associated agreed statements, but, again, they are repetitions of previously given agreed statements. The first agreed statement is the same as the first agreed statement of paragraph 10, concerning RV number declarations, that we read there. The second is the same as the one that was read previously, the second agreed statement of paragraph 10, concerning RV release events. This is the third time it appears.

The CHAIRMAN. Do any members have questions, suggestions, or proposals to make relative to paragraph 12?

Senator GLENN. Mr. Chairman, I might say that in those areas, the proposed understandings which I mentioned previously also apply in these agreed statements wherever it is applicable. So, those apply through this section also.

Mr. SAUERWEIN. That's right.

It comes up as an agreed statement again in the next paragraph. It appears four times.

Senator GLENN. That's correct.

The CHAIRMAN. All right.

Let us move on to paragraph 13.

ARTICLE IV, PARAGRAPH 13: ASBM RV LIMITS

Mr. SAUERWEIN. Paragraph 13 reads:

Each Party undertakes not to flight-test or deploy ASBM's with a number of reentry vehicles greater than the maximum number of reentry vehicles with which an ICBM of either Party has been flight-tested as of May 1, 1979, that is, ten.

As I just stated, the agreed statement is the same as the agreed statement for paragraph 10.

The CHAIRMAN. Very well. That takes us, then, to paragraph 14 of article IV on page 23 of the markup.

ARTICLE IV, PARAGRAPH 14: CRUISE MISSILE NUMBERS LIMITS ON HEAVY BOMBERS

Mr. SAUERWEIN. Paragraph 14 reads:

Each Party undertakes not to deploy at any one time on heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers a number of such cruise missiles which exceeds the product of 28 and the number of such heavy bombers.

The CHAIRMAN. I think you had better read the agreed statements on that.

Mr. SAUERWEIN. There are two agreed statements.

The first reads:

For the purposes of the limitation provided for in paragraph 14 of Article IV of the Treaty, there shall be considered to be deployed on each heavy bomber

of a type equipped for cruise missiles capable of a range in excess of 600 kilometers the maximum number of such missiles for which any bomber of that type is equipped for one operational mission.

The second agreed statement reads:

During the term of the Treaty no bomber of the B–52 or B–1 types of the United States of America and no bomber of the Tupolev–95 or Myasishchev types of the Union of Soviet Socialist Republics will be equipped for more than twenty cruise missiles capable of a range in excess of 600 kilometers.

The CHAIRMAN. Is there any discussion?

[No response.]

The CHAIRMAN. Are there any questions?

[No response.]

The CHAIRMAN. As to the first agreed statement:

For the purposes of the limitation provided for in paragraph 14 of Article IV of the Treaty, there shall be considered to be deployed on each heavy bomber of a type equipped for cruise missiles capable of a range in excess of 600 kilometers the maximum number of such missiles for which any bomber of that type is equipped for one operational mission.

That would be 20 in the case of the B–52 or the B–1? My point is this. Whether or not the bomber in question is actually carrying 20, it would be counted as though it were carrying 20.

Mr. SAUERWEIN. This is a counting rule which says you determine what the maximum number is on any one bomber of that type, and then all of the other bombers of that type must count the same.

I am not sure 20 is correct. Perhaps the administration would like to respond.

Senator GLENN. Will the gentleman yield?

The CHAIRMAN. Yes.

Senator GLENN. I am sorry our expert semanticist is no longer here, because he probably could get into this subject.

I would like to read one paragraph from the staff comments:

The Executive Branch reports "parallel statements" at the Vienna Summit to the effect that neither side "has plans to deploy during the period of the Treaty new types of aircraft equipped *with*—

And that word is emphasized—

more than twenty long-range cruise missiles." The Treaty limits the number of missiles for which any heavy bomber is equipped *for* one operational mission. If the parallel statement had stated "equipped *for*" rather than "equipped *with*", it would be a more restrictive limitation. As it is, new types of aircraft could be equipped *for* more than twenty long-range cruise missiles as long as they are never equipped *with* more than twenty such cruise missiles. (Emphasis added.)

That gets into some real semantics.

Mr. Ambassador, I don't know whether or not you were the one who worked this out, but this is a very fine distinction.

As I read this, we can build an aircraft that might have 50 internal racks for missiles, so long as we never put more than 20 in there.

Is that correct?

Ambassador EARLE. Senator, I would answer your question perhaps by answering a different question.

The statements made at Vienna were simply statements made of plans. They are not restrictions. They are not binding on either side.

Therefore, the discrepancy is not relevant. It is a discrepancy.

The CHAIRMAN. The formula really is set out in the paragraph itself, is it not?

Ambassador EARLE. That's correct.

The CHAIRMAN. The formula says that the total number of these missiles shall not exceed 28 times the number of the heavy bombers.

Ambassador EARLE. I'm sorry, Senator Church, but I could not hear you.

The CHAIRMAN. I am just reading from the treaty.

The formula is contained in the treaty and it gives some flexibility. In other words, if we wished, we could develop a wide-bodied aircraft and equip it with more than 20 missiles and not be in violation of the treaty so long as the total number——

Senator GLENN. Oh, no, you could not equip it with the missiles.

The CHAIRMAN. Well, let's find out. I think I am right.

Mr. SAUERWEIN. Might I comment, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. SAUERWEIN. The point that Senator Glenn brings forward applies only to the parallel statements at Vienna. It does not apply to paragraph 14 or the first or second agreed statements. There the word "for" is used everywhere. This is a technicality that had to do with those parallel statements and not with anything that is in the treaty or the agreed statements or common understandings.

The CHAIRMAN. But the governing language is contained in the treaty and the agreed statements and common understandings, is that not correct?

Mr. SAUERWEIN. That is correct.

The CHAIRMAN. The governing language would then permit us, if we chose, to equip a wide-bodied aircraft with more than 20 such missiles, so long as we did not exceed the formula contained in paragraph 14, right?

Ambassador EARLE. Precisely.

The CHAIRMAN. All right.

Mr. SIENKIEWICZ. Mr. Chairman, I might add that one operational mission is undefined, I believe. Knowing the range of possibilities for aircraft, I believe that could pose a problem.

Senator GLENN. Would you repeat that, please? Do you mean one operational mission was not defined?

Mr. SIENKIEWICZ. That is correct, I believe, Senator, "for which any bomber of that type is equipped for one operational mission." That is in the first agreed statement.

The CHAIRMAN. Yes.

Senator SARBANES. It is only the two agreed statements that relate to paragraph 14 of article IV that remove any ambiguity in this matter, is that correct?

Mr. SAUERWEIN. That's correct.

Senator SARBANES. Paragraph 14, as it is written, has an ambiguity in it, does it not?

Mr. SAUERWEIN. What is that, Senator?

Senator SARBANES. Well, it talks about the deployment of missiles and it talks about being equipped for cruise missiles. You could have a bomber equipped for more missiles than were deployed on the

bomber, except that the agreed statements straighten that out, isn't that correct?

Mr. SAUERWEIN. I think it is correct, yes.

Senator SARBANES. So, without the agreed statements, paragraph 14 would raise a problem.

Mr. SAUERWEIN. The agreed statements are counting rules that tell you how to make the count to apply to paragraph 14, that is correct.

Senator SARBANES. The agreed statements eliminate the gap that exists between being equipped for more missiles than you are actually carrying.

Mr. SAUERWEIN. That is correct.

Senator SARBANES. Then that gap, or the question that stems out from that gap, was reintroduced by the parallel statements so to speak.

Mr. SAUERWEIN. I don't think it was reintroduced.

The parallel statements, as Ambassador Earle has indicated, only refer to our plans for the treaty period of not going over 20 for a new type. So this is over and above what is already agreed in paragraph 14 in the first and second agreed statements.

Senator SARBANES. What was the purpose of the parallel statements?

Ambassador EARLE. As I understand it, Senator Sarbanes, they were informational. At the summit, each side told the other that at the moment it had no plans to deploy more than 20. It was understood that they were not binding in any way.

You are quite right, Senator Sarbanes, that without the agreed statement there would be an ambiguity. But if there were no agreed statement and one tried to clear it up in the text itself, it would read: "Each party undertakes not to equip at any one time on heavy bombers equipped for cruise missiles." It was determined that the other method was a clearer way to do it.

Senator SARBANES. I think that the agreed statements make the paragraph 14 clearer. As far as I can read it, it gives a firm counting rule which eliminates this possibility.

BOMBERS COUNTED AS HEAVY

Senator LUGAR. Mr. Earle, would you clarify for me what types of bombers are covered in the first agreed statements as opposed to the second agreed statement? In other words, is the specific listing of types of B–52's and B–1's and TU–95's, and so on, restrictive, whereas the 28 average applies to some other types of bombers in the first agreed statement?

Ambassador EARLE. Senator Lugar, the second agreed statement is restrictive to the types mentioned. Those are current types of heavy bombers.

What is provided for in paragraph 14 itself and in the first agreed statement is either existing bombers, which are not heavy bombers, on which cruise missiles might be deployed, in which case under the terms of paragraph 3 of article II they would be treated as heavy bombers, or, on the other hand, the possibility of wide-bodied aircraft which would become heavy bombers only through their being equipped for cruise missiles.

Senator LUGAR. In other words, new developments, new bombers?

Ambassador EARLE. Yes.

Senator LUGAR. What would be examples of light bombers that might be converted to come into the categories of the B–52 and B–1 types?

Ambassador EARLE. Of existing types?

Senator LUGAR. Yes.

Ambassador EARLE. Well, on the Soviet side, any one of their medium bombers or Backfire. If they were equipped with cruise missiles in excess of a range of 600 kilometers, they would then become heavy bombers counted in the aggregate and counted under article V, except as otherwise provided by the agreed statement to paragraph 1 of article VIII. On our side, it might be FB–111's or F–111's. But you would pay the price if you equip those aircraft for long-range ALCM's, as having them counted both under article III in the aggregate and under article V in the so-called MIRV provisions.

Senator LUGAR. Just to underline that again, if Backfire were converted in such a way, it then comes into a count, in this case as one—or, what would be the count?

Ambassador EARLE. If Backfire were equipped for cruise missiles with a range in excess of 600 kilometers, that airplane, plus all other Backfires, would be counted under both article III and article V, unless they were given what we call functionally related observable differences, which is unlikely.

Senator GLENN. Will the Senator yield?

Senator LUGAR. Yes.

Senator GLENN. Since we have had difficulty defining heavy bombers, if you go back to page 5 in our spread sheet here, doesn't your definition include any other airplane that would be equipped with cruise missiles capable of a range in excess of 600 kilometers? In other words, if it was not one of these types, but they put the same type cruise missile on another airplane, as I read it on page 5, that other type would be classed as a heavy bomber.

Ambassador EARLE. It would, that is correct. If under subparagraph 3(c) of article II a bomber—not merely a heavy bomber——

Senator GLENN. So, it would not have to be one of those listed as Senator Lugar asked?

Ambassador EARLE. That's right.

The CHAIRMAN. Backfire is not listed and would be counted.

Ambassador EARLE. If Backfire were equipped for ALCM's, it would be counted under both article III and article V, and all other Backfires of the same type.

Senator LUGAR. Theoretically, if Backfire were so modified, and if a number of Backfire bombers were modified, then would the 28 figure apply to those aircraft?

Ambassador EARLE. Yes, sir.

The 20 limitation applies only to the listed ones.

Senator LUGAR. Thank you.

The CHAIRMAN. I think we have earned our pay today. It is about 4:30.

I understand that an objection again will be lodged to the committee's sitting tomorrow afternoon. That being the case, I would ask

members if they would please try to come promptly at 9:30 in the morning. We have lots of business to do in the morning session.

Mr. CUTLER. Mr. Chairman, may Ambassador Earle be excused tomorrow? He is required to testify with Secretary Vance before the Senate Armed Services Committee in closed session on this treaty. We will do our best to carry on without him.

The CHAIRMAN. Of course.

Senator PERCY. Mr. Chairman, I regret that I will not be here in the morning. I am chairing the Alliance To Save Energy meeting here in Washington.

The CHAIRMAN. We will miss you, Senator.

The hearings are adjourned until 9:30 tomorrow morning.

[Whereupon, at 4:28 p.m., the committee adjourned, to reconvene at 9:30 a.m., Thursday, October 18, 1979.]

THE SALT II TREATY MARKUP

THURSDAY, OCTOBER 18, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 9:42 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee), presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Zorinsky, Javits, Baker, Helms, Hayakawa, and Lugar.

Also present: Senator Cranston.

The CHAIRMAN. The committee will please come to order.

This morning, before we proceed with the open session, there are some aspects of the various proposals that were discussed in the committee yesterday which we have before us this morning for a vote and which need to be discussed in executive session. For that purpose, I would entertain a motion at this time to go into executive session.

Senator JAVITS. I so move.

The CHAIRMAN. A motion has been made. Without objection, the committee will retire to the next room for an executive session.

[Whereupon, at 9:43 a.m., the committee recessed, to reconvene immediately in executive session.]

[Whereupon, at 11:02, the committee concluded its business in executive session and returned to open session.]

The CHAIRMAN. The hearing will come to order.

The Chair recognizes Senator Stone.

Senator STONE. Thank you, Mr. Chairman.

CATEGORY III PROPOSAL TO COUNT GOLF I AND II SUBS

I propose a category III reservation worded as follows:

Notwithstanding Article II, paragraph 2 and its associated Agreed Statement, the SLBM launchers of the U.S.S.R. on diesel-power submarines, known in the U.S.A. as "Golf" or G–I and G–II class submarines, are subject to the limitations of the Treaty.

Mr. Chairman, nothing I have heard in the closed session dissuades me from either the logic or the reason for including these submarines which otherwise could create a loophole under which the Soviets, who are currently building some diesel submarines, could build these submarines, and, either under their own or an ally to them nation's flag, using the same kind of nuclear sea-launched missiles which are included, when carried by the other classes of Soviet submarines, the SS–N–5 and the SS–N–4, but particularly the SS–N–5, they could be included under the count.

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Furthermore, the logic advanced by the administration yesterday that only nuclear propelled submarines are the kind to be included is not really borne out. We have a G–III class submarine—and there is more than one—which is included under the SALT II count. So, the propulsion argument is not consistent. Neither is it consistent with the declassified letter the administration provided us all yesterday in which what counts in the Cuban issue is nuclear arms rather than what the propulsion system is.

May I say the concerns that I have about the possible uses that the Soviets could make of this loophole are not allayed by any of the briefings we have had, at least not to my satisfaction. I urge that although this loophole is not a huge one—it is a minor one, a moderate one—I think it is an important one and I think it would help the treaty and help the credibility of the treaty, so I urge its adoption.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. I would like to ask Senator Stone, if I may, this question.

Senator STONE. I yield.

Senator BAKER. The discussion we had yesterday on this section of the treaty, and particularly on the agreed statement, on the question of whether or not this would apply to any situation other than the operation of Soviet submarines in the Caribbean——

Senator STONE. That's right.

Senator BAKER [continuing]. Around Cuba, I suppose the answer to that is possibly. Is it your understanding that such submarines, that is to say, diesel-powered submarines of the *Golf* class or G–I and G–II do operate in other parts of the world?

Senator STONE. Yes; that is correct.

Senator BAKER. But they do operate, or at least they have recently operated, in the Caribbean, off the coast of Cuba?

Senator STONE. That is correct.

The CHAIRMAN. How recently?

Senator STONE. Not since 1974.

My problem with 1974 is once they set a precedent, they repeat the precedent. We have seen that time and again.

Senator BAKER. That is the primary reason for this reservation, then?

Senator STONE. Yes; it is one of the main reasons.

There are a number of ways that the loophole can be used. As I say, it is not as important as some of the throw-weight amendments which have been offered, and I don't even think it is as important as your Backfire amendment, which I enthusiastically supported yesterday and which I will support on the floor. But I think it is an important loophole that we ought to show we are capable of closing.

I don't see any reason for us to walk on eggs. If it is a loophole, let's close it.

Senator BAKER. Mr. Chairman, I would only add that I intend to support the proposal by Senator Stone. I agree with his assessment. I don't think it is one of those things that is absolutely vital to the integrity of the treaty, but I think it is important. I think it was correct to make the proposal, and I will support it.

Senator STONE. Thank you.

RENEGOTIATION IMPLICATIONS OF GOLF SUB PROPOSAL

The CHAIRMAN. I would like to say that we may as well face up to the fact that this proposal, as an amendment to the treaty, means that the treaty would require renegotiation. The adoption of this reservation, let it be clear, would be the adoption of a "killer amendment" to the present treaty.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. I would like to continue.

Senator STONE. This is not directly to the treaty, Mr. Chairman. It is a class 3 reservation of the kind that a number of us are offering. It does require their agreement.

The CHAIRMAN. A class 3 reservation requires acceptance by the Soviet Union.

Senator STONE. That is true.

The CHAIRMAN. And it would be a major revision of the treaty. The treaty can be amended either directly, by changing its text, or indirectly, by imposing a condition that the Soviet Union must accept.

POSSIBLE FUTURE SOVIET USE OF CUBA AS NUCLEAR NAVAL BASE

Now, with respect to the question of the possibility in the future that the Russians might service this type of submarine in Cuba and in some way use Cuba as a naval base for its operations, let it be clear that it is the position of the Government of the United States that any such use of these submarines, or of any other Russian submarines capable of launching nuclear missiles, would be a violation of the agreements that we have with the Soviet Union concerning their introduction of offensive weapons into Cuba.

I call the attention of the committee to page 357 of the hearing, an exchange between Senator Stone and Secretary Brown.

Senator Stone said, "Mr. Secretary, does the servicing of visiting Soviet nuclear submarines in Cuba violate that agreement?"

Secretary Brown said, "Nuclear ballistic missile submarines would, because those are submarines that carry ballistic missiles."

Then the Department of Defense supplied a statement of President Nixon concerning this particular agreement, and that statement reads:

> It is my understanding that as a result of an October 13, 1970, exchange between the United States and Soviet representatives, President Nixon subsequently announced that servicing of nuclear submarines either in or from Cuba would be a violation of the understandings.

Then, on page 358 of the hearings, Secretary Brown testified:

> The presence of nuclear weapons in Cuba would clearly violate the agreement that we have with the Soviets, quite outside of SALT, whether it is SALT I, SALT II, or SALT III, and would be a very serious matter. So, it is not a precedent that we would be prepared to accept.

Later on the same page, Senator Stone addressed the following question to Secretary Brown. "Do you assure us that there are no Soviet theater weapons currently stationed in Cuba?"

Secretary Brown said, "Yes, I can assure you."

Now Senator Stone knows that I share his concern that Cuba not become a Soviet military base. I think that concern extends not just to

naval vessels or naval facilities, but extends, in my view, to Soviet combat troops as well. But the agreement we have, the agreement we presently have, clearly would prohibit the Soviet Union from using this particular submarine and the servicing of that submarine, equipped with nuclear missiles, in Cuba.

This is the first reason I think this understanding is unnecessary.

REASONS GOLF SUBS EXCLUDED IN SALT I

The second reason that I oppose it is that we bargained for excluding these submarines in the first place, which involved the national interest of the United States. These are old submarines. They contain old missiles. If the missiles were upgraded, then it would be necessary to count the submarines within the aggregate ceiling. The submarines themselves were all constructed in the 1960's. Our information is that they are currently being used for theater purposes in the European area because the Russians have nuclear powered submarines that are far more suitable for strategic use.

So, these are submarines that are in the process of wearing out and are now logically better suited for theater use than for any strategic use against the United States.

The third reason I oppose this reservation is that if we insist upon including these old submarines under the aggregate ceiling, then we invite reciprocal action on the part of the Soviet Union. We have a lot of weapons that they could insist be included within the count for the same reasons that Senator Stone has advanced and that Senator Baker has advanced, in support of this reservation. That includes attack planes, the F–111 and the F–111B, stationed in western Europe and the United States, which have a capability of reaching the Soviet Union with nuclear-tipped weapons. That includes American aircraft carriers, which have a similar capability of approaching the coastal waters of the Soviet Union with scores of aircraft with which it is possible to attack the Russians.

If we want to open up that can of worms, adopting this reservation is the way to do it. You would scuttle the treaty and, in my opinion, you would do it for reasons that do not serve the best security interests of the United States.

I strongly urge the committee to reject this amendment.

Senator HAYAKAWA. Mr. Chairman, may I ask a question of Senator Stone?

The CHAIRMAN. Yes; of course.

Senator HAYAKAWA. As I see the wording of paragraph 2,

> Submarine-launched ballistic missile (SLBM) launchers are launchers of ballistic missiles installed on any nuclear-powered submarine or launchers of modern ballistic missiles installed on any submarine, regardless of the type.

Does not the phrase, "regardless of type" include diesel-powered submarines?

Senator STONE. It ought to, but it does not.

Senator HAYAKAWA. In what way does it not?

Senator STONE. If you look at the staff comments, Senator Hayakawa, on the right-hand side of page 4, the last paragraph says,

The Soviets have about 20 older G–I and G–II diesel-powered submarines with about 60 SS–N–4 and SS–N–5 SLBM launchers that will not be counted under the Treaty. They could build additional nonnuclear powered submarines and equip them with SS–N–4 or SS–N–5 launchers and not have them count under SALT II.

That is the reason why I am offering this amendment—to close that loophole.

Senator HAYAKAWA. I see.

But if, as Senator Church says, these are an obsolete type——

Senator STONE. Of what?

Senator HAYAKAWA. Of submarines for this purpose.

Senator STONE. Submarines, if they are equipped with sea-launched ballistic missiles of the same kind we bar when they are on the H–II class, which is the SS–N–5 missile, are usable for this purpose. Whether they are now being used in the European theater or the Asian theater or both, or not, it does not mean that they could not be used to loiter off our shores. They have, actually, made at least two visits that we know of to Cuba, one in 1972 and one in 1974.

I engaged in quite a tussle when these hearings first started to get the administration to admit that it did have SS–N–5 missiles when it visited Cuba. At first the administration denied it and ultimately it submitted a correction to the record saying that they did.

I think that, although this is not a large issue, it is a loophole. It is one that the staff itself points out when it says not only could we find these particular 20—well, it is not as many as 20, because some of them clearly are not operational but most are—submarines in use for this purpose, but also they could build new ones. And, they are building some diesel submarines. They don't seem to be satisfied with a clear edge in the number of nuclear submarines which they have.

Senator HAYAKAWA. Thank you very much, Senator Stone.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Mr. Chairman, I shall vote against this particular reservation, my reason being the following. In terms of what the Soviets have and do not have, Senator Stone has already explained himself, just a minute ago, that it is not a large issue. So the question we have to calculate is whether this is worth turning the treaty over for or long delaying the renegotiation.

It seems to me that there is not any real danger from a situation of this character. I wish to point out the missiles, which can be mounted even upon new diesels, have to be missiles tested before 1965, so they are extremely old weapons. Whether or not the Soviet Union would want to spend all that money and all that space on old weaponry is a very big question to me.

RELEVANCE OF OTHER UNITED STATES-SOVIET AGREEMENTS ON CUBA

But, leaving that aside—though it is an important point—the fact is that the real danger is transfer to a country that might become a hostile power. In my judgment, that gets us into a thicket of contradictions. As far as we are concerned the only power that would really count in that is Cuba, which is a Soviet ally. We are, in my judgment,

adequately protected by the agreements made under President Kennedy's administration and under President Nixon's administration with the Russians which keep offensive weapons off Cuba and out of Cuban hands, and by the provisions of the Non-Proliferation Treaty, as Cuba is not a nuclear power.

For all of those reasons, and as it is "not a large issue," I believe the reservation should be rejected.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. Mr. Chairman, I would like to associate myself with the remarks of both you and Senator Javits, and I would underscore the last point made by Senator Javits. Apparently the proponents of this motion agree that it is not an issue of great importance, but I think, notwithstanding the fact that it is a section 3 and not an actual amendment, that this is so basic that it would have the same effect on the treaty as it would were it an amendment. For the life of me, I cannot understand why, with agreements already in hand concerning Cuba, we would open up this Pandora's Box which gets us into the entire noncircumvention question and forward base system question, while we are so very, very carefully trying to make sure that we have all those options open for us in the treaty. I cannot see, for the life of me, how this serves our interest. If there is a loophole here, it is closed by other agreements that relate to Cuba.

So, I will vote against this reservation.

The CHAIRMAN. I think we should vote.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. Mr. Chairman, I think we ought to go ahead and do this. I will agree with you and Senator Javits that it is not the most earthshaking reservation or understanding that we have or will deal with. But it is also not the last word we are going to speak on this subject.

Senator STONE. That's right.

Senator BAKER. I, for one, am not put off by the thought that what we do here has to be submitted to the Russians. If we start out that way, if we start out by saying that we are not going to change anything because we are afraid it will upset the Russians, we are never going to do any good with this treaty. We are just going to have to take it or leave it.

Now, it may be that after we finish our deliberations, if there are 30 or 40 category III understandings that require resubmission to the Soviet Union, we will decide that that represents a substantial change in the treaty and maybe we ought to reconsider it. Well, maybe so. That is what I meant by this not being the last word.

But I think if we start at the very beginning by saying "goodness no, let's not do that because if we do, we will have to renegotiate and that will upset the Soviet Union, or that it is a killer amendment, or that it is going to upset NATO, or that it will get reprisal action, or that it will scuttle the treaty, or that it will open a can of worms, or a Pandora's Box"—if we do that to everything we do, then there is no point in doing anything at all.

Mr. Chairman, I think we ought to give more careful consideration to the proposal by Senator Stone, and I will vote for it.

The CHAIRMAN. Very well. I believe we have given full consideration to it.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. I just want to say in brief rebuttal that the thrust of my remarks made clear that I thought the adoption of this reservation would not serve the national interests of the United States. It would open up a whole series of questions that, in the end, would cause us far more damage than any possible benefits that accrue from its adoption. It is on that basis that I oppose it.

Senator BIDEN. Mr. Chairman, there has been no reluctance on my part nor on the part of the committee thus far to put things into category III or to tell the Russians that they must agree to certain things.

The distinction that I would like to make in light of the characterization the Senator from Tennessee just made is that we only should do that when it serves our national interest.

The CHAIRMAN. Of course.

Senator BIDEN. This does not serve our national interest, and in other places it does.

Mr. CUTLER. Mr. Chairman, may I make a very brief statement?

The CHAIRMAN. If it is very brief.

Mr. CUTLER. The administration very much opposes this amendment for all the reasons stated by the chairman, by Senator Javits, and by Senator Biden. But I would like to make the further point that a military judgment is being made here, whether this is a military loophole or not. The Joint Chiefs of Staff, in all the years this treaty has been under negotiation and with all the items where, for military reasons, they wished to strengthen this treaty, never raised this issue about this very small number of submarines. They have testified to you and to the Armed Services Committee that, even on the points they did want to see in the treaty which they did not get, they would not favor seeking to renegotiate the treaty at this time. It seems to me a very serious question whether this committee would want to substitute its military judgment on that point for the Joint Chiefs and reopen the negotiations of the treaty on a military point which the Joint Chiefs themselves never thought was of any significance.

Senator STONE. Mr. Chairman, with all due respect for the Chiefs—and I do have respect for them—I don't think they protested the cancellation of the surveillance overflights of Cuba which led to the ambiguity recently resolved. I think that this issue, although it is not as large as some, is an important issue. If we leave it alone, we are, in effect, saying that there is no way that in the consent portion of the advise and consent efforts of our Senate or of this committee we can do anything to improve the treaty as it was submitted to us.

If this is the position, I think the committee may be making a very bad error, not only here, but on the floor.

Senator JAVITS. Mr. Chairman, may I make just one last point in answer to Senator Baker and Senator Stone?

The CHAIRMAN. Yes.

Senator JAVITS. We have only been marking up this treaty for 3 days and we have already adopted two section 3 reservations, one section 2 reservation, and one section 1 reservation. I believe before we get through that there will be a great many more. So I am not intimidated.

Senator STONE. Well, that's good.

The CHAIRMAN. The motion has been made on the amendment. Discussion having been completed, the clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. No.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Biden.

Senator BIDEN. No.

Mr. BADER. Mr. Glenn.

Senator GLENN. No.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. No.

Mr. BADER. Mr. Javits.

Senator JAVITS. No.

Mr. BADER. Mr. Percy.

Senator JAVITS. No, by proxy.

Mr. BADER. Mr. Baker.

Senator BAKER. Aye.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. Aye.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

On this vote, the ayes are 5 and the nays are 10. The amendment is rejected.

The next item on our agenda for consideration are two amendments by Senator Baker.

Senator BAKER. Mr. Chairman, might I say before we begin that the Senate convenes at 12 o'clock and I do not anticipate that I can finish those two amendments between now and the time I will have to be on the floor to participate in the opening of the Senate. If there is another item that could be put ahead of this, I would be glad to come back as soon as the Senate is opened for consideration of this.

The CHAIRMAN. Very well.

Let us turn to the several understandings that have been offered and which were discussed yesterday and earlier this morning in executive session, the understandings offered by Senator Glenn.

The Chair recognizes Senator Glenn.

ACTION ON CATEGORY II UNDERSTANDING ON CM RANGE DEFINITION

Senator GLENN. Mr. Chairman, there are three understandings that I would offer. Two of them are category II understandings and one is a category I understanding. We discussed these yesterday and put them off until this morning so that we could work with the administration in trying to agree on language.

I believe we have succeeded in that, although perhaps we still disagree on the category in which these would be placed. But, on the first of these, the cruise missile understanding, I presented it because I felt there was still an ambiguity regarding how both sides should calculate the range of a cruise missile.

First, the text of the treaty indicates that a missile's maximum range is the distance it flies until fuel exhaustion. However, the text continues with the phrase, that this is "determined by projecting its flight path onto the Earth's sphere from the point of launch to the point of impact." The two concepts do not necessarily go together. There would be only one instance where they would, in fact, fit together, and that is where it took off, flew a straight line, went clear to fuel exhaustion, and then impacted at its target. Any other flight-testing concept would not fit.

Our negotiators attempted to persuade the Soviets to accept the principle of assuming the range based on estimates of the remaining fuel aboard. Unfortunately, to quote from the State Department letter, "The Soviets replied that the cruise missile range definition had already been agreed to and no further clarifications were required in this connection."

I do not believe we should leave this important matter open to differing interpretations at the SCC, and cruise missiles are going to undergo a tremendous amount of development during the time period in which the treaty will be in effect. I think we would be well advised to close what I see as an ambiguity that could lead perhaps to disputes at the SCC concerning differing methods of calculating the maximum range of cruise missiles.

The understanding I am proposing would read as follows: In section 2 of the resolution of ratification include the following understanding,

(1) That the United States will calculate the maximum range which a cruise missile can cover in its standard design mode flying until fuel exhaustion, and in those cases where the cruise missile flying a standard profile has not exhausted its fuel will assume that the remaining fuel will be used by continuing to fly at the same altitude and speed at which the cruise missile was flying in the last segment of its flight.

(2) The United States reserves the right to raise in the Standing Consultative Commission at any time any Soviet activity which is or might be inconsistent with any such interpretation and, if the matter is not satisfactorily resolved, to exercise all other available remedies, including but not limited to the right to regard the matter as a violation warranting withdrawal from the treaty.

I have included this as a section 2 or category II item, Mr. Chairman, because I think it is important to notify the Soviet Union of this officially so that we are not just depending on news media or representatves from the Soviet Embassy at these markup sessions to advise the Soviet Union of our concerns in these regards.

In the past, our experience with SALT I has been that the Soviets in general have lived up to the letter of the treaty but not its spirit. That being the case, I think it behooves us to put this in category II, which puts them firmly on notice of our position, but does not require any response.

At least later on, if this does become an issue and goes before the SCC, there can be absolutely no doubt in anyone's mind, including those of the Soviets, that they were notified that this was our view of things, our view of this interpretation of the treaty, and that we were notifying them that we would take any violations of our views to the Standing Consultative Commission.

Senator PELL [presiding]. What is the reaction of the administration to this proposal?

Mr. CUTLER. Senator Pell, the administration has no objection to the language of this cruise missile understanding, as just read by Senator Glenn.

The text that we have has one formal typographical error in it. There is a reference to the "Standing Consultative Committee" rather than the "Standing Consultative Commission," as it was correctly said.

Senator GLENN. That is correct.

I might say that in the printed version which Mr. Cutler may have, in line 4, where it says, "flying until fuel exhaustion," we should include an "and" so that it reads, "flying until fuel exhaustion and in those cases". Then, two lines below that, where it says, "has not exhausted its fuel," strike out the comma and the words "is" and "to" and substitute "will".

Mr. CUTLER. We do have those changes, Senator.

We do prefer putting this understanding in section 1 of the resolution of ratification rather than section 2 for the reasons I explained in the executive session. I will not elaborate on these again unless the committee would wish me to.

Senator GLENN. I do not think we need to discuss what went on in executive session to clarify this point any further.

Mr. CUTLER. Our principal concern, of course, is that anything put in section 2 and officially transmitted to the Soviet Union may produce a response that would put the situation right back where it was, either with reference to this matter or with reference to some other matter.

Senator PELL. Then it is understood that this would be in category II. Is there any reason to call the roll on the Glenn amendment?

Is there any objection to the Glenn amendment?

Senator BIDEN. I object to the Glenn amendment being in that category, category II, but I will not insist on a rollcall vote. I think it should be in category I.

Senator PELL. I share your view, but I think a majority might prefer a category II classification for this.

Senator GLENN. I would ask for a rollcall on this, Mr. Chairman.

Senator PELL. Very well.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye.

Mr. BADER. Mr. McGovern.

[No response.]

Mr. BADER. Mr. Biden.
Senator BIDEN. No.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
[No response.]
Mr. BADER. Mr. Muskie.
[No response.]
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
[No response.]
Mr. BADER. Mr. Percy.
[No response.]
Mr. BADER. Mr. Baker.
[No response.]
Mr. BADER. Mr. Helms.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.

The CHAIRMAN [presiding]. I will vote aye. But in doing so, I want the record to show that before we mark up the treaty in any final action, I am going to ask the committee to review a number of these section 2 proposals to see if they ought not be better treated as section 1 proposals. This is one about which I will raise that question at the proper time.

I also cast by proxy—no, I will not cast any proxy votes on this understanding.

On this vote, the yeas are 8 and the nays are 1. The understanding has been agreed to.

Senator GLENN. Mr. Chairman, is it my understanding that the other members may be polled, as is our custom?

The CHAIRMAN. Yes; as is the customary rule.

Senators McGovern, Sarbanes, Javits, Percy and Baker were later polled in the affirmative.

ACTION ON CATEGORY I UNDERSTANDING ON RV MANEUVERS

Senator GLENN. Mr. Chairman, my second understanding involves "maneuvers" as it is defined in the treaty. I discussed this in some details yesterday.

Suffice it to say that it was discovered during a December 1978 test of a Soviet SS–18 ICBM that in addition to 10 real reentry vehicles at least 2 simulated reentry vehicles were tested. In other words, the postboost vehicle went through maneuvers simulating more RV's than are allowed by SALT II.

Although there were only 2 simulations on that particular test, some believe they have the capability for more than 12.

Our negotiators pressed the Soviets to include an agreed statement specifically including maneuvers of a postboost vehicle as part of the total count of allowed warheads. This has been the U.S. practice for many years when estimating Soviet capabilities. The Soviets agreed to this provision.

But what we failed to do, however, was to define adequately in the treaty the term "maneuvers."

The Department of State has reported, and I quote:

> In connection with the four identical agreed statements in paragraphs 10 through 13 of article IV concerning reentry vehicle testing, the United States stated in plenary that "maneuvers of a missile associated with targeting and releasing or dispensing" include changes in orientation, as well as changes in position and velocity.

It added:

> that in the event a question arises concerning procedures for targeting and releasing reentry vehicles which do not involve such changes, this could be a subject for discussion in the Standing Consultative Commission.

To that statement, which we had hoped would clarify this, the Soviets chose to make no comment.

So, once again we were back to accepting our own unilateral statement of our definition of "maneuvers" without having Soviet acquiescence to this definition.

My proposal would require that "maneuvers" be defined as "changes in position, velocity, and orientation of the missile."

I think this is very important because we will get into a situation where we are going to be monitoring their MIRVing and their simulations of MIRVing, not only on a new type booster that might be developed, but also on modifications of their existing missiles. I think it is important for us to pin this down as much as possible.

After discussing it with the administration I have made this a section 1 understanding. It would read as follows: In section 1 of the resolution of ratification, include the following understanding:

> That the term "maneuvers of a missile associated with targeting and releasing or dispensing," contained in the Agreed Statements relating to paragraphs 10 through 13 of Article IV of the treaty, shall be construed by the United States as including changes in position, velocity, and orientation of the post-boost vehicle.

This will insure that what we consider to be simulations will count in the total number of warheads per booster—real or simulated—permitted under the treaty.

It gets rather involved.

The CHAIRMAN. Is there any comment from the administration on this proposal or understanding?

Mr. CUTLER. Mr. Chairman, while the administration considers the negotiating record on this point satisfactory as it stands and therefore we would think that this understanding is unnecessary, we have no objection to the understanding as read by Senator Glenn as a section 1 understanding.

The CHAIRMAN. Is there further discussion of this understanding?

[No response.]

The CHAIRMAN. I have just received from Senator McGovern a proxy authorizing me to cast his vote in favor of the several under-

standings to be offered this morning by Senator Glenn. So I would ask that his vote be recorded by proxy on the first understanding that has been approved.

Senator JAVITS. Mr. Chairman, may I have the same privilege? I was in the backroom when the vote was taken and was not called to the hearing room, so I could not cast my vote, which is aye.

The CHAIRMAN. Of course, Senator.

Senator Javits inadvertently missed the vote and should have been advised of its occurrence. I ask that his vote may be recorded as aye on the first Glenn understanding.

Senator JAVITS. Thank you, Mr. Chairman.

The CHAIRMAN. If there is no discussion of this second understanding, we are ready to vote.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. Biden.

[No response.]

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

[No response.]

Mr. BADER. Mr. Muskie.

[No response.]

Mr. BADER. Mr. Zorinsky.

Senator GLENN. Aye, by proxy.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

[No response.]

Mr. BADER. Mr. Baker.

[No response.]

Mr. BADER. Mr. Helms.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Hayakawa.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote, the yeas are 10 and the nays are none. The understanding is adopted. Senators Biden, Sarbanes, Percy and Baker were later polled in the affirmative.

Senator Glenn is recognized.

Senator GLENN. Mr. Chairman, thank you.

I have another motion, again one that we put off yesterday in order to work out the appropriate language.

ACTION ON CATEGORY II UNDERSTANDING ON LIGHTER RV'S

It involves the potential danger of lighter weight reentry vehicles, RV's. In the provision permitting each side one new type of light ICBM. There is ambiguity in regarding the weight of RV's. Since neither side has flight tested such a missile yet, the size and the weight of the Soviet RV's that eventually will be deployed on it are unknown.

Accordingly, the Soviets may decide to design their system with a total potential capacity of 25 to 30 warheads, but confine their initial tests to the limits established by SALT II, that is, 10 RV's. We are alerted to this by what has happened on the SS–18, to which I referred to earlier, where that missile is limited to 10, but they are already testing beyond that number by simulating additional RV's. I believe this indicates a desire to develop the potential for breaking out beyond 10.

Anticipating the problem, I will quote from a State Department letter:

The United States made an informal statement that if a side tested RV's on the permitted new type of ICBM for which the total weight of 10 such RV's was less than 40 percent of the throw-weight, it would raise serious questions whether the new system was really designed to be one on which the payload would not exceed 10 RV's.

It further stated that:

If such a problem arose in the future, it would be an issue for discussion and resolution in the Standing Consultative Commission.

That was our statement. The Soviets did not reply. So, once again, we are left with a unilateral statement. Apparently we felt that this was an adequate safeguard, but I disagree with that idea and would propose the understanding which has been distributed to committee members. It would read as follows: In section 2 of the resolution of ratification, include the following understanding: "That the United States will regard the flight-testing or deployment of a new type of light intercontinental ballistic missile [ICBM], within the meaning of the First Agreed Statement to paragraph 9 of Article IV of the treaty, equipped with 10 reentry vehicles the aggregate weight of which is less than 40 percent of the throw-weight of the respective missile as evidence of a violation of the treaty affecting the fundamental objectives of the treaty and justifying withdrawal from the treaty."

The CHAIRMAN. Mr. Cutler, do you have any comments?

Mr. CUTLER. Mr. Chairman, once again, the administration has no objection to the language of Senator Glenn's proposal as it now stands, although, when the time comes for the final review, it may be desirable to have language relating to the Standing Consultative Commission in it, similar to what is in Senator Glenn's cruise missile understanding.

We do, however, object, again, to treating this as a category II resolution, rather than a category I resolution, but I gather that subject will come up for further reexamination.

METHOD OF COMMUNICATING CATEGORY II CHANGES TO BE DECIDED

The CHAIRMAN. That subject will be returned to at the concluding phases of the markup.

The committee has yet to decide in any final way whether the section 2 understandings will be contained in the instrument of ratification or whether they could be better conveyed to the Soviet Union by way of diplomatic note, since they do not require the assent of the Soviet Union, unlike those provisions that we decided to include in category III.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Yes.

Senator JAVITS. May I spread upon the record a proposal for the administration to think about?

I understand there are two documents which are critical. One is the instrument of ratification. Our thought was that section 2 reservations and understandings may or may not be in the instrument of ratification when transmitted to the Soviet Union. It was my thought that there would be only section 3 provisions in the protocol, which is the operative document.

Senator Church submits that items 1 and 2 be noticed by diplomatic note. Would you all think about that? We should advise together on this.

Mr. CUTLER. We will, Senator Javits. We have been discussing this subject extensively with the staff. I have no doubt that we will come out with an agreed position.

The CHAIRMAN. I think that Senator Glenn has made a good case for this particular understanding. The purpose of the understanding is to prevent the Soviet Union from developing a post boost vehicle that may only contain 10 reentry vehicles, the maximum number allowed, but which has a capacity, by virtue of its size and configuration, for carrying many more. Although the Soviet Union would be in technical compliance with the treaty, it would be in a position, at any time, to suddenly add many more warheads than the treaty limitations would permit. That is the real importance of making it clear that we would consider such an action grounds on which we might withdraw from the treaty.

Senator GLENN. The chairman has stated it very well. I might also say that some of us have been very surprised at even our own ability in this country, knowing our own technical capability, to miniaturize things in the weaponry field. I remember when I first heard that we were going to nuclear artillery shells; I could not believe that we had developed something that small and it still be a nuclear weapon. Yet we have them today. They are stockpiled, and I hope they never get used.

In reentry vehicles, we also have gone from warheads that were of the type and size of the bombs used at Hiroshima for which we had developed big boosters for even a single RV to a point where we can put 14 RV's on submarine-launched missiles.

We have seen what can happen in this area of making things smaller. Both sides have a high capability to do this. We want to avoid a situation where they could develop a breakout potential—40, or 50, or even more warheads, per booster—and still technically be in compliance with the treaty.

The CHAIRMAN. I want to commend Senator Glenn for having played a very constructive role in offering these three understandings

which will be exceedingly helpful to the United States and which may avoid problems in the enforcement of this treaty in the future, simply by making our own position very clear at the outset.

Senator GLENN. I thank the chairman.

The CHAIRMAN. If there is no further discussion, I believe we are ready to go to a vote on the third of the Glenn understanding and the clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. Biden.

[No response.]

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

[No response.]

Mr. BADER. Mr. Muskie.

[No response.]

Mr. BADER. Mr. Zorinsky.

Senator GLENN. Aye, by proxy.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

[No response.]

Mr. BADER. Mr. Baker.

[No response.]

Mr. BADER. Mr. Helms.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Hayakawa.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote, the yeas are 10, the nays are none.

The understanding is approved by the committee. Senators Biden, Sarbanes, Percy and Baker were later polled in the affirmative.

The committee is hosting a luncheon for visitors from Pakistan today. There is another luncheon for Mr. Yamani, the Oil Minister of Saudi Arabia, to be held tomorrow.

Today's luncheon is scheduled for 12:30, I believe, and I think the committee should work until that time, take a lunch break, and then come back for an afternoon session for as long as we may sit.

An objection has been lodged on the floor which means that we can sit for 2 hours following the beginning of today's session of the Senate, which is 12 today.

We will sit as long as we can under the rule this afternoon. I would suggest that we work until 12:30 and come back at 1:30.

Senator Baker is not here to present his two amendments, so perhaps we can go on to other business.

Senator STONE. Is the chairman sure that the commitment with the Foreign Minister of Pakistan is at 12:30 and not at noon?

The CHAIRMAN. Let me check with the staff to see if the time has been changed.

[Pause.]

The CHAIRMAN. I am told by the staff that the luncheon has been changed to 12. I would suggest that the committee come back at 1 o'clock, and that we work as long as we are permitted this afternoon.

I take silence to be consent of the committee, so this committee will be adjourned until 1 o'clock this afternoon. We will meet here in this room.

[Whereupon, at 11:55 a.m., the committee recessed, to reconvene at 1 p.m., the same day.]

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The CHAIRMAN. There is another rollcall vote on the floor of the Senate.

The committee does not have the unanimous consent necessary to meet beyond 2 o'clock this afternoon. It is also clear that we will not have the necessary attendance to conduct further business today.

So, the committee will meet tomorrow morning at 10 o'clock. Senator Baker's amendments, which have been offered, will be taken up at that time.

I would hope that the committee will remain in session long enough to dispose of those amendments and then to proceed with article V, to see if we can make some further progress moving through the provisions of the treaty itself.

I would urge members and would ask the staff to do all that is possible to get members to come tomorrow morning at 10 o'clock so that these proceedings will not be unduly delayed.

The committee is adjourned.

[Whereupon, at 1:20 p.m., the committee adjourned, to reconvene at 10 a.m. on Friday, October 19, 1979.]

THE SALT II TREATY MARKUP

FRIDAY, OCTOBER 19, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to call, at 10:15 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Helms, and Lugar.

The CHAIRMAN. The hearing will please come to order.

Senator Lugar has asked for recognition this morning.

Senator LUGAR. Mr. Chairman, it is the intention of Senator Baker to offer two important amendments to article IV and I mention this because I know in the sequence of events the committee will be coming to article IV very shortly. I would request on behalf of Senator Baker that consideration of his two amendments be put over until Tuesday when he will be here and is looking forward to making a presentation of both of these.

The CHAIRMAN. Actually, the committee completed its review of article IV, but I believe that Senator Baker will be unable to be here today or on Monday, and that being the case, we will take up his amendments on Tuesday.

Senator LUGAR. Thank you very much.

The CHAIRMAN. I am wondering if it would be possible for him to present all the amendments he intends to offer on Tuesday. How many amendments are there that he will be offering?

Senator LUGAR. I know of two amendments with regard to article IV. I am not certain of the sequence of the amendments he wants to offer after that.

The CHAIRMAN. Have both those amendments been circulated to the members of the committee, and will the staff and the administration have an opoprtunity to review them between now and then?

Mr. CUTLER. Mr. Chairman, the only amendments we have seen today both deal with the heavy missile subject. If there is to be another amendment on M–X, we have not seen that.

Senator LUGAR. The two amendments I have both deal with the heavy missile question.

The CHAIRMAN. Is it your understanding, Senator Lugar, that he will be taking those two amendments up on Tuesday?

Senator LUGAR. Yes; it is.

The CHAIRMAN. Very well. The committee left off its consideration of the treaty on page 23 of the markup. I would ask Mr. Sauerwein if he would commence with article V, paragraph 1.

ARTICLE V: MIRV LIMITATIONS

Mr. SAUERWEIN. Yes, Mr. Chairman.

Paragraph 1 reads:

Within the aggregate numbers provided for in paragraphs 1 and 2 of Article III, each Party undertakes to limit launchers of ICBM's and SLBM's equipped with MIRV's, ASBM's equipped with MIRV's and heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers to an aggregate number not to exceed 1,320.

The CHAIRMAN. I believe that is clear. Is there any question concerning it?

Senator LUGAR. Mr. Chairman, I would note we do not have a quorum present for consideration. I appreciate the desire of the chairman to move on and I will not obstruct that, but at the same time, in the event there should be a serious point of difficulty, I would have to note it.

The CHAIRMAN. It is not my intention that the committee take substantive action until there is the necessary quorum. As long as we are just reading and the Senators do not have proposals to make, I think that we ought to proceed.

Senator GLENN. Mr. Chairman, when we do have a quorum so we can work and vote, could we then go back to his point and go through these items again?

The CHAIRMAN. No; I think to do that is unnecessary. We need to maintain a schedule, and if the committee has to hold up its consideration of the treaty to accommodate each member, we will never get finished.

Senator GLENN. Well, to have a working quorum is a little different than having every member here. I would not want to see us read through the provisions for 2 hours.

The CHAIRMAN. I don't think that is going to happen, Senator Glenn, and we will soon have a working quorum. It is now 20 minutes after the time the committee was scheduled to commence with its business. Senator Pell is on his way.

Very well, Mr. Sauerwein.

If there are no questions or proposals to make with respect to paragraph 1 of article V, let's proceed with paragraph 2.

ARTICLE V, PARAGRAPH 2: 1,200 MIRVED ICBM–SLBM LAUNCHER LIMIT

Mr. SAUERWEIN. Paragraph 2 reads:

Within the aggregate number provided for in paragraph 1 of this Article, each Party undertakes to limit launchers of ICBM's and SLBM's equipped with MIRV's and ASBM's equipped with MIRV's to an aggregate number not to exceed 1,200.

The CHAIRMAN. These of course are the subceilings established by the treaty within the overall ceiling of 2,250.

Mr. SAUERWEIN. That is correct, Mr. Chairman.

The CHAIRMAN. Any questions?

Paragraph 3.

ARTICLE V, PARAGRAPH 3: 820 MIRVED ICBM LAUNCHER LIMIT

Mr. SAUERWEIN. Paragraph 3 reads:

Within the aggregate number provided for in paragraph 2 of this Article, each Party undertakes to limit launchers of ICBM's equipped with MIRV's to an aggregate number not to exceed 820.

The CHAIRMAN. If there are no questions concerning this——

Senator GLENN. Where do we spell that out? What section is that so we can cross-reference that?

Mr. SAUERWEIN. I am sorry, Senator Glenn.

Senator GLENN. The maximum number of MIRV's permitted on that 820——

Mr. SAUERWEIN. You mean the number of RV's, the 10? That is back in article IV. The maximum number of reentry vehicles on a new type is paragraph 11 of article IV and the freeze on the numbers on existing types is paragraph 10 of article IV.

Senator GLENN. Yes; that is what we went through. The new one would be 10?

Mr. SAUERWEIN. That is correct.

The CHAIRMAN. Very well. Let's turn to page 24, paragraph 4.

ARTICLE V, PARAGRAPH 4: MIRVED ASBM LIMITS

Mr. SAUERWEIN. Paragraph 4 reads:

For each bomber of a type equipped for ASBM's equipped with MIRV's, the aggregate numbers provided for in paragraphs 1 and 2 of this Article shall include the maximum number of ASBM's for which a bomber of that type is equipped for one operational mission.

The CHAIRMAN. You have a staff comment on this particular provision. Would you care to read the comment and also the agreed statement.

Mr. SAUERWEIN. Let me read the agreed statement first and then I will comment. The agreed statement reads:

If a bomber is equipped for ASBM's equipped with MIRV's, all bombers of that type shall be considered to be equipped with MIRV's.

Our staff comment reads:

A "type counting rule" is set forth in the agreed statement regarding MIRVed ASBM's while no similar "type counting rule" is specifically stated for ASBM's generally.

The CHAIRMAN. Are there any comments concerning this provision? I see Ambassador Earle reaching for the microphone.

Ambassador EARLE. That may have been an involuntary act, Mr. Chairman.

With respect to the staff comment, the type rule for ASBM's is encompassed in the type rule for bombers equipped for ASBM's. A type rule was necessary with respect to ASBM's equipped for MIRV's in order that all bombers equipped for ASBM's equipped with MIRV's be so considered.

The CHAIRMAN. Any other comment?

Very well. Let's go to paragraph 5 of article V.

ARTICLE V, PARAGRAPH 5: FREEDOM TO MIX WITHIN LIMITS

Mr. SAUERWEIN. Paragraph 5 reads:

Within the aggregate numbers provided for in paragraphs 1, 2 and 3 of this Article and subject to the provisions of this treaty, each Party has the right to determine the composition of the aggregates.

The CHAIRMAN. This was a provision as I recall which was strongly urged by the United States; is that correct?

Ambassador EARLE. I am sorry, Mr. Chairman. We were engaged in moving the microphone.

The CHAIRMAN. If we ever balance the budget, we will be able to get enough microphones for the staff and witnesses.

The question was, it is my understanding that paragraph 5 of article V which permits each party to determine the composition within the overall aggregate—that is; the number of bombers or the number of intercontinental ballistic missiles and the number of submarines that will be counted as launchers—was a provision that was strongly desired by the United States; is that correct?

Ambassador EARLE. That is correct. It is a carryover from SALT I. It is also embodied in article III. That is what we refer to as the "freedom to mix" provision and it was one that we sought and reached agreement on with the Soviets.

The CHAIRMAN. There are no proposals relative to article V.

Let's proceed with article VI, Mr. Sauerwein.

CATEGORY III UNDERSTANDING ON ASAT INTERFERENCE WITH VERIFICATION

Senator PERCY. Mr. Chairman, may I just introduce and observe the 48-hour rule a category III understanding. It is very short.

In section 3 of the resolution of ratification include the following understanding—

* * * that the use by a Party of an antisatellite weapon to interfere with the national technical means of verification of the other Party operting in accordance with paragraph 1 of Article XV of the Treaty would be a violation of the prohibition provided for in paragraph 2 of Article XV of the Treaty.

The CHAIRMAN. Thank you very much. It will be furnished to the committee, the members of the staff, and the administration.

Mr. Sauerwein, commence with article VI, please.

ARTICLE VI: RULES FOR INCLUSION IN AGGREGATES

Mr. SAUERWEIN. Yes; article VI, paragraph 1 reads—

The limitations provided for in this Treaty shall apply to those arms which are:

(a) operational; (b) in the final stage of construction; (c) in reserve, in storage, or mothballed; (d) undergoing overhaul, repair, modernization, or conversion.

The CHAIRMAN. Why are weapons counted that are in reserve, that are in storage or mothballed?

Mr. SAUERWEIN. Mr. Chairman, I think the purpose there is related to a verification issue in that if a limited system were made operational and then removed from the operational inventory and put in storage

or reserve, it might be very quickly reintroduced as an operational weapon and there would be a question how quickly that could be done, so they should all be counted at all times.

The CHAIRMAN. Does the administration want to comment on that question?

WHY MOTHBALLED B–52'S COUNTED

Ambassador EARLE. I would make one comment and I think Mr. Slocombe would also comment. There has been considerable misunderstanding about this provision. It has been criticized by some in that it is claimed that the United States has to count nonoperational aircraft particularly. This was a provision sought strenuously by us because we did not want a situation in which the Soviets could produce weapon systems and immediately put them into storage with, as Mr. Sauerwein suggested, a very short breakout potential and claim that they should not be included in the aggregate. It is very important to us that Soviet systems, whether actively operational or mothballed in storage on reserve, be included in the aggregate so that the potential for rapid breakout does not exist.

The CHAIRMAN. But the SS–16's are not treated as weapons in reserve because they are not launchers, is that correct?

Ambassador EARLE. They may not be produced, tested, or deployed, and they are not counted.

The CHAIRMAN. Are B–52 bombers, however, being launchers that are mothballed and in reserve, counted?

Ambassador EARLE. Yes, but, of course, when dismantled or destroyed under procedures, they can be replaced. Right now, counting all mothballed B–52's, I think we have slightly more than 30 over the 2,250. Although there are some B–52's that are in such a status that I doubt that we would want to return them to operational service, they could be replaced by new aircraft or other systems if that was the case.

Senator PERCY. Could I ask you to repeat whether we would have to dismantle any mothballed B–52's?

Ambassador EARLE. To reach the figure of 2,250, Senator Percy, I think we would have to dismantle or destroy 33. In fact, many more B–52's have been partially dismantled for purposes of cannibalization, and so forth.

Senator GLENN. Mr. Chairman, would the gentleman yield?

Senator PERCY. Yes.

Senator GLENN. Would this apply to components as well as full missiles? I am thinking about the relationship of the SS–20 and the SS–16 which is not classified now as such. Would this particular paragraph and subparagraph apply to that?

Ambassador EARLE. No, it would not, Senator Glenn, because the missiles themselves are not counted. It is launchers that are at issue. If a side had to dismantle or destroy one or more launchers in order to reach the aggregate ceiling, it would have to be done according to procedures agreed to in the Standing Consultative Commission.

Senator GLENN. Is it your interpretation that in article VI, paragraph 1, where it says "The limitations provided for in this treaty shall apply to those arms" that those arms are launchers and not specifically missiles?

Ambassador EARLE. The arms as referred to are the arms included under the various limitations which are, in the case of missile launchers, the launchers and not the missiles. When we come to article IX, I think you can draw the distinction.

Senator GLENN. We will get to paragraph IX later but under this paragraph here this would apply only to launchers and not then to stages that might be available to be added to the SS–20 to make it into an SS–16 and an ICBM?

Ambassador EARLE. That is right because there is no counting of either entire missiles or components thereof.

Senator JAVITS. I will follow up on that question if I may. You speak of modernization. Is there any likelihood that we will now build new modernized B–52's or would we just extract one or more from mothballs?

Ambassador EARLE. I would defer to Mr. Slocombe.

Mr. SLOCOMBE. The mothballed B–52's, a considerable number of them, have been kept in a condition where they can be brought back and used operationally in a period of several months if it were desired to do that, and they could, in principle, be modernized and used as operational aircraft. There is no plan to do that.

Senator JAVITS. So there is no need for building any new B–52 type that you can foresee during the 5-year period?

Mr. SLOCOMBE. No.

Senator JAVITS. It would not be so anomalous if we took this old aircraft and built a new one and talked about the Russians building submarines.

Mr. SLOCOMBE. If for some reason we needed additional B–52's, we could take the B–52's which are now in mothballs and recondition them.

Senator JAVITS. That is all I have.

The CHAIRMAN. I believe we had testimony during the hearings to the effect that it was questionable that the B–52 bomber could penetrate Soviet defenses after 1982, thus the importance of developing and deploying the cruise missile. I would think, therefore, that there is little likelihood that these B–52's, that are now in storage, would be taken out of storage and put back into active duty again.

Mr. SLOCOMBE. Mr. Chairman, that is right but not for the reason you stated. We do not have any plans to take B–52's out of storage and make them operational again. We do have confidence in the penetration capability of the B–52 through the period of the treaty. The degree of that confidence is to some degree dependent on what we do about upgrading the avionics and the penetration support systems for the aircraft. You are right, we do not intend at present to take any mothballed B–52's and make them operational.

The CHAIRMAN. Nevertheless, Mr. Slocombe, we have had testimony from some expert witnesses whether the B–52, as such, would be relied upon to penetrate Russian defenses after 1982.

Mr. SLOCOMBE. That is true, and in the late 1980's it depends on what we do to improve and upgrade the avionics but we continue to have confidence in its penetration capability certainly through the period of the treaty.

The CHAIRMAN. Concerning these dismantling procedures, since the Soviet Union will have to dismantle 250 of its intercontinental ballistic missiles, is there any difficulty presently, or any difficulty to be perceived in the future, about the procedures to be followed so that we can be certain that the Russians have, in fact, eliminated these missiles from their force?

Ambassador EARLE. In my view, Mr. Chairman, there is not. As you know, the Standing Consultative Commission has been functioning since its introduction in SALT I. Under the interim agreement each side had a right to dismantle or destroy older ICBM launchers in order to deploy more SLBM launchers. In the Standing Consultative Commission thorough procedures have been worked out for the dismantling or destruction of such systems and I would anticipate little difficulty in achieving similar agreement on similar procedures for the dismantling or destruction of systems to be eliminated under the SALT II provision.

The CHAIRMAN. What about a decision on our part to eliminate some of these mothballed B–52's in order to construct and deploy other missiles?

Ambassador EARLE. The sides are obligated under article XVII and other articles of the treaty, Senator, to develop similar procedures for the dismantling and destruction of heavy bombers which were not covered under SALT I. Assuming as I do that such procedures would be agreed upon, the United States, just as the Soviet Union, would be required to dismantle older heavy bombers pursuant to those procedures, which by the way in the past—and I anticipate that this will continue to be the case in the future—have been very verification conscious, if you will. The procedures are designed in such a fashion that the other side can actively and relatively easily verify in fact that the procedures are being complied with.

The CHAIRMAN. Any other comment on this provision?

Mr. MCFADDEN [committee staff]. Mr. Chairman, I draw your attention to the staff comment in article VI, and more importantly article XV, that the verification article apply only to the provisions of the treaty. As you know, the provisions of the treaty do not technically include the agreed statements and common understandings as well as the Backfire statement. As a matter of normal international law——

The CHAIRMAN. Well, I think that that is going to be corrected by action taken by this committee.

Mr. MCFADDEN. I believe so with respect to the agreed statements and common understandings. With respect to the Backfire statement, however, the Soviets have maintained all along that the Backfire statement is not a part of this treaty, and this provision that the committee has adopted up to this point, has simply made it legally binding and it is not technically incorporated into the treaty. As I said, as a matter of general international law it would probably be interpreted to be a part of this treaty but I think it is important for the committee to emphasize that that is the intent, so that the verification provision would apply to the Backfire statement.

The CHAIRMAN. Thank you; if there is no further comment——

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Yes, Mr. Percy.

SOVIET AND UNITED STATES NEED TO DISMANTLE SYSTEMS TO COMPLY WITH TREATY LIMITS

Senator PERCY. You mentioned the Soviets dismantling 250 missiles and I think this is an appropriate point to mention the significance of that act. I would like to put a question to Ambassador Earle.

As I see it, the Soviets have to destroy 250 nuclear missiles. Now some opponents of the treaty have said that those are old missiles, already obsolete missiles. Well, sure. The B–52's that we may dismantle are old and obsolete; they are already mothballed or being used for spare parts. But the 250 missiles that the Soviets have to destroy are the equivalent, as I compute it, of 17,500 Hiroshima bombs. One Hiroshima bomb killed or wounded 150,000 people and destroyed 62,000 buildings. So when we are talking about 250 old, obsolete missiles, we are talking about a horrible destructive force being destroyed.

Are we required by this treaty to destroy any comparable weapons?

Ambassador EARLE. Senator Percy, as I mentioned, we are 33, I think it is, above the 2,250 limit so we would in fact have to dismantle or some 33, and these would probably be the older mothballed cannibalized B–52's sitting out there on the desert.

The CHAIRMAN. Out of a total of 348, right?

Ambassador EARLE. The operational total is 348. There are some 500 altogether, of which approximately 200 are sitting in the graveyard.

The CHAIRMAN. Approximately 200 are in mothballs.

Ambassador EARLE. That is right. On the other hand, as Senator Percy suggests, the Soviets would have to dismantle or destroy 104 launchers of ICBM's, SLBM's or heavy bombers in order to reach 2,400 within 6 months after entry into force of the treaty and then subsequently by the end of 1981 they have to dismantle or destroy 150 additional for a total of 254.

Senator PERCY. Well, I don't think it can be said with any real justification that this treaty does not accomplish anything. Even though I have described it as a modest step forward, it is a step forward. The destruction of the equivalence of 17,500 Hiroshima bombs by the Soviet Union and the modest destruction that we have to go through on older B–52's is at least establishing a principle that enough is enough. We have gone far enough and we ought to in SALT III cut deeply as Senator Helms and others have said that we ought to do. We seem united on that but the principle has to be established at some point, and it seems SALT II establishes that principle and it should not be looked upon as totally insignificant. It is significant.

The CHAIRMAN. Let me make this brief comment. I agree thoroughly with what you have said, Senator Percy. It seems to me that a precedent has been established here for the first time. This is the first time in the history of arms control that two sides have agreed to the dismantlement of a certain number of strategic weapon systems. Even though the number of old B–52's that we would be required to dismantle and destroy is very modest, the destruction and dismantlement of 254 intercontinental ballistic missiles represents the elimination of a force that would have the capability of utterly obliterating every major city in America.

Senator GLENN. Mr. Chairman, may I make a comment. Before we start feeling too sorry for the Soviet Union or ourselves, I think we ought to put this in the proper perspective. They are destroying some but what they have left is almost obscene. This treaty enables us to get on to SALT III and IV and V and really scale things down.

But if they want to do it under this treaty, they could add 820 ICBM's with 10 MIRV's for 8,200 warheads. They could add 380 SLBM's with 14 warheads for a total of 5,320 warheads. They could have the rest of their allocation of single warheads, 1,050. That comes up to 14,570 warheads legally under the treaty.

Now I cannot feel too sorry for them if they have all that left as legal and they are required to do away with 250 old, antiquated missiles that there is a chance they were going to do away with anyway.

Both of us have this same option available under the treaty so it is equivalency there. We have now on the order of 10,000 deliverable warheads, 9 to 10. They have about 5,000. So under this treaty, if they wished to, they can triple the capacity to deliver nuclear warheads.

I am not concerned about launchers because launchers are something that we should have gotten away from as a measuring device long ago. They can triple their capacity under the treaty and we can run ours up by 50 percent. This is such a preposterous, as I said almost obscene, overkill capability that I cannot see it would do any harm if they have to destroy a little bit here and get on to SALT III, IV, and V.

Senator PERCY. If my arithmetic is correct though, taking the treaty into account as to what they can do with the treaty and without the treaty, in addition to the destruction of the equivalence of 17,500 Hiroshima bombs required under the terms of this treaty they potentially could go up without the treaty and create through MIRVing 6,000 additional warheads beyond the numbers Senator Glenn has cited. Unbridled without the SALT II limitation they can go much farther than they can with the treaty.

The CHAIRMAN. I think we can move on here. I don't really disagree with either Senator, I think both are correct. Both sides under the treaty can add large numbers of additional warheads, but at the same time we have created a precedent here for the dismantlement of some weapons on both sides, which I hope will lead to a very substantial reduction in SALT III, and I think Senator Glenn shares that view.

Senator GLENN. Yes.

Mr. CUTLER. On the point which Senator Percy made that you supported, we calculate that the number of systems that have to be destroyed under this treaty is greater than the total present arsenal of all the other nuclear powers apart from the United States and the Soviet Union so it is very significant.

On Senator Glenn's point, which, of course, is quite correct, it points primarily to the agenda that lies before us in SALT III, IV, V, and VI but the value of SALT II is that SALT II is like, as a lawyer, what I would call a bond indenture. It has all of the covenants in it, it has all of the warranties, all of the conditions of default. It

sets forth a set of rules for the future and from there on it becomes relatively simple to trade and negotiate the numbers. All you are doing is adding one amendment to a basic document like an indenture. If you don't have SALT II, you have all that lying ahead of you when you go forward to talk about deeper cuts. That is why we say that SALT II is essential in order to move on to changing the numbers later on in the process.

Senator PERCY. Mr. Chairman, I think that Senator Glenn and I, most all of us, concur with the absolute necessity of SALT III. The judgment that we each have to come to is how do we get to SALT III. The judgment I reach is that if we don't go through SALT II, we would delay SALT III by years, if not a decade. That is the problem. How do you get this thing back on track and do we dare take that risk in trying to improve, by renegotiating the treaty, of killing it, and shooting down and then never be able in the near future to get to SALT III. That is the judgment factor that we all have to come to some conclusion on.

The CHAIRMAN. Senator, we are in full agreement on this point.

TREATY LIMITS OR ESCALATES ARMS?

Senator HELMS. Mr. Chairman, we are not all in agreement.

The CHAIRMAN. I am sorry. Senator Helms.

Senator HELMS. I have remained relatively silent during all of the advocacies of this treaty—Senator Biden who favors it, Senator Church who undoubtedly will accept it, Senator Percy announced that he has, Senator Javits who is sure he will.

Now my problem as a member of this committee is when I want to respond to a point I am dealing with top secret material. Now I have a file right here that would blow out of the water much of what has been said this morning but when I bring it up or if I should attempt to bring it up we have to go into executive session.

Now this is not a limitation treaty and I hope the public will somehow understand this. This is an escalation treaty and I reiterate what I said before that I think the best course for the United States to take is to reject this treaty and demand a true arms reduction treaty now and stop playing around with words, stop playing around with statistics and level with the American people and see what the Soviet Union has to say about a proposal for a new arms reduction treaty which this is not. This is an escalation treaty and if the American people are misled on that point then we have made a serious mistake.

Senator BIDEN. Mr. Chairman, I won't make this very long.

The CHAIRMAN. That is all right.

Senator BIDEN. I really think that whenever Senator Helms and others have such vital to secret information that would blow any of these things out of the water, they should educate us as to that immediately. I, for one, would like to find out whether I have been duped the last 3 years by the Intelligence Committee. If he has information I don't have, and he may have it, I really would like very much, when he has those things, to let us know. I don't want to——

The CHAIRMAN. Just a moment. I had understood that the information Senator Helms has in that brown folder was information that

has been made available to us in the exhaustive studies that we have given to this treaty through a whole series of executive sessions and that there are no surprises in it.

Senator HELMS. That is correct.

The CHAIRMAN. Very well. Then that is cleared up.

Senator HELMS. I am not suggesting that the Senator has been duped, he may have been, but I am simply saying that it is impossible for me to sit here and respond to all of these declarations of virtues of SALT II when I confront these witnesses who say, "Well, we will have to talk about that in executive session," and the cameras are not allowed into the executive session. One side of the story is being given, Mr. Chairman.

The CHAIRMAN. We have all heard all of the details, everything that could be given to us in secret sessions.

Senator HELMS. Have I made my point, Mr. Chairman.

The CHAIRMAN. Yes, I think you have. Let me make mine.

Senator HELMS. Yes.

The CHAIRMAN. We have all of the information that you are aware of and I think our motives in accurately representing the conclusions that we reached based upon all of that information are as bona fide as your own. You may have reached one judgment on the basis of that information, we have reached another. I just don't want anyone to conclude that your judgment rests upon a data base that is any different from that that has made available to every other member.

Senator HELMS. Of course the interpretation, if the Senator will yield, and I did not mean to imply nor do I want you to infer differently but I will say that we had the same sort of situation during the Panama Canal Treaty discussion. We were told that if we didn't give away the Panama Canal that the people in Latin America were not going to love us any more and I went to South America and I heard precisely——

Senator PERCY. I don't know anyone that has expressed it that way except you, Senator Helms. That was never expressed by us or by any witness that I have ever heard from. That is your categorization of it. That is not the way it was presented to us.

Senator HELMS. Day after day on the Senate floor, in order to maintain the friendship of the people of Latin America we must do this. I don't want to reargue the Panama Canal Treaty.

The CHAIRMAN. Let's stay on the SALT Treaty. We have problems here.

Senator HELMS. They are parallel in the way that the presentation to the public is going, Mr. Chairman. I don't retreat from that position, I simply say that if the American people could understand what is going into the record in executive session and then make their own judgment either with the chairman and those who support this treaty or with those of us who question it, then I think the proponents of the treaty might be surprised.

Senator PERCY. Mr. Chairman, just to finish up my end of this, I think I have read exactly the same material that Senator Helms has and I have gone over it carefully. I will be happy to review it again. But I have not seen anything that destroys or blows out of the water the arguments that have been presented today.

It is just a different assessment of the same material. Each of us has a responsibility to come to a judgment. I will represent to my constituents that I have seen that material that they cannot see and my judgment is that this treaty does not in any way abrogate or detract from the national security. It does not contradict the figures that I have presented this morning and the actual accomplishments of this treaty in putting a limitation and causing a destruction of certain weapons that go beyond anyone's imagination as to their destructive capability.

Senator GLENN. Mr. Chairman, I am not unsympathetic to some of the points that Senator Helms makes and I would ask him if this material was presented to us verbally or is there additional material out of the report that is pertinent.

Senator HELMS. The chairman is correct in his observation that it is an interpretation. Now I attempted to have Senator Biden yield. I would like to talk just for example on one little point, target hardening.

Senator GLENN. Let me comment and then I will release the floor. Was this out of your study of the report itself or was this what was given to us verbally?

Senator HELMS. This is all of the related information as analyzed by this Senator and those who are working with him.

Senator GLENN. Was this from the Intelligence Committee report?

Senator HELMS. No, no.

Senator GLENN. This is something different then because what we have available is the Intelligence Committee report.

Mr. Chairman, I would once again urge every member of the committee to do this, as they have to, on a personal basis; staff cannot do it. I urge each member to read that report. We have not done that yet. Those facts were not presented to us verbally. I can say that in open session at least. The factors in that report that are areas where our ability to monitor or ability to verify may not be as high as we would like them to be and there may not be too many but there are some that were not presented to us. I think every member has to go over there and read that report and I would urge that they do that.

To my knowledge now there have been only a couple of the members that have gone over and actually read the whole report, probably three or possibly four. I would urge every committee member to do that because I think it is necessary to some of the subsequent discussions that we will have with regard to other phases of this treaty later on in our markup.

Senator HELMS. I agree.

The CHAIRMAN. Very well, if there is no further comment to paragraph 1 of article VI, may we go to paragraph 2.

ARTICLE VI, PARAGRAPHS 2–4

Mr. SAUERWEIN. Paragraph 2 reads—

Those arms in the final stage of construction are:

(a) SLBM launchers on submarines which have begun sea trials;

(b) ASBM's after a bomber of a type equipped for such missiles has been brought out of the shop, plant, or other facility where its final assembly or conversion for the purpose of equipping it for such missiles has been performed; and

(c) other strategic offensive arms which are finally assembled in a shop, plant, or other facility after they have been brought out of the shop, plant, or other facility where their final assembly has been performed.

There are no agreed statements to this paragraph.

The CHAIRMAN. Any questions?

Any proposals relating to these provisions?

If not, let's move on to page 25 of the markup and consider paragraph 3 of article VI, please.

Mr. SAUERWEIN. Paragraph 3 reads—

ICBM and SLBM launchers of a type not subject to the limitation provided for in Article V, which undergo conversion into launchers of a type subject to that limitation, shall become subject to that limitation as follows:

(*a*) fixed ICBM launchers when work on their conversion reaches the stage which first definitely indicates that they are being so converted;

(*b*) SLBM launchers on a submarine when that submarine first goes to sea after their conversion has been performed.

There is one agreed statement which reads:

The procedures referred to in paragraph 7 of article VI of the Treaty shall include procedures determining the manner in which mobile ICBM launchers of a type not subject to the limitation provided for in Article V of the Treaty, which undergo conversion into launchers of a type subject to that limitation, shall become subject to that limitation, unless the Parties agree that mobile ICBM launchers shall not be deployed after the date on which the Protocol ceases to be in force.

The CHAIRMAN. Are there any questions?

Any comments from the staff or from the administration?

If not, let's move on to paragraph 4 of article VI.

Mr. SAUERWEIN. Paragraph 4 reads:

ASBM's on a bomber which undergoes conversion from a bomber of a type equipped for ASBM's which are not subject to the limitation provided for in Article V into a bomber of a type equipped for ASBM's which are subject to that limitation shall become subject to that limitation when the bomber is brought out of the shop, plant, or other facility where such conversion has been performed.

The CHAIRMAN. Will the staff explain what bombers equipped with ASBM's are not subject to the limitations provided in article V of the treaty?

Mr. SAUERWEIN. Those bombers which are not equipped for MIRVed ASBM's are not limited by the 1,320 or 1,200 aggregates. Those bombers would be subject to that limitation when the ASBM becomes MIRVed.

The CHAIRMAN. The question is a bit academic because the likelihood is that cruise missiles are so much to be preferred over ASBM's that neither side is in all probability going to proceed with the development of the ASBM.

Any suggestions?

Senator ZORINSKY. I would like to ask, how is the verification made as to whether that is a MIRVed system or not?

The CHAIRMAN. That may be a question that would have to be answered in executive session.

MONITORING ABILITY OF ASBM TESTS

Mr. SLOCOMBE. The short answer is that we would be able to observe the testing of an ASBM system if one were to be developed in the same way in which we observe the testing of a land-based or sea-based

missile system and in the process of that testing we can determine in addition a great deal else about the system. We can determine whether or not it is a MIRVed system.

Senator ZORINSKY. You can also tell when that had been transferred to the vehicle in order to count it as a launcher?

Mr. SLOCOMBE. That is correct.

Ambassador EARLE. Add to that, Senator Zorinsky, after article V there is in effect a type rule whereby if one heavy bomber were equipped for ASBM's equipped with MIRV's, then all heavy bombers of that type would be considered equipped for ASBM's, would be considered to be heavy bombers equipped for ASBM's equipped with MIRV's. It is a type rule which would flow from seeing one to all others of the same type.

Senator ZORINSKY. Would this hold true for our B–52's?

Mr. SLOCOMBE. Yes, sir, unless they had——

Senator ZORINSKY. Therefore, all B–52's, even if they weren't modified to carry this system, would be counted?

Ambassador EARLE. That is right, unless they were distinguishable on the basis of externally observable differences.

The CHAIRMAN. Senator Glenn.

Senator GLENN. That is what I was going to ask, Mr. Chairman.

ACLM EQUIPPED B–52'S FROD EXEMPTION

Would a conversion such as this still have to have a FROD, functionally related observable difference? Would that apply to this, too? In other words, if there was an internal arrangement made would the external difference have to be observable?

Ambassador EARLE. I think the important point, Senator Glenn, here is with respect to air-launched cruise missiles and there, as you know, we have an exception for the B–52's from the role requiring functionally related observable differences. They need only have external observable differences to avoid all of them being counted if some were counted as equipped for ALCM's and others were not.

ASBM EQUIPPED BOMBER AND FROD'S

Senator ZORINSKY. So you determine whether it is a MIRVed system, not whether the vehicle is capable of carrying one or the other. That differential would not be observable in the construction of the aircraft itself?

Ambassador EARLE. No, it would not. The point I was trying to make and I perhaps was unclear, if a certain class of aircraft were equipped for ASBM's and then subsequently one of them was determined to be equipped for ASBM's equipped with MIRV's, then all of them would be considered to be equipped with MIRV's whether or not in fact they were.

Mr. SLOCOMBE. The same rule as for silo based ICBM's.

Senator GLENN. I am not clear yet as to whether if we had a conversion here that looked the same externally with an ASBM, does it have to have a FROD? Does it have to have the observable differ-

ence externally if it became an ASBM or do we consider that we would just depend on monitoring a testing of their ASBM to determine that that airplane had carried it? Is that the only guarantee we have on that?

Mr. SLOCOMBE. The governing provision, Senator Glenn, is subparagraph (c) of the fourth agreed statement to paragraph 3 of article II.

Senator GLENN. What page are you on?

Mr. SLOCOMBE. That is an illustration of why this treaty took so long to negotiate.

Mr. SAUERWEIN. Senator Glenn, it is on page 5 of our spread sheet.

I might comment, in answer to Senator Zorinsky's question about B–52's with ASBM's, that the same exception from the functionally related observable difference rule that allows only observable differences applies to the B–52 in relationship to ASBM's, as well as air-launched cruise missiles.

Mr. SLOCOMBE. The rule for existing bomber aircraft like B–52's is that only observable differences are required. If you don't want the whole fleet to count as in this case having ASBM's, you would have to have some externally observable difference between the B–52's equipped for ASBM's and those not so equipped in order to prevent the whole fleet from counting as equipped for ASBM's.

Senator GLENN. Would we only know about a conversion like this when we saw them test an ASBM?

Mr. SLOCOMBE. Well, we would know that there had not been a conversion until we saw the test of an ASBM in the Soviet Union which has not happened. If we saw one, that system would certainly have to be tested from the aircraft which is going to launch it.

I know from my contact with the problem of air mobile, the discussion in this country of air mobile ICBM's, that a major part of the problem of designing an item like that is making sure that the missile and the aircraft which is supposed to carry it are compatible and that the launch system does in fact work. There would be extensive testing of such a system before it were deployed.

Senator GLENN. I would concur with that, they would have to test it. On something that technically uncertain there would be a lot of testing on that but we would not know this. There is no requirement. In other words, if they are going to an ASBM, there is no requirement for the externals to be any different from any other different airplane and we would know that they were testing such a system only when we observed a test.

Mr. SLOCOMBE. In general it is in the interest of the party who owns the system to put the observable differences on it because the party that owns the system wants to prevent the whole type from being, as it were, overcounted. If for some reason a side didn't want to do that, it would be free not to do it but the consequence would be that the whole fleet would have to be counted. ASBM's are subject to notification under the data base rule.

Senator GLENN. They are?

Mr. SLOCOMBE. Yes.

Senator GLENN. Thank you.

Senator ZORINZKY. Just one last question.

The CHAIRMAN. Mr. Zorinsky.

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Senator ZORINSKY. Didn't you imply or say that there had to be an observable difference between an ASBM and a MIRVed ASBM system?

Ambassador EARLE. No.

Senator ZORINSKY. It does not make any difference?

Ambassador EARLE. No. If you had a fleet of aircraft equipped for ASBM's and subsequently one of them were seen to launch and therefore by definition be equipped for an ASBM equipped with MIRV's, then all the other members of that fleet would also be considered to be ASBM's equipped with MIRV's.

Senator ZORINSKY. I see, but there would be no precondition to physically have a difference between one system?

Ambassador EARLE. No precondition, since all members of this hypothetical fleet would be considered to be equipped for ASBM's equipped with MIRV's anyway.

Mr. SLOCOMBE. Just so the record is clear, in the case of ASBM's it is the missile and not the aircraft which counts against the relevant totals of 1,200 and 2,250.

The CHAIRMAN. In other words, you have the identical situation with the ASBM as you have on the intercontinental ballistic missile. If it is fired as a MIRV from a launcher, then all launchers of that kind are counted as being filled with ICBM's that are MIRVed.

Ambassador EARLE. Exactly.

Mr. SLOCOMBE. Strictly speaking, it is all bombers that are equipped with ASBM's or the ASBM's that are on them, or theoretically on them, that are counted against the limits.

The CHAIRMAN. All right. The counting rule works the same way?

Mr. SLOCOMBE. The counting rule works the same way.

The CHAIRMAN. All right.

Senator Helms.

HARDNESS OF U.S. ICBM SILOS

Senator HELMS. Let's talk about silos just a minute. What is the hardness of our ICBM silos?

Mr. SLOCOMBE. I am hesitating, Senator Helms, only because I am not sure what the unclassified answer to that question is. Just a second.

Senator HELMS. Yes.

The CHAIRMAN. Well, we know the answer.

Senator HELMS. I am not sure we do, Mr. Chairman. I don't want to be rude to my chairman because I am crazy about him but let the witness answer the question.

The CHAIRMAN. Well, I have heard the question asked and answered in executive session several times.

Senator HELMS. Well——

Mr. SLOCOMBE. If the Senator will bear with me, we will get the unclassified answer for the U.S. systems or for the Soviet systems.

Senator HELMS. I am going to get to both of them and the representations by the Secretary of Defense in this regard.

Mr. SLOCOMBE. Mr. Chairman, would it be possible to defer this discussion while we can check on the unclassified answers to the hardness question?

The CHAIRMAN. Just as long as Senator Helms gets his answers. I would ask that——

Senator HELMS. I know the answer.

The CHAIRMAN. All right.

Senator GLENN. Mr. Chairman, is there a different answer——

The CHAIRMAN. The silo question is not related to this point. I would like——

Mr. SLOCOMBE. It is not a different answer but I want to be sure that if I give the answer in open session, the answer has, in fact, been looked at by the people and is an appropriate one to give in open session.

The CHAIRMAN. Very well. When you are prepared to give that answer in open session and have it in a proper form, would you please give it to us.

Mr. SLOCOMBE. Yes, sir.

The CHAIRMAN. In the meanwhile, can we move ahead to paragraph 5 of article VI.

ARTICLE VI, PARAGRAPHS 5–6

Mr. SAUERWEIN. Paragraph 5 reads:

A heavy bomber of a type not subject to the limitation provided for in paragraph 1 of Article V shall become subject to that limitation when it is brought out of the shop, plant, or other facility where it has been converted into a heavy bomber of a type equipped for cruise missiles capable of a range in excess of 600 kilometers. A bomber of a type not subject to the limitation provided for in paragraph 1 or 2 of Article III shall become subject to that limitation and to the limitation provided for in paragraph 1 of Article V when it is brought out of the shop, plant, or other facility where it has been converted into a bomber of a type equipped for cruise missiles capable of a range in excess of 600 kilometers.

The CHAIRMAN. Any questions relating to this paragraph?

If not, may we have paragraph 6 read.

Mr. SAUERWEIN. Paragraph 6 reads:

The arms subject to the limitations provided for in this treaty shall continue to be subject to these limitations until they are dismantled, are destroyed, or otherwise cease to be subject to these limitations under procedures to be agreed upon.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Yes, Senator Glenn.

AIRCRAFT OTHER THAN HEAVY BOMBERS CARRYING CM'S

Senator GLENN. Ambassador Earle, this would still require a definition of heavy bomber. You were here the other day when we had this discussion of radius of action versus range and I will have some more to bring up when we get to the Backfire statement at the end of our consideration of this whole thing.

Is there anything in here—I am thinking in terms of a cruise missile—that could be used on something that was defined as other than a heavy bomber? Our definition of heavy bomber never has been as precise as I know you would like and we have never been able to come down with a clear-cut definition except in terms of other things such as the mission and so on.

Say we used a cruise missile on a different type airplane. We still would have the limitation of range, I presume, even though we could have a fighter airplane.

I am not stating this very well because it is not very clear, but it is clear in my own mind.

Could we have a fighter airplane with pretty good range that could carry a cruise missile almost as far as a heavy bomber, and because it was a small plane could it be used to avoid this provision in the treaty or would it automatically then have the definition of a heavy bomber by its range?

Ambassador EARLE. It would automatically become a heavy bomber by virtue of the range of the cruise missile.

The CHAIRMAN. Is that right?

Mr. SLOCOMBE. To clarify, if you put it within a range of 600 kilometers in even a Piper Cub, that Piper Cub is counted as a heavy bomber.

Senator GLENN. I understand that but I am concerned about the distance of 360 miles or 600 kilometers that it can be carried before it is launched, whether you would have another type airplane that by our definition of heavy bomber could be used to avoid this and still carry your missile to that range to launch.

Mr. SLOCOMBE. If it carries the cruise missile, it is counted under the treaty as a heavy bomber.

Senator GLENN. You mean any cruise missile?

Mr. SLOCOMBE. Any cruise missile with a range in excess of 600 kilometers.

Senator GLENN. No; I am talking about a cruise missile with less than a 600 kilometer range and I have put it on another airplane.

Ambassador EARLE. Senator Glenn, if the missile itself was not capable of a range in excess of 600 kilometers, then the airplane would be judged by the standards of paragraph 3 of article II; that is, whether or not it was one of the named airplanes or whether it could carry out the mission of a heavy bomber in a manner similar or superior to the four named bombers. In other words, an F–6 would not be a heavy bomber or an F–111 or an equivalent Soviet aircraft.

Senator GLENN. So it would not come under any of the restrictions here then?

Ambassador EARLE. No; it would not.

Mr. SLOCOMBE. That is a provision which is in our interest at least as much as in the Soviet interest. We do not want to limit short-range, cruise-missile-carrying systems.

Senator GLENN. Does this unduly restrict us on our own carrier aircraft?

Ambassador EARLE. Only if they were equipped for cruise missiles capable of a range in excess of 600 kilometers.

Senator GLENN. Under 600 kilometers they could be used for that purpose and not be classed as a heavy bomber.

Mr. SLOCOMBE. Quite apart from the fact that it has missiles on it unless the capabilities of the bomber were such that they would perform the mission of the heavy bomber equally superior to the identified aircraft.

Senator GLENN. I am not sure I followed you there. Say that again.

Mr. SLOCOMBE. If a new aircraft is developed, it has to be examined in effect. If the Soviets develop a new aircraft, we can look at that and say it must be classified as a heavy bomber. The Soviets can say the same thing about ours.

Senator GLENN. If so, it counts as a launcher.

Mr. SLOCOMBE. If so, it counts as a launcher as within the 2,250 aggregate. Any aircraft that carries the missile in a range in excess of 600 kilometers is in the 1,320.

BACKFIRES WITH ALCM'S OVER 600 KILOMETERS WOULD COUNT

Senator GLENN. The reason this is important, Mr. Chairman, is the Soviet insistence on radius of action in defining the Backfire which we will get into later. I was just questioning whether since they have chosen that means of defining the Backfire whether if they applied that same type definition to other types of airplanes we could be letting them out from under the provisions of the treaty—very important provision of the treaty—when they get more advanced cruise missiles. In other words, it would give them a far greater range to come over with a cruise missile that could do the last 600 kilometers and still not be illegal under the treaty and that could be quite a capability if they wanted to develop that. That is what I wanted to get at. Was this covered under this treaty in that regard?

Ambassador EARLE. Senator Glenn, I think going back to what you initially said without, if you will, the objective definition of a heavy bomber, we have to go back to paragraph 3, article II, look at the four agreed aircraft, and then determine whether the new aircraft which you have in mind could perform the mission of a heavy bomber in a manner similar or superior to those four.

Senator GLENN. And whether it could do that on a radius of action or range, and we have and the Soviets have defined that two different ways.

The CHAIRMAN. If the Soviet Union put cruise missiles with a range of 600 kilometers or greater on their present Backfire bomber, would that then count as a heavy bomber? Would it count under the aggregate? It could come within the limitation of the treaty?

Ambassador EARLE. Yes; under subparagraph 3(c) of article II that and others that did not have functionally related observable differences would count against the 2,250, except as otherwise provided for in the agreed statement to paragraph 1 of article VIII.

The CHAIRMAN. If they equip the Backfire bomber with a cruise missile of a shorter range than 600 kilometers, it would not count?

Mr. SLOCOMBE. Not simply by virtue of the fact that it has the cruise missile on it.

Ambassador EARLE. It is not a question of counting, it is a question of whether a cruise missile would constitute a significant increase in its ability to strike the United States in which case it would not be a question of counting, it would be a question of violation of the Backfire commitments.

Senator STONE. Mr. Chairman.

The CHAIRMAN. Mr. Stone.

Senator STONE. Mr. Slocombe, are the Soviets developing any new heavy bombers?

Mr. SLOCOMBE. Yes.

Senator STONE. How many?

Mr. SLOCOMBE. I have seen press reports where they have said two.

Senator STONE. Well, I read two but I am counting on you for a little extra expertise. How many are they developing?

Mr. SLOCOMBE. That is a question I would prefer to answer in executive session, Senator Stone.

Senator STONE. I will ask that question in the next executive session.

The CHAIRMAN. Very well.

Mr. SLOCOMBE. It is clear our information about the future developments of the Soviet systems is sensitive and something we prefer to discuss in executive session.

The CHAIRMAN. All right. Take that up in executive session. In any event it is understood in open session that if they develop new bombers they would come within the new heavy bombers, they would come within the ceiling.

Mr. SLOCOMBE. Yes.

The CHAIRMAN. And would be counted against the aggregate.

Mr. SLOCOMBE. Yes.

Senator GLENN. I won't belabor this much further but if there was a fighter type airplane capable of in-flight refueling, and literally can fiy half way around the world, would that count in this situation or would it not?

Ambassador EARLE. It would not count just the way our F–111's and FB–111's do not count.

Senator GLENN. It would not count.

Ambassador EARLE. No.

The CHAIRMAN. Very well.

Senator Lugar.

Senator LUGAR. Not to belabor the issue but Senator Glenn has raised the point that the word "bomber" apparently means just that, it means bomber; it does not mean, for example, fighter. The clause that we are looking at in paragraph 5 says, "A heavy bomber of a type not subject to the limitation" and the reference that you have given to me in article II, paragraph 3, says "types of bombers equipped for cruise missiles." The question Senator Glenn is raising is in the event you have some other type of aircraft other than a bomber that can be outfitted with a cruise missile does it escape these clauses?

Ambassador EARLE. No. If I may respond to you, Senator Lugar, in the first agreed statement in paragraph 3 of article II bombers are defined as "airplanes of types initially constructed to be equipped for bombs or missiles." Now the question that you have raised really comes under article VIII which is the question of conversion of nonbomber aircraft into airplanes equipped for cruise missiles. Essentially there is a prohibition on such conversion except at our insistence there is an exception to that prohibition on conversion which permits each side to convert up to 16 airplanes, for instance wide bodied transports, which would not come within the definition of the bombers for the purposes of testing and development.

Subsequently having made such conversion of existing, let's say, wide bodied aircraft, and having determined that this will be a feasible weapon system, we then could go ahead and build newly constructed adaptations of the wide bodied aircraft and those aircraft would then fall under the definition of bombers since they were initially constructed to be equipped with missiles.

That is a long answer to a short question.

Senator LUGAR. Well, it is a complicated question. The implications are first of all the bomber has to have been initially constructed.

Ambassador EARLE. It has to be initially constructed to be equipped for bombs or missiles.

Senator LUGAR. If the plane was not so initially constructed, then you point out it falls into article VIII. Maybe a fighter is not the appropriate aircraft but just for the sake of the argument let's say the plane starts out as a fighter under articleVI. As many as 16 aircraft can be converted to something else, is that correct?

Ambassador EARLE. That is correct, for test purposes.

Mr. SLOCOMBE. To test the feasibility of putting the——

Senator LUGAR. The putting on of the missile is prohibited at that point?

Ambassador EARLE. It would indeed because one would have to put the missile on to test the airframe for that particular missile and in all practicality to launch them from that airplane.

Senator LUGAR. So both sides then have this flexibility of conversion of 16 aircraft.

Ambassador EARLE. That is correct, yes, sir.

Mr. SLOCOMBE. Then having proved the feasibility of using that design which may originally have been a transport airframe or something like that and used them as cruise missile carriers if it desires. This is a complicated arrangement, it is something which we wanted.

Senator LUGAR. But likewise in addition to the flexibility you believe that you have written language that contains the numbers. In other words, there is not a potential breakout through conversions or unusual uses that evades the count?

Ambassador EARLE. That is correct, because under the agreed statement in paragraph 2 of article VIII the exception, the 16 aircraft to be used for testing must have functionally related observable differences which indicate that others of the same airframe type could not in fact launch cruise missiles with, of course, exceptions for two aircraft that we had on March 7 which the Soviets agreed to accept from the general rule for FROD's.

Senator LUGAR. Thank you.

Senator JAVITS. Could I ask you one question. Did I understand you to say that if the Backfire had been tested with long-range cruise missiles, notwithstanding the Brezhnev statement and the agreement here, all of them would have to be counted?

Ambassador EARLE. If the cruise missile was capable in a range of in excess of 600 kilometers.

Senator JAVITS. They would all have to be counted?

Ambassador EARLE. Yes, except as otherwise provided, as we have discussed.

Senator JAVITS. For no reason other than that the airplane carried the cruise missile?

Ambassador EARLE. It would then fall under the definition of a heavy bomber.

The CHAIRMAN. Let's move on to page 26, article VI, paragraph 7.

Mr. SAUERWEIN. Paragraph 7 reads:

In accordance with the provisions of Article XVII, the Parties will agree in the Standing Consultative Commission upon procedures to implement the provisions of this Article.

The CHAIRMAN. Any questions?

NATURE OF SOVIET-UNITED STATES AGREEMENT ON FROD DEFINITION

Senator LUGAR. How would you characterize our agreement or lack of agreement with the Soviets on what FROD's are? In other words, are there some conventional measuring sticks as to what is going to be considered an FROD for purposes of this article and other conversion articles?

Ambassador EARLE. Senator Lugar, we had a number of discussions with them on this point and in fact there is one case, a practical one to cite, where we agreed to exempt from the count of heavy bombers their Tupolev their Bear airplanes used for reconnaissance because the configuration of the airplane is such that they could not drop bombs. They have the same airframe as their TU-95 bombers but they do have true functionally related observable differences. You can see them and they indicate the airplane is not capable of dropping bombs.

Now with respect to the future, if you will, that is the one and the only precedent we have at the moment. With respect to the future, it would obviously have to be decided on a case-by-case basis but based on informal discussions during the course of the negotiations I think that we both have the same idea of what a functionally related observable difference is as exemplified by the Tupolev reconnaissance aircraft.

Senator LUGAR. Is there any sort of negotiating record? The record of a hearing would not be the appropriate analogy but when you say that you believe that both sides have a pretty good idea of this, is there any sort of printed discussion as to what that might be?

Ambassador EARLE. My recollection is that there were informal conversations between technical staff members regarding future airplanes. Our only record comprises those memoranda made by the American participants in those discussions. There is no formal record of it.

Senator LUGAR. And if there is a dispute, then this goes to the Standing Consultative Commission?

Ambassador EARLE. Yes.

Senator LUGAR. As much as disputes on the verification issues?

Ambassador EARLE. Or any other dispute arising with regard to interpretation or compliance with the agreement.

Senator LUGAR. But there just is no fixed agreement beyond this; in other words, beyond the discussions and a general feeling by both sides that you would know a FROD if you saw one and would agree to what that was?

Ambassador EARLE. For the reason, as I say, it was impossible to project into the future what they might be. We do have the one example on which the sides agreed that there were FROD's.

Senator LUGAR. Thank you.

The CHAIRMAN. May we go then to article VII, paragraph 1.

ARTICLE VII: TEST AND TRAINING LAUNCHERS

Mr. SAUERWEIN. Article VII, paragraph 1, reads:

The limitations provided for in Article III shall not apply to ICBM and SLBM test and training launchers or to space vehicle launchers for exploration and use of outer space. ICBM and SLBM test and training launchers are ICBM and SLBM launchers used only for testing and training.

There is one common understanding which reads:

The term "testing," as used in Article VII of the Treaty, includes research and development.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Chairman, I wonder if in open session we can—and I would leave this up to your judgment, Ambassador Earle or anyone else who wanted to answer this—but could you give us the number of test and training launchers. I understand this has not been agreed to as to the specific number that would be excluded by this provision of the treaty. Then I will have another question.

Ambassador EARLE. I think in open session, Senator Glenn, I can give you approximate figures.

Senator GLENN. If you would rather hold it for executive session, all right.

Ambassador EARLE. I can give you precise figures in executive session.

Senator GLENN. Fine.

Also, a second followup to that would be the number of SS–16 test or training launchers and SS–20 test or training launchers if they have that information even though the SS–20 is not specifically covered under the treaty. Can you give us that in open session or would you like to hold that?

Ambassador EARLE. I would like to reserve that for executive session.

Senator GLENN. Thank you.

The CHAIRMAN. Are we keeping a list of all these things?

Mr. BADER. Yes.

The CHAIRMAN. We are keeping a list of these questions and then we will score them up.

Senator GLENN. Stockpile them.

The CHAIRMAN. Stockpile them.

All right. Then let's proceed to paragraph 2 of article VII, please.

Mr. SAUERWEIN. Paragraph 2 reads:

The Parties agree that:

(a) there shall be no significant increase in the number of ICBM or SLBM test and training launchers or in the number of such launchers of heavy ICBM's;

(b) construction or conversion of ICBM launchers at test ranges shall be undertaken only for purposes of testing training;

(c) there shall be no conversion of ICBM test and training launchers or of space vehicle launchers into ICBM launchers subject to the limitations provided for in Article III.

There are two agreed statements.

The first agreed statement reads:

The term "significant increase," as used in subparagraph 2(a) of Article VII of the Treaty, means an increase of fifteen percent or more. Any new ICBM test and training launchers which replace ICBM test and training launchers at test ranges will be located only at test ranges.

The second agreed statement reads:

Current test ranges where ICBM's are tested are located: for the United States of America, near Santa Maria, California, and at Cape Canaveral, Florida; and for the Union of Soviet Socialist Republics, in the areas of Tyura-Tam and Plesetskaya. In the future, each Party shall provide notification in the Standing Consultative Commission of the location of any other test range used by that Party to test ICBM's.

The first common understanding——

Senator GLENN. I have a question on that.

I don't know whether we are getting into another area for executive session or not. There are other areas in the Soviet Union where certain testing has been done, not necessarily full-range testing. Was that other area or those other areas made a subject of the negotiation and were they deliberately left out of this because the Soviets did not agree, or were they overlooked?

SOVIET ICBM TESTS OTHER THAN AT DESIGNATED RANGES

Ambassador EARLE. My recollection, Senator Glenn, is that it was our view that these were the two ranges in the Soviet Union from which ICBM's had been tested.

Senator GLENN. Full range?

Ambassador EARLE. Yes.

Senator GLENN. But what I am driving at here is that there is another spot where they have tested staging at less than full range which is a very important part of their buildup program. I wondered why that was not included in this. It would be very important.

Ambassador EARLE. Let me say for the open record, Senator Glenn, that these are the ranges we believe for this purpose should be included. We did not propose any others; they did not reject any. I would prefer to defer further explanation to executive session.

Senator GLENN. It is my understanding that if they did full-range testing at any place other than at Tyura-Tam and Plesetskaya it would be a violation of the treaty.

Ambassador EARLE. Yes, if it occurred without prior notification that they designated the third place or the fourth place as an additional test range. They would be entitled to test from a third or fourth place, but it would require notification to us of that fact.

Senator GLENN. Thank you.

The CHAIRMAN. Can we go on then to the first common understanding in column 2, page 26.

Mr. SAURWEIN. The first common understanding reads:

(At test ranges where ICBM's are tested, other arms, including those not limited by the treaty, may also be tested.)

FRACTIONAL ORBITAL MISSILES

The second common understanding reads:

Of the eighteen launchers of fractional orbital missiles at the test range where ICBM's are tested in the area of Tyura-Tam, twelve launchers shall be dismantled or destroyed and six launchers may be converted to launchers for testing missiles undergoing modernization.

Dismantling or destruction of the twelve launchers shall begin upon entry into force of the treaty and shall be completed within eight months, under procedures for dismantling or destruction of these launchers to be agreed upon in the Standing Consultative Commission. These twelve launchers shall not be replaced.

Conversion of the six launchers may be carried out after entry into force of the Treaty. After entry into force of the Treaty, fractional orbital missiles shall be removed and shall be destroyed pursuant to the provisions of subparagraph 1(c) of Article IX and of Article XI of the Treaty and shall not be replaced by other missiles, except in the case of conversion of these six launchers for testing missiles undergoing modernization. After removal of the fractional orbital missiles, and prior to such conversion, any activities associated with

these launchers shall be limited to normal maintenance requirements for launchers in which missiles are not deployed. These six launchers shall be subject to the provisions of Article VII of the Treaty and, if converted, to the provisions of the Fifth Common Understanding to paragraph 5 of Article II of the Treaty.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Yes, Senator Lugar.

May I first ask for a definition of a fractional orbital missile.

Mr. SLOCOMBE. I suspect that Senator Glenn could give a better answer than most of us.

Senator GLENN. I will let you try it first. Go ahead.

Mr. SLOCOMBE. As I understand it, it is a missile which is put into oribit and then deoribted so that it then hits the target before it makes the first complete orbit.

Senator GLENN. That is a good start on it anyway.

The CHAIRMAN. Would you like to take a crack at it?

Mr. SLOCOMBE. I would welcome a correction.

Senator GLENN. The ICBM is an up and down trajectory and it hits the target without going into orbit. Now in the FOB system—fractional orbital system—you go up and essentially go into orbit either at or not quite up to orbital speed. It is a little less than being in full orbital flight so it will almost go around the earth.

The advantage of this is that with the FOB system you can have it coming in the back door here around nine-tenths of the way around the Earth, it would not have gone a full orbit, and hit them where they don't have defenses. So that is the reason it is important to have this covered in the treaty if they had such a system. I don't think either side is likely to go to that type system but it should go into the treaty.

The CHAIRMAN. That was my next question. Based upon our present intelligence information, has the Soviet Union developed or deployed any such fractional missiles?

Mr. SLOCOMBE. Yes.

18 TEST LAUNCHES AT TYURA-TAM

Ambassador EARLE. They tested them some years ago. As far as deployment is concerned, there is a question whether in fact these 18 launchers at Tyura-Tam were considered by them to be operational or, as they asserted, test and training.

The CHAIRMAN. Eighteen launchers. There are no other launchers of the missile of this character known to the United States?

Ambassador EARLE. That is correct.

The CHAIRMAN. And of these 18, under the terms of the treaty 12 will be dismantled and destroyed?

Ambassador EARLE. Yes, Mr. Chairman.

The CHAIRMAN. What is the Russian purpose of retaining the other six?

Ambassador EARLE. Well, I don't know but I believe that their purpose is to use these six test and training launchers at Tyura-Tam for, as they put it, modernization of other missiles. In other words, they would like to use them for testing and training of some other missile in the future perhaps. They have said, "we may use them, otherwise we will dismantle or destroy them."

Senator GLENN. Mr. Chairman.

If I might comment on that, that is very important in tying into what we lost in our monitoring capability out of Iran at Taxman 1 and 2. We have to remember that some of their modernization program involves liquid fueled boosters and those are the ones that are being modernized and developed with new capability that we have to monitor very closely. Their testing has been done basically out of that Tyura-Tam area. Chances are that those liquid fueled boosters will still be tested out of Tyura-Tam which leaves us with some real monitoring problems. That is the importance of this thing. They have asked to keep these and we have agreed that they can keep those launchers there which indicates to me that our assessment that they probably are modernizing their old liquid missiles is a very valid one.

Ambassador EARLE. Of course they have a number of other test and training launchers at Tyura-Tam.

Senator GLENN. Yes. I was concerned about them.

The CHAIRMAN. Suppose your assumptions, Ambassador Earle, prove to be incorrect. Have the Russians decided to use the six launchers that they are permitted to retain for fractional orbital missiles? Would that constitute violation of any provision of this treaty?

Ambassador EARLE. Yes, because under article IX fractional orbital systems are totally banned by the treaty.

The CHAIRMAN. That is what leads you to believe that the retention of these particular launchers must be for another purpose.

Ambassador EARLE. Yes.

Senator LUGAR. Mr. Chairman?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. First of all I would draw your attention, Ambassador Earle, to the staff comments under article VII because I want to raise some questions just for my own information.

The first statement made by the staff was that the numbers of excluded test and training launchers have not been reported or agreed to. Now what is the significance of that statement? What was not agreed to or reported?

Ambassador EARLE. The number of test and training launchers on each side was not included in the data base.

Senator LUGAR. Now there is, however, some argumentation I suppose, and correct me if I am wrong, that these test and training launchers might have some significance with regard to the terms of the treaty, isn't that true, and that there are not perfectly clear lines between what is significant in the weapon sense and what is testing for scientific or space exploration? In other words, is there a problem that there is a mixture of different types of launchers at these sites and we have not separated them out?

Ambassador EARLE. We have not made a division, Senator Lugar, between those launchers used for, let's say, space probes and on the other hand those used for testing of ICBM's. The launchers of those types on each side are exempted from the count against the aggregate.

Senator LUGAR. Because they could not be used for the wrong purpose?

Ambassador EARLE. They can launch missiles. They can launch ICBM's in extremis. I would think that each side could use these

launchers for purposes of attacking the other side but they have been traditionally used for testing and training. In many cases they are soft, that is very vulnerable, and it was agreed in SALT I and carried over into SALT II that those launchers which were used only for testing and training would be exempt from the aggregate count.

COMPARATIVE NUMBERS OF SOVIET AND U.S. TEST LAUNCHERS

Senator LUGAR. Is there any inventory roughly of how many both sides have of this category?

Mr. SLOCOMBE. Yes.

Ambassador EARLE. Yes.

Senator LUGAR. You are quite precise.

Ambassador EARLE. Not only as to how many we have but how many they have.

Senator LUGAR. And it is your judgment at least that we do not suffer a disadvantage with regard to those counts?

Ambassador EARLE. They have somewhat more than we do, Senator Lugar, but I do not consider it a significant factor in the strategic equation even if they were used for these other purposes.

Senator LUGAR. Would you help me in understanding under the executive branch comments at the bottom of that column on page 26 where it mentions a 15-percent figure. "As a result, except for the permitted increase (up to 15 percent), a Party could not locate new test and training launchers at an operational complex." What does the 15 percent refer to?

Ambassador EARLE. It means each side, given the number it has now, may increase the number of its test and training launchers up to 15 percent.

Senator LUGAR. I see; these are still outside, however, the count?

Ambassador EARLE. Yes; they would also be exempted.

Senator LUGAR. But in a way we have implied that we have a count. I mean if we are applying 15 percent to that figure, is it reflected anywhere in the data base or in the treaty language or reports or what have you?

Ambassador EARLE. The number is not reflected.

Senator LUGAR. And it may not be significant, but obviously when you apply 15 percent to something, just in terms of tying down all the four corners, you have to have a base figure so you know whether you are out of bounds or not. How is this done, or is it?

Ambassador EARLE. Well, we know and they know that we know so that the 15 percent does have, in my view, a base figure. It was not set down on paper.

Senator LUGAR. Should it be?

Ambassador EARLE. I don't think it is necessary, Senator. It is quite clear which ones are test and training launchers.

Senator LUGAR. All I am suggesting is that suddenly there were quite a number of new launchers and training centers and what have you and we said, well, we thought we understood that 15 percent is all the increase involved. You may argue, I suppose, that these are all not very hardened anyway, very vulnerable, and don't make a whole lot of difference so that I am not arguing this is a monumental point but it just

seems to me that it might be useful at some stage to sort of get that in the base figures if we have an understanding.

Ambassador EARLE. Obviously, Senator Lugar, if there were any question, it would come up in the Standing Consultative Commission, but when we are talking about 15 percent of the kinds of numbers that exist, we are talking about very small numbers.

Senator LUGAR. In a more significant agreement, why did we agree to allow six launchers still to sit there? This is the heart of the problem. I would think when we talk about modernization, if there is to be a breakout in terms of new types, this is at least one of the places where it is most logically going to happen. What was the nature of the negotiation as to remove from 18 to 6 as opposed to something else?

Ambassador EARLE. It is a long story, Senator Lugar, and actually it was the last issue resolved in Geneva prior to the signing of the treaty. It went on for a very long time and I won't take up your time to go through it all.

Essentially, at the outset the difference was that we considered the manner in which the Soviets treated these launchers, indicated that they were something different from test and training launchers and we concluded that there was a probability that they were in fact operational launchers albeit located at a test range. They insisted that they were test and training launchers, and after what seemed almost an interminable discussion of the subject, this is the compromise that was reached: they will destroy 12 and they will remove the existing missiles from the other 6 and put those 6 launchers into an inactive status. In the future they have the option of converting those 6 launchers into test and training launchers for some other missile undergoing modernization but pending that they may not put missiles into those 6 launchers, which must be maintained in an inactive status.

Senator LUGAR. Are we going to be informed if a missile is put into one of these launchers? In other words, we start the treaty apparently if all goes well with the 12 being dismantled and the 6 empty but potentially available. Now what sort of representation would the Soviets give us to any news of when a missile might go into one of those launchers?

Ambassador EARLE. Well, there is no obligation for them to report their own violations and that is what it would be if they put a missile into one of these launchers as they presently exist. If they wanted to put missiles into the launchers without a violation, they would have to convert the launchers, something which would be clearly visible to us.

Senator LUGAR. They would have to convert in order to do a modernization test?

Ambassador EARLE. Yes, because the type of missile that is presently in those launchers is a different one from any missile that they would be applying their modernization to. It is an obsolete missile.

Senator LUGAR. Is the conversion process reported to us or are we left to our best devices to discover conversion?

Ambassador EARLE. Conversion actions completed and in action must be reported also, it is agreed under the agreed statements and common understandings to the treaty that the Standing Consultative Commission will develop procedures for conversion and that systems may not be converted without agreement on such procedures which I

would repeat again, are to date and certainly will be in the future very much verification oriented.

Senator LUGAR. So the Standing Consultative Commission has to have a conversation before any conversion takes place and the conversion must take place before a modernization test could occur?

Ambassador EARLE. Before they can even put a missile into that launcher.

Senator LUGAR. So if any of these procedures that we don't hear about at the Standing Consultative Commission occur and we understand there is modernization tests going on, then there has been a violation?

Ambassador EARLE. Yes.

Senator LUGAR. Is a conversion without this consultation on procedures that is the trigger point of news?

Ambassador EARLE. They are simply prohibited from putting a missile into these launchers until the procedures have been agreed.

PROPOSED AMENDMENT ON ON-SITE COLLECTION DEVICES

Senator LUGAR. Finally, are we certain that these two testing areas are the heart of the matter for the verification process? The reason I ask that, at some point when we get to article XV, I intend to offer an amendment with regard to onsight inspection. Obviously for an onsight inspection or any other to be effective you want to make certain that you are inspecting all of the potential areas of activity, and as far as the treaty is concerned, these two are listed. The committee may not want to go that route, but if we are going to go that route, where else would we want to have onsight inspection with regard to this testing situation?

OBLIGATION TO NOTIFY OF NEW TEST RANGE

Ambassador EARLE. As I discussed with Senator Glenn, Senator Lugar, each side is obligated to notify the other of a new test range. You are permitted to have additional test ranges but there is an obligation of notification and if they were to test an ICBM from a third location without such notification it would be a violation of the treaty. So they would have to put us on notice of those areas where they intended to test ICBM's.

Senator LUGAR. Then in perfecting an onsight amendment presumably one ought to include the hypothetical situation of requests for new testing areas if there is hypothetically the potential for acceptance of the third or fourth.

Ambassador EARLE. The provision which we agreed upon regarding the named ranges and the requirement for notification was designed exactly for the purpose of assisting our national technical means in verifying compliance with the agreement.

Senator LUGAR. Thank you.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Mr. Glenn.

Senator GLENN. Mr. Chairman, in reading this very carefully I take it that these limitations we are talking about apply only to the 18

launchers that were in the FOB system. Now can you give us a number on the system at Tyura-Tam and Plesetskaya?

Mr. SLOCOMBE. Yes, but not in open session.

Senator GLENN. There is another one for closed session. I think it would be important for the committee to know how many total launchers of test and training that could be used from either one of those two sites. I was just pointing out that these limitations under the second common understanding apply only to conversion or destruction of the fractional orbital missile system.

Ambassador EARLE. That is right.

Senator ZORINSKY. For the purposes of your questioning in executive session, I might direct your attention to the staff comment in paragraph 2, second sentence, which points out there are test and training launchers at operational complexes.

Senator GLENN. Yes.

The CHAIRMAN. May we then go ahead with article VIII.

ARTICLE VIII: LIMITS ON AIRCRAFT OTHER THAN HEAVY BOMBERS

Mr. SAUERWEIN. Article VIII, paragraph 1, reads:

Each Party undertakes not to flight-test cruise missiles capable of a range in excess of 600 kilometers or ASBM's from aircraft other than bombers or to convert such aircraft into aircraft equipped for such missiles.

There is an agreed statement associated with this paragraph that reads:

For purposes of testing only, each Party has the right, through initial construction or, as an exception to the provisions of paragraph 1 of Article VIII of the Treaty, by conversion, to equip for cruise missiles capable of a range in excess of 600 kilometers or for ASBM's no more than sixteen airplanes, including airplanes which are prototypes of bombers equipped for such missiles. Each Party also has the right, as an exception to the provisions of paragraph 1 of Article VIII of the Treaty, to flight-test from such airplanes cruise missiles capable of a range in excess of 600 kilometers and, after the date on which the Protocol ceases to be in force, to flight-test ASBM's from such airplanes as well, unless the Parties agreed that they will not flight-test ASBM's after that date. The limitations provided for in Article III of the Treaty shall not apply to such airplanes.

The CHAIRMAN. I wonder if we can have a statement from the administration concerning the reasons for this agreed statement as an exception to the rule of the prohibition contained in paragraph 1 of article VIII.

Ambassador EARLE. This, Mr. Chairman, is the subject we touched on somewhat earlier that there was considerable discussion regarding the propriety or impropriety of permitting conversion of the existing airplanes. We, the United States, wanted the opportunity to convert, as I suggested earlier, perhaps, wide-bodied airplanes in order to determine whether we wanted such a cruise missile carrier and if so which one. Accordingly, at our insistance, this exception to the ban on conversion was incorporated into the agreement in order that we might go ahead with our plans for converting existing nonbomber aircraft into cruise missile carriers for the purposes of testing and development.

The CHAIRMAN. Thank you.

Any questions?

If not, let's go to page 28, paragraph 2.

Mr. SAUERWEIN. Paragraph 2 reads:

Each Party undertakes not to convert aircraft other than bombers into aircraft which can carry out the mission of a heavy bomber as referred to in subparagraph 3(b) of Article II.

The CHAIRMAN. Any comment from the administration?

Ambassador EARLE. This, Mr. Chairman, is simply a companion piece to the prior paragraph maintaining the ban on conversion but in this case we saw no need or desirability for an exception to it.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Does that take care of part of my concern a while ago about using other aircraft on a refueled mission?

Ambassador EARLE. I am not sure that it does, Senator Glenn, to be frank, because it deals with conversion of aircraft other than bombers. If you are referring to a light bomber with refueling, then this would not cover that.

Senator GLENN. I am concerned that as hard as they are working on some of their refueling capability there might be the development of planes that we would not normally consider a heavy bomber that would make them just as devastating as a heavy bomber. That is my thought. I thought perhaps the way this was worded you had interpreted this in the negotiating process to perhaps cover those concerns about using other aircraft other than the ones designated in earlier paragraphs but maybe this would not apply.

Mr. SLOCOMBE. If I might, Senator Glenn, it covers a part of your concerns because it deals with aircraft that are not bombers at all. The problem of aircraft which are not heavy bombers is dealt with in other parts of the treaty.

Senator GLENN. OK. We got all upset when Mig-23's were coming into Cuba because they supposedly can carry nuclear weapons. They didn't have much range as nuclear delivery systems so I don't think it probably was put in for that purpose but you could set up a scenario where with inflight refueling, the Mig-23 could target a great portion of the United States.

I am not trying to set up a doomsday scenario, but with long-range in-flight refueling that could normally be expected.

Ambassador EARLE. We have a number of aircraft with that capability.

The CHAIRMAN. And more than they have.

Ambassador EARLE. Yes.

The CHAIRMAN. Far more.

Senator GLENN. And a lot faster.

Thank you, Mr. Chairman.

The CHAIRMAN. Any other questions or comment?

Let's go to page 29 then and commence with article IX of the treaty.

ARTICLE IX: BANNED SYSTEMS

Mr. SAUERWEIN. Article IX, paragraph 1, reads:

Each Party undertakes not to develop, test, or deploy:
(a) ballistic missiles capable of a range in excess of 600 kilometers for installation on waterborne vehicles other than submarines, or launchers of such missiles;

(b) fixed ballistic or cruise missile launchers for emplacement on the ocean floor, on the seabed, or on the beds of internal waters and inland waters, or in the subsoil thereof, or mobile launchers of such missiles, which move only in contact with the ocean floor, the seabed, or the beds of internal waters and inland waters, or missiles for such launchers;

(c) systems for placing into Earth orbit nuclear weapons or any other kind of weapons of mass destruction, including fractional orbital missiles;

(d) mobile launchers of heavy ICBM's;

(e) SLBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the light ICBM's deployed by either Party as of the date of signature of this Treaty, or launchers of such SLBM's; or

(f) ASBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the light ICBM's deployed by either Party as of the date of signature of this Treaty.

The CHAIRMAN. I think we should take these one at a time—

1(a), Each Party undertakes not to develop, test, or deploy ballistic missiles capable of a range in excess of 600 kilometers for installation on waterborne vehicles other than submarines, or launchers of such missiles.

What does "or launchers of such missiles" mean? That neither the missile nor the launcher of a missile with a range in excess of 600 kilometers may be developed, tested, or deployed for installation on ships; isn't that what it means?

Ambassador EARLE. That is right, both the launcher and the missile. This is article IX which, if I may say so, Mr. Chairman, is what we refer to as the "bans" article. These are total bans; we made the bans as complete as possible.

The CHAIRMAN. So between now and the expiration of the treaty in 1980 neither side could develop, test, or deploy shipborne ballistic missiles with a range in excess of 600 kilometers.

Ambassador EARLE. Exactly.

The CHAIRMAN. All right. If there are no questions, let's go to (b).

Do you have a question, Senator Glenn?

Senator GLENN. I will ask it in executive session later on.

Would the staff make a note on that particular item on 1(a) under article IX that I had a question I wanted to come back to in executive session.

The CHAIRMAN. Has the staff made that notation?

Mr. BADER. Yes.

The CHAIRMAN. All right. Subparagraph (b),

Each Party undertakes not to develop, test, or deploy fixed ballistic or cruise missile launchers for emplacement on the ocean floor, on the seabed, or on the beds of international waters and inland waters, or in the subsoil thereof, or mobile launchers of such missiles, which move only in contact with the ocean floor, the seabed, or the beds or internal waters and inland waters, or missiles for such launchers.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Yes, Senator Pell.

CONTINUATION OF SEABED ARMS CONTROL MEASURES

Senator PELL. I take great delight in this provision because it comes directly out of the Seabed Arms Control Treaty which came out of a resolution I introduced about 10 years ago on ocean space. It is really

a repetition of that treaty which has been in effect for some years now but there is one omission as I see it here and that would be if there is a deposit of a supply of nuclear weapons that were left on the seabed floor that is prohibited under the Seabed Arms Control Treaty, it is not prohibited under this treaty. What is the reason for that difference?

Ambassador EARLE. The very reason you suggest, it is prohibited under the other treaty. This goes a little further in some respects than the Seabed Arms Control Treaty, in that it applies to inland waters and territorial waters.

Senator PELL. You are correct that neither territorial nor inland waters were covered in my treaty. That is the only difference, isn't it, between the two?

The CHAIRMAN. Senator Pell, you got the process started.

Ambassador EARLE. If I am correct, Senator Pell, your treaty, if I may call it that, bans deployment and this bans the testing of systems as well.

Senator PELL. And it is a ban against missiles of any range?

Ambassador EARLE. Yes.

Senator PELL. But at the same time that the seabed treaty was passed there were weapons that were called by nicknames that were developed on drawing boards or in three dimensions. Does this treaty prevent their being on the drawing board? Does it seek to prohibit that?

Ambassador EARLE. No. The negotiating history is clear that the "development" is essentially the same. As you suggest, it here refers to three-dimensional testing. Obviously, one could not verify a prohibition on drawing.

Senator PELL. Just out of curiosity since much of this provision is repetitious, was it just a question of omission that the storage of nuclear weapons on the seabed floor, which is prohibited under the Seabed Arms Control Treaty is not prohibited under the SALT II Treaty?

The CHAIRMAN. You mean nuclear weapons other than missiles?

Senator PELL. I mean missiles in storage which then with the development of time would permit a party to get a new supply readily. That was prohibited under the Arms Control Seabed Treaty.

Mr. GRAHAM. It was intended to extend at least partially the provisions of that treaty to internal and inland waters but to deal with only the kinds of limitations and systems that are covered by the SALT Treaty as a whole.

Senator PELL. You were not concerned with the situation in the future but that is what interested me and those of us who supported the Seabed Treaty.

Mr. GRAHAM. Yes.

Ambassador EARLE. SALT basically.

Senator PELL. It is a 3-year, 5-year treaty whereas this was more open.

Ambassador EARLE. I hope it is a 6-year agreement.

The CHAIRMAN. Subparagraph (c) reads:

> Each Party undertakes not to develop, test, or deploy systems for placing into Earth orbit nuclear weapons or any other kind of weapons of mass destruction, including fractional orbital missiles.

I think we have covered that very well in the previous discussion.

DEFINITION OF WEAPONS OF MASS DESTRUCTION

Senator GLENN. Mr. Chairman, could I ask on this, if they or we have permanently orbiting spacecraft? I presume this would prevent any other kind of weapon being used. Do we define weapons of mass destruction?

Ambassador EARLE. No.

Senator GLENN. Are those presumed as being nuclear or any weapons of mass destruction?

Mr. GRAHAM. Senator Glenn, there is a longstanding understanding about what "weapons of mass destruction" means. That phrase appears in earlier arms control agreements. It means nuclear weapons, chemical weapons, radiological weapons and bacteriological weapons.

Senator GLENN. That was going to be the next question, chemical and bacteriological.

Mr. GRAHAM. Yes.

Senator GLENN. They would be prohibited from being carried on board a spacecraft?

Mr. GRAHAM. Under this provision they would be.

Senator GLENN. Is that classified as a weapon of mass destruction?

Mr. GRAHAM. That is the generally accepted international view as to what this phrase means. It appears in a number of arms control agreements.

Senator GLENN. Have the Soviets agreed to that description?

Mr. GRAHAM. I believe that they have, yes, sir.

Senator PELL. I wonder if there might be submitted for the record an itemization of what is considered a mass destruction weapon by the United States and what are considered weapons of mass destruction by the Soviet Union.

Ambassador EARLE. I think a mutuality of views exists between the two parties.

Senator PELL. List that for the record.

Mr. GRAHAM. We will prepare that.

Senator PELL. I share Senator Glenn's curiosity. When and where did the Soviets agree to this, too?

Ambassador EARLE. We will be pleased to supply that for the record, Senator.

[The following material was subsequently supplied for the record:]

The following resolution was adopted by the U.N. Convention Commission for Conventional Armaments on August 2, 1948, and supported by both the United States and the Soviet Union:

> The Commission for Conventional Armaments resolves to advise the Security Council:
>
> 1. that it considers that all armaments and armed forces, except atomic weapons and weapons of mass destruction, fall within its jurisdiction and that weapons of mass destruction should be defined to include atomic explosive weapons, radioactive material weapons, lethal chemical and biological weapons, and any weapons developed in the future which have characteristics comparable in destructive effect to those of the atomic bomb or other weapons mentioned above.
>
> 2. that it proposes to proceed with its work on the basis of the above definition.

On November 2, 1979, the United States and the Soviet Union tabled a joint draft resolution in the First Committee of the United Nations on the subject of concluding an international convention prohibiting the development, production,

stockpiling and use of radiological weapons. This draft resolution (U.N. Doc. A/C.1/34/L. 7) has the effect of recording the endorsement by both the United States and the Soviet Union of the above-quoted U.N. definition.

Senator GLENN. I didn't recall, at least in my reading the treaty whether these other types of weapons here were covered and I thought we ought to bring that up.

Senator PELL [presiding]. Mr. Sauerwein?

DESTRUCTION OF FRACTIONAL ORBITAL MISSILES

Mr. SAUERWEIN. I would like to point out, Mr. Chairman, the staff comment under paragraph 1(c). I will read it.

The parties have agreed in this provision "not to develop, test, or deploy systems for placing into Earth orbit nuclear weapons or any other kind of weapons of mass destruction, including fractional orbital missiles". It is not clear from this language what must be done with any existing Soviet fractional orbital missiles. The executive branch states "any fractional orbital missiles in existence must be dismantled or destroyed." Such an interpretation seems to draw upon more than the wording of the provision.

We might want to ask the administration or the executive branch for a comment.

Senator GLENN. Mr. Chairman, I would so ask.

Did the Soviets agree that any such weapons must be destroyed or was that a unilateral statement of ours?

Ambassador EARLE. Senator Glenn, the Soviets did indeed agree to it; in fact, it was their proposal for this common understanding to exempt certain launchers because under paragraph 4 of article XI all prohibited systems must be dismantled or destroyed. Now the fact is that there are FOB system missiles, a modification of the SS–9 booster, and their concern, and understandable concern, was that we might interpret the prohibition on the systems for placing into Earth orbit as applying to all SS–9 launchers. So after negotiations during which they expressly conceded in plenary statements as well as in other conversations that it was clear that the missiles themselves had to be destroyed, they asked for and I think properly received—an exception for the other launchers in view of the fact that they had few fractional orbital missiles with SS–9 launchers with four different modes of the SS–9.

Senator GLENN. The weapons themselves, the fractional orbital missiles, will be destroyed?

Ambassador EARLE. Yes.

Senator GLENN. That is required?

Ambassador EARLE. Yes, that is required. The negotiating record, as I say, including plenary statements, is absolutely clear on that subject.

Senator GLENN. I might want to ask Mr. Sauerwein, does that answer your question?

Mr. SAUERWEIN. Yes: I think it makes the point, Senator, that it is the negotiating record that is important here in that the phrase "not to develop, test, or deploy" has a meaning that goes somewhat beyond the words in this sense.

The CHAIRMAN. Let me say we have discussed launchers for these particular weapons and you have said in your testimony that at an earlier date the Russians had tested these weapons. Now you have testified that the Soviet Union must destroy any such weapons to comply with the terms of this provision of the treaty. How would we verify the destruction of these weapons? Do we know that they do in fact exist?

Ambassador EARLE. We have been told by the Soviets that they exist pursuant to our previous colloquy about the 18 launchers at Tyura-Tam.

The CHAIRMAN. Do we know the weapons also exist? Do we also know how many weapons there are?

Senator GLENN. If the Chairman will yield, is this part of our data base information on the number of FOB system?

Ambassador EARLE. No, it is not.

Senator GLENN. Do we know how many there are?

The CHAIRMAN. How do we know they complied with this provision of the treaty or not?

Ambassador EARLE. Because there are procedures to be promulgated by the Standing Consultative Commission for the destruction of the missiles themselves. With respect to our knowledge about the number of FOB system missiles that exist, I think we should deal with that in executive session. We have not discussed with the Soviets the number of FOB system missiles.

The CHAIRMAN. Do we know the number?

Ambassador EARLE. We have a good idea, Senator.

The CHAIRMAN. All right. I think it should be borne in mind, and I have to be candid on this, that the FOB system missiles are SS–9 boosters and that theoretically it would be difficult to verify whether in fact they had placed a FOB system front end on an SS–9 booster. The fact of the matter is though that the FOB system missiles are essentially inefficient missiles because they are not very accurate and they can do a much better job with the SS–9 missiles which are permitted under the treaty.

I think we should pursue the numbers in executive session, but I have a general idea of how we would proceed to the enforcement from what you have said of this provision.

Senator LUGAR. While we are discussing the FOB system as Senator Glenn described earlier what they are, how important an issue is this? In other words, what sort of importance could be attached if they simply didn't comply?

Mr. SLOCOMBE. Senator Lugar, to put that in perspective, we are not going into details in open session. The FOB system has not been tested for a good many years. It is clearly a system which the Soviets abandoned sometime ago and therefore while it is important to deal with all these issues it is not a first order problem.

Ambassador EARLE. I would add another comment, Senator, that consistent with what Senator Glenn said earlier about coming in the back door against defenses, the Soviets appear to have lost interest in the FOB system when the ABM Treaty was signed because then there was no longer a significant purpose in maintaining or even developing such a system.

Senator GLENN. We have no defenses anyway. It is sort of academic. They would have to have an ABM system. It would be much more important for us to have a FOB system than them but I think the likelihood of that being developed into a major weapon system is rather remote, but I am glad it's covered here.

OTHER ARTICLE IX BANS

The CHAIRMAN. Can we go to the next subsection. We are running out of time. I would like to complete this particular article.

Subsection (d). Each Party undertakes not to develop, test, or deploy mobile launchers of heavy ICBM's.

I think that is clear enough.

Mr. SLOCOMBE. In this context could I make a statement this was a provision that was included at our suggestion and includes the suggestion that the United States was not interested in deploying heavy mobiles. Also, in each case we made a careful examination of whether these were systems which in the context of the treaty of the United States had any interest in it and concluded that we did not.

Senator GLENN. Mr. Chairman, this would be within our limitations of the SS–19 that we discussed earlier?

The CHAIRMAN. Yes.

Ambassador EARLE. Yes.

The CHAIRMAN. All right. Subsection (e) reads:

Each Party undertakes not to develop, test, or deploy SLBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the light ICBM's deployed by either Party as of the date of signature of this Treaty, or launchers of such SLBM's.

That is consistent with the earlier rule that we have already.

Senator GLENN. This would be the same thing as paragraph (d) except it applies to SLBM's.

Ambassador EARLE. Yes; the SS–19 is the standard for each of those provisions.

The CHAIRMAN. Finally, subsection (f) reads:

Each Party undertakes not to develop, test, or deploy ASBM's which have a launch-weight greater or a throw-weight greater than that of the heaviest, in terms of either launch-weight or throw-weight, respectively, of the light ICBM's deployed by either Party as the date of signature of this Treaty.

Same thing.

Senator LUGAR. Earlier on, Mr. Chairman, did we determine now that there is some data base as to what the heaviest is? I know we have discussed this back and forth and away but it is rebounding in various ways in the treaty. When we talk about greater than that of the heaviest, how close are we to having a benchmark as to what that would be? Do you know the number of pounds or what do you use at that point?

Ambassador EARLE. We have estimates, Senator Lugar, of the launch-weight and throw-weight of the SS–19. What they are I think should be reserved for executive session but—what has been said almost ad nauseam here—we believe strongly that it is easier to measure changes or comparative weights against an existing missile than against an arbitrary figure of kilograms.

The CHAIRMAN. The last part of this particular article appears on page 30. I wonder if that can be read, and we will conclude the morning session with this provision.

Mr. SAUERWEIN. Paragraph 2 of section IX reads:

Each Party undertakes not to flight-test from aircraft cruise missiles capable of a range in excess of 600 kilometers which are equipped with multiple independently targetable warheads and not to deploy such cruise missiles on aircraft.

There is one Agreed Statement associated with this that reads:

Warheads of a cruise missile are independently targetable if maneuvering or targeting of the warheads to separate aim points along ballistic trajectories or any other flight paths, which are unrelated to each other, is accomplished during a flight of a cruise missile.

The CHAIRMAN. This provision lasts for the full term of the treaty?

Ambassador EARLE. It does, Mr. Chairman.

The CHAIRMAN. And it would mean that between now and the end of 1985 neither country could deploy, test, or develop MIRVed cruise missiles?

Ambassador EARLE. Not developed.

Mr. SLOCOMBE. Not developed, sir.

The CHAIRMAN. Flight tested.

Mr. SLOCOMBE. Right.

The CHAIRMAN. This is different than the other provision but no MIRVed cruise missile would be flight tested by either party during the term of the treaty?

Mr. SLOCOMBE. That is correct, from aircraft. From aircraft. That is important.

The CHAIRMAN. From aircraft.

Ambassador EARLE. The ban against flight-testing of long-range cruise missiles with multiple independently targetable warheads from sea-based or land-based launching applies only for the period of the protocol.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Mr. Glenn.

Senator GLENN. I suppose you can MIRV a cruise missile so long as its range is under 600?

Ambassador EARLE. Yes.

Senator GLENN. If one was under 600 kilometers in range, you could put it on an airplane and go ahead and test it, right?

Ambassador EARLE. Yes.

Senator LUGAR. Mr. Chairman.

Senator GLENN. It is a way around a lot of things here that that is going to be done by either side.

Ambassador EARLE. Yes.

Senator GLENN. Especially in defining the range of a cruise missile.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Mr. Chairman, referring to the administration review again, why did we agree to do that? You know, clearly this would appear to be an area in which we have some potential breakthrough possibilities. What did we give up or what was the matrix in which this particular item fell in?

Mr. SLOCOMBE. It is true the United States is ahead of the Soviet Union in technology and that is an important advantage. However,

we have no plans or indeed realistic prospects quite apart from firm plans of flight testing in mutliple warhead air-launched cruise missiles before 1985. Therefore, in the context of the resolution of a number of issues toward the end of the negotiation which were of considerable practical importance to us, particularly related to getting hold of fractionalization problems on ballistic missiles, we were prepared to agree to this limitation for the period of the treaty and limited to air-launched cruise missiles and not prohibiting development work.

Senator LUGAR. This is obviously a larger argument but I wonder why we are not going to or why we have not pressed along with this more rapidly. In other words, the suggestion is given since we were not going to make it anyway by 1985 that this is something that could be finessed in the course of the negotiations but has the technology here been simply held back? Is this one of these issues in which in order to fit the SALT Treaty we have more or less held back on those things that we should have been doing?

Mr. SLOCOMBE. Certainly not, Senator Lugar. The air-launched missile program is moving at the fastest responsible pace, it is being pressed extraordinarily fast. Neither this provision nor any other has inhibited the pace of our air-launched cruise missile or ground or submarine.

Senator LUGAR. But this is the key factor, is it not, of one part of the triad? In other words, these are the missiles that we hope that will be used with the B–52 as the alternative to the B–1. What you are saying in essence is we are doing the very best we can but it does not occur before 1985 that we would get this and therefore——

Mr. SLOCOMBE. Not multiple warhead cruise missiles, no. The air-launched cruise missiles which are being developed and will be deployed will be single warheads. That is, each cruise missile will carry one warhead.

Senator LUGAR. I appreciate that but obviously multiple warheads would be of more value.

Mr. SLOCOMBE. That is not self-evident.

Ambassador EARLE. Multiple warhead cruise missiles are not prohibited, it is only multiple independently targetable warheads which is a quantum jump ahead.

Senator LUGAR. Thank you.

The CHAIRMAN. I ask to adjourn because of the luncheon that is being given for Sheik Yamani. [Laughter.] Dutch treat. [Laughter.]

Mr. SLOCOMBE. Don't keep him waiting.

The CHAIRMAN. I would like to announce at this time that the committee will commence with a consideration of article X on page 30 of the markup when we meet again on Monday. It is anticipated that the same objection will be lodged to the committee's meeting in the afternoon on Monday, and so if that is the case, the committee will meet at 10 o'clock Monday morning, to continue with its markup. If it develops that no objection is lodged, the committee will meet at 2 o'clock Monday afternoon in order to try to accommodate members who may have problems over the weekend. The staff will advise the members of the committee as to whether the meeting will occur at 10 o'clock in the morning or at 2 o'clock in the afternoon.

Senator GLENN. Mr. Chairman, I want to announce I will have several understandings that will be distributed this afternoon so that

we make this 48-hour rule. I also would note, Mr. Chairman, that I would still hope, as I represented to the committee before, that we could have our schedule stretched out a little bit on the committee. I think it has been obvious this morning how many members we have not had in attendance. I think this is a most important treaty and I would hope that we would not go on with these every day sessions, I think this is too important. I would once again urge that we go to a schedule that would let us do a few other things, at least along with our duties on this committee.

The CHAIRMAN. That suggestion will be taken under advisement. [Laughter.]

Senator GLENN. That is the same answer I got before, Mr. Chairman.

The CHAIRMAN. And I think it is time to go to lunch.

[Whereupon, at 12:35 p.m., the committee adjourned, to reconvene at 10 a.m., Monday, October 22, 1979.]

THE SALT II TREATY MARKUP

MONDAY, OCTOBER 22, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:16 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, McGovern, Glenn, Zorinsky, Javits, Percy, Hayakawa, and Lugar.

The CHAIRMAN. The hearing will please come to order.

Senator Javits is on his way. I do not anticipate that the committee will take any action until we have a working quorum, so I would propose that we begin with a reading of article X.

Senator LUGAR. Mr. Chairman, may I discuss for a moment the procedural question as far as scheduling this afternoon? As the chairman knows, the Krueger nomination is coming up as the first order of the agenda, and some of us will be involved in that, perhaps the chairman himself. It would seem to me to be inappropriate for the SALT markup to be continuing while many of us on the committee are engaged in that floor action.

I want to know what the chairman's disposition is with regard to the scheduling this afternoon.

Senator GLENN. What is the floor action on, Mr. Chairman?

The CHAIRMAN. The floor action is on the Krueger nomination. I think it depends a good deal on how much progress we can make during the day. I believe that the consideration of the Krueger nomination is at 3 o'clock, and if we make good progress, I would be amenable to adjourning the committee for that purpose. Or, if there is a working quorum that wishes to continue on the treaty, we might have an understanding that there would be no votes taken and that proposals would be deferred until tomorrow.

Senator LUGAR. Mr. Chairman, I have not raised an objection to the committee meeting while the Senate is in session, because I appreciate the importance of moving on with this, but it seems time when something of this importance is proceeding here and the Krueger nomination, also of importance, somewhere else, I think we ought to cease fire, at least during that period when we have an important item such as that on the floor. I would hope that the chairman would adjourn the committee after the Krueger nomination comes up, which I understand will be after the special order. The Senate comes in at 2 o'clock, there are two special orders, and some other morning business, but clearly some time around 2:45 or thereabouts we will be at it for another 2 hours or so.

I would hope that we would not meet and consider these issues, because I don't consider them perfunctory, even if we are not here to have the rollcall votes on these amendments.

The CHAIRMAN. Let's proceed now and see how much we can accomplish, Senator. Then perhaps we will have made enough progress so that we can adjourn the committee for the rest of the day, for the reasons that you have pointed out, Senator Lugar.

Senator LUGAR. Thank you, Mr. Chairman.

Senator PERCY. Mr. Chairman, one possibility might be to poll the Senators who feel that they want to be on the floor during the Krueger nomination, and see if there are amendments that would vitally interest them.

The CHAIRMAN. I made that suggestion, Senator.

Senator PERCY. Perhaps we can defer those amendments and reserve their right to be here during the discussion. I don't think we all intend to be on the floor during the Krueger nomination.

The CHAIRMAN. Thank you, Senator.

Senators, shall we proceed, please, with article X?

ARTICLE X: MODERNIZATION AND REPLACEMENT

Mr. SAUERWEIN. Article X reads:

Subject to the provisions of this treaty, modernization and replacement of strategic offensive arms may be carried out.

The CHAIRMAN. I believe there are no problems with article X, about which I know no proposals have been tabled. That being the case, let us move on to article XI on page 31.

Senator GLENN. Mr. Chairman, before we move on, may I ask a question on article X?

The CHAIRMAN. Of course.

Senator GLENN. The limitations on modernization and replacement, the 5-percent rule—this does not specifically refer to those here—that is taken care of in another part of the treaty, but I trust that article X is subject to those other provisions. Does that refer back to this article X in the other part? Because in this part, article X does not refer to that part of the treaty.

Is there any doubt about the 5-percent limits being applicable to this article X?

Mr. SAUERWEIN. I think not, Senator, because it does refer to "Subject to the provisions of the treaty," and also in the annex of the executive's branch submittal letter they point out all of the other restrictions.

Senator MCGOVERN [presiding]. Senator Church has asked me to preside just briefly. Are there any further questions on article X?

Senator PERCY. I have something to present on article XII whenever it is appropriate.

ARTICLE XI: DISMANTLING AND DESTRUCTION

Senator MCGOVERN. Well, we are about to go to article XI, Chuck. Is there any discussion on article XI?

The staff has raised a couple of points that I might ask the administration to comment on. Except for heavy bombers, it is launchers,

not missiles, which are to be destroyed. The Soviets could, if they wish, retain the excess missiles rather than destroy them. Moreover, if they retire SLBM launchers, they could convert the submarine into attack boats rather than destroy them. The same is true for heavy bombers. They could be made into reconnaissance or tanker aircraft.

ICBM's could be stored for reload or converted into space-launched vehicles.

I wonder if the administration people could tell us what the Soviets are expected to do with systems taken from excess launchers.

AMBASSADOR EARLE. Mr. Chairman, if I understand the question, it is what the Soviets are expected to do with respect to missiles.

Senator MCGOVERN. Yes; also, with submarines and with bombers that are in excess of the numbers. Those things all could be used for other purposes conceivably. Do you have any understanding as to what they plan to do with these excess systems?

The treaty calls for certain launchers to be dismantled but it doesn't say anything about what you do with excess missiles If you take heavy bombers out of circulation as bombers, they could be used as tanker or reconnaissance aircraft. What is your understanding of what will be done with these systems that are surplus under the treaty?

Ambassador EARLE. Taking them one by one, with respect to excess launchers which might be dismantled or destroyed, the Soviets, as we, are entitled to retain the missiles which were in those launchers. Now, there is one exception to that, and that is with respect to the fractional, orbital launchers, in which case the missiles must be destroyed, because that is a totally prohibited system, whereas, with respect to the other launchers they are simply numerically limited, and the sides may retain the missiles applicable to those launchers.

With respect to the SLBM launchers, you are quite correct, Senator McGovern, that if the launchers themselves are dismantled or destroyed, the boats may be converted to attack boats, and there has been evidence of that in the past. And the missiles themselves again, being a limited, not a prohibited system, may be retained.

With respect to bombers, the bombers themselves would be subject to procedures for dismantling or destruction which will be worked out in the Standing Consultative Commission. As you know, certain Bison bombers are to be converted into tankers and removed from the aggregate in that fashion.

Senator MCGOVERN. Thank you.

The CHAIRMAN [presiding]. Are there other questions?

[No response.]

CONSTRAINTS ON MISSILE RAPID RELOAD

The CHAIRMAN. The theory behind the destruction of a launcher, according to the procedures agreed upon, is that the launcher enables the missile to be fired, and therefore, a reduction in number of launchers precludes the use of the missile associated with them; is that correct?

Ambassador EARLE. That is correct, Mr. Chairman. The understanding that was established in the Standing Consultative Commission in the implementation of SALT I which would be carried over into SALT

II is that dismantling must be of such a nature that it would take at least as much time to restore that launcher to operating capability as it would be to construct a new one.

The CHAIRMAN. And the treaty seeks to prevent the multiple use of the remaining launcher——

Ambassador EARLE. It does.

The CHAIRMAN [continuing]. By prohibiting the stockpiling of missiles nearby, and in that connection only those systems which use a method for ejecting the missile out of its launcher before the engines of the missile itself are ignited, could be used for refiring anyway; isn't that correct,

Ambassador EARLE. But there is a prohibition, as you know, Mr. Chairman, on the development of a rapid reload system, and then additional associated provisions, as you mentioned, with regard to the stockpiling or storage of missiles proximate to the launchers.

The CHAIRMAN. Are there any further questions on this article?

[No response.]

The CHAIRMAN. Then let us proceed, Mr. Sauerwein, to article XII.

ARTICLE XII: NONCIRCUMVENTION

Mr. SAUERWEIN. Article XII reads—

In order to insure the viability and effectiveness of this treaty, each party undertakes not to circumvent the provisions of this treaty through any other state or states, or in any other manner.

Senator JAVITS. Mr. Chairman?

The CHAIRMAN. Senator Javits?

Senator JAVITS. Mr. Chairman, on our side, Senator Percy has had a very longstanding interest in this particular article. Indeed, I think he mentioned it at the very first hearing we had on this. You and I did draft an understanding with the staff and with the cooperation of Senator Percy's staff. We have that before the committee.

Our staff in connection with Senator Percy's staff has now developed an understanding which merges what they consider and I agree is the best of the two understandings.

With the permission of the Chair, I would like Senator Percy to present this.

The CHAIRMAN. I think that is very appropriate, given Senator Percy's interest in this matter.

Senator Percy?

UNDERSTANDING ASSURING WEAPONS COOPERATION WITH NATO ALLIES

Senator PERCY. Thank you very much, Senator Javits and Mr. Chairman.

I would like to simply indicate that my own interest in this area is coincident with the interest of our chairman and ranking minority member, and with Senator Lugar, who has offered an understanding in this area and who has spoken very forcefully on it, and with Senators Biden and Pell as well.

What we have done is to try to take the best of what has been offered. There is no area that is more sensitive from the standpoint of our

NATO allies but also sensitive with respect to the Soviets. Here we must proceed in a way that is totally satisfactory to our allies. The essence of what we do must be acceptable to them because this does involve the security of Europe and the security of the United States. NATO is one of the most essential security pledges that this Nation has made.

Obviously, modernization of forces is not prohibited by this treaty. Both parties, the Soviet Union and the United States, have talked about it ad infinitum. There are recent utterances by the Soviet Union, who have put us on notice about their concerns about modernization of NATO forces. We feel it is incumbent upon the administration as we go through this markup day by day to transmit to the Soviets and their negotiators and particularly Ambassador Dobrynin the very, very strong feelings, and I hope unanimous recommendations of this committee.

For this reason, I think it is important to present something that does represent a composite of all of the views of the numbers of Senators who have addressed themselves to this critical issue.

I think this committee has reached a general consensus on the meaning of article XII of the treaty. None of us wants to see any misunderstanding about the meaning of article XII. None of us wants to see our traditional patterns of cooperation with our NATO allies disrupted as a result of our agreement to this provision in SALT II.

Several committee members, as I have said, including Senators Church, Javits, Pell, Biden, Lugar, and me, have drafted language on an understanding on this issue. The language in each case is different, but the meaning is the same. I hope this is one issue that can be settled unanimously in this committee.

Modernization of theater nuclear weapons in NATO has become a sensitive international issue. The Soviets have already made known their opposition to such action. Our NATO allies see the need for modernization but face the same kind of political resistance that we see here in the United States to anything nuclear, even the licensing of nuclear powerplants.

WHICH CATEGORY MOST APPROPRIATE

We must take action in this committee which is sensitive to the international situation but which is also a clear statement of the U.S. interpretation of this SALT II Treaty provision. There are really two issues here. First is the language to be adopted. Second is the form in which it should be adopted. That is, in category I, II, or III. I have reviewed all of the various proposals for language. Most are quite similar and use as a starting point the June 29, 1979, U.S. statement to the North Atlantic Council.

That statement said that the SALT II Treaty will not interfere with our continued cooperation with our NATO allies. I believe we should use some of the language of this statement in our understanding.

The second issue is the category in which this understanding should be placed. Senator Lugar has introduced his understanding in category III. I do not know how other Senators come out on this

question, but I have now concluded that the issue should be placed in category I. It is my understanding that our NATO allies not only accept this as adequate but actually prefer for a number of reasons category I to either category II or category III.

We must recognize that it is in their essential national security interest that we are addressing ourselves to this point. I would want to reference the fact that the antisatellite understanding which I introduced for printing last week I will offer and will continue to offer. I do prefer that to be a category III item which the Soviets would formally accept. But in this case, I feel it is probably not necessary that they do that, and in fact it might be undesirable for a number of reasons.

I support its inclusion as a category I because it is a commitment by the United States to our NATO allies. It is not a commitment to be put forward for Soviet acceptance or approval. We see no reason why they should approve this. It is clearly in my judgment and, I think, in the judgment of many others, outside the scope of the treaty. It has consistently been the administration's position that the United States can transfer weapons to our NATO allies on the usual basis.

Modernization of theater nuclear forces in Europe may include deployment of a ground-launched cruise missile. We have been assured that this is not prohibited. In answer to a very good question by Senator Helms, Secretary of Defense Brown said that the treaty would not prohibit transferring the Trident submarine to our NATO allies.

So, the executive branch and, I believe, this committee are in agreement as to what can be done without violating this treaty. I would request that the committee report on the language in the treaty contain language which outlines in detail based on the testimony given the kinds of cooperation that we envision with our NATO allies.

At the conclusion of my comments, or at the appropriate time during the discussion of this understanding, it might be appropriate for the administration and its negotiators to discuss with us what types of transfers we intend to make so that the record is very clear. They can amplify that later if they so wish, so that our own report will be as comprehensive and complete as possible on this issue.

There should be no equivocation and no misunderstanding with the Soviets on this.

As to language, I would suggest that we take language from several of the different proposals. It can be written in one clear sentence, and I would like to read that sentence. In section 1 of the resolution of ratification include the following understanding:

> That nothing in the treaty between the United States of America and the Union of Soviet Socialist Republics on the limitation of strategic offensive arms or the protocol thereto prevents the United States from continuing existing patterns of collaboration and cooperation with its allies on nuclear and conventional weapons required for the common defense, including cooperation on modernization.

There is one word change from the written text that you now have. The word "prohibits" has been changed as a modification from Senator Javits, and I accept that modification with appreciation.

The CHAIRMAN. It has been changed to what, Senator? To "prevents" I believe.

Senator PERCY. Right.

Senator JAVITS. May I give the reason? My reason is that there is prevention only of the systems prohibited by the treaty. Existing patterns of collaboration and cooperation which the record should show was contemplated by the United States in the statement to which Senator Percy referred will be continued. In addition, that statement should go into the record, and I ask unanimous consent for that purpose.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to appears in Part I, p. 181–182.]

Senator JAVITS. It deals not only with information, advice, technology, and so on, but actually deals with the transfer of weapons systems or technology systems which were not prohibited by the agreement.

So, I thought the word "prevents" would take care of all aspects.

The CHAIRMAN. Very well. If there further discussion of Senator Percy's proposal?

Senator GLENN. Yes, Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Chairman, I do not disagree with the understanding except with the category in which it is placed, that is, section 1. It seems to me that our side has made statement after statement after statement in this regard. The United States intent is reasonably clear. I believe this was spelled out in the June 29, 1979, statement to the North Atlantic Council as well as a statement given to this committee by the Secretary of State, I believe.

HISTORY OF ARTICLE XII

The background on the record of negotiations is reasonably clear. We were not able to get the Soviets to agree with everything we wanted, and I would be glad to have Ambassador Earle's comment on this. In fact, we once again made a statement, an interpretive statement which was an administrative policy statement made to the Allies on the 29th of June, at the end of the Senate hearings, but it has not been made to the Soviets nor agreed to by them. It seems to me that leaves us pretty wide open as to their interpretation of it. So, to put this in section 1, it seems to me, is like preaching to the choir in effect. It is telling our own Government what it already has said time and time again.

I think at the very minimum it would be right to put it in section 2 and probably in section 3, because I think this would do more to give some evidence of good faith to our NATO Allies if this was accepted by the Soviet Union without any doubt, and I think there is still considerable doubt as a result of the negotiating record as to what happened.

I might run through a little scenario or background here. First, the Soviets pressed for a detailed nontransfer provision which would have prohibited transfer of systems, technology, blueprints, or components of systems limited in the treaty. Second, the United States proposed a general noncircumvention provision stating in written form, the inherent obligation, the party assumes when entering into an international agreement not to circumvent that agreement.

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Third, the Soviets countered with a noncircumvention provision that would have incorporated most of their nontransfer points. The United States rejected this proposal.

Fourth, the issue was settled on the basis of the original U.S. noncircumvention language with the addition of the reference to "other state or states or in any other manner."

Fifth, the allies were concerned about the potential impact on U.S. transfers of systems or technology for systems limited in the agreement, particularly because of the additional phrase referring to other states. They were also concerned the Soviets would use the provision to challenge the United States or Allied cooperation or actions as contrary to the spirit or purposes of the treaty.

Sixth, to respond to such concerns, the administration developed, in consultation with the allies, the interpretive statement on noncircumvention to which I referred a moment ago, the June 29 statement.

Seventh, the interpretive statement was an administration policy statement made first to the allies on June 29, 1979, and then to the Senate in the hearings by Secretary Vance. But it has not been made to the Soviets nor agreed to by them.

Eighth, when the treaty was signed, we publicly stated that the noncircumvention provision would not interfere with continued conventional or nuclear cooperation with our allies, but once again, we are making that as a unilateral statement.

So, I would repeat my opening remark. I do not disagree with what is being done here. I will be happy to vote for it. But I would find it difficult to vote for it just as a section 1, which only goes to our side and is not binding in any way, shape, or form on the Soviet Union beyond what has already happened in the negotiations.

The CHAIRMAN. Let us hear from Lloyd Cutler on this point.

Mr. CUTLER. Mr. Chairman, could Ambassador Earle first give the negotiating history which we believe is slightly different from what Senator Glenn just said, but importantly different, nonetheless? Then I would like to speak to the point of what category this proposal should go into.

The CHAIRMAN. Very well.

Ambassador EARLE. Thank you, Mr. Chairman.

The negotiating history has to start, and I will be very brief——

The CHAIRMAN. Excuse me. Would you please pull the microphone up closer?

Ambassador EARLE. Certainly.

It has to start with the ABM treaty, in which there was a nontransfer provision. It was quite specific in that the sides agreed that they would not provide other states technical descriptions or blueprints especially worked out for the construction of ABM systems and their components limited by the agreement.

At the same time, at the time of signature of the ABM treaty, we made a statement that this did not set a precedent for any subsequent agreement limiting strategic offensive arms. In February 1975, at our first session after Vladivostok, the Soviets proposed both a noncircumvention provision and a very specific nontransfer provision which read as follows:

> Each party undertakes not to transfer strategic offensive arms to other states, and not to assist in their development, in particular, by transferring components, technical descriptions, or blueprints for these arms.

Consistent with our statement at the time of the signature of the ABM treaty, we resisted that. I think I would disagree with Senator Glenn when he said we did not get everything we wanted. We did get everything we wanted. The Soviets eventually dropped their specific nontransfer provision, their proposal for that, and accepted the general noncircumvention provision which, as I think has been repeated before this committee on a number of occasions, added nothing to our obligations which are not inherent without the provision.

So, I would respectfully disagree with Senator Glenn when he said we did not get what we wanted. We got exactly what we wanted.

The CHAIRMAN. Mr. Cutler?

Mr. CUTLER. I would like to add, Mr. Chairman, that the administration regards the outcome of the nontransfer and noncircumvention part of the negotiation as a distinct victory for the U.S. position on a very critical point. We construe the treaty exactly as Senator Percy said, and as I believe all the committee now construe the treaty.

We have agreed with our allies on exactly how we will construe the treaty and what we will do. It seems to us it would be a terrible mistake to risk that victory by reopening this matter and either putting this in category III requiring the consent of the Soviet Union and giving them an opportunity to negotiate the whole point further again or by putting it in category II, which, while it does not require them to respond, at least invites a response, and almost certainly would produce a response.

We intend to go ahead with the existing patterns of collaboration and cooperation, and with cooperation in the modernization of nuclear weapons. We would be perfectly agreeable to any kind of Senate understanding in the section 1 category that the administration not merely will be free to go ahead but will go ahead in that respect.

We intend to do that, but to move it into category II or III it seems to us just invites an argument where no argument is necessary. If we ratify SALT with an understanding with our allies and between the Senate and the administration that we are going ahead to assist the allies, they are prepared to go ahead on that basis, regardless of what the Soviets say, but to reopen the issue, to indicate doubt on our side, putting it in category II or category III would suggest that we have some doubt as to how this treaty could be construed.

This is a close matter as far as we are concerned, and we would be very much against reopening it. We would prefer no understanding whatsoever on this subject, but we have no objection to the language that Senate Percy has put forth, but with only two minor technical suggestions at the very end.

In your last line, Senator Percy, instead of saying "including cooperation on modernization," we would prefer the phrase "and cooperation in modernization," which is the phrase in the June 29 statement, because it is not entirely clear that the existing patterns extend to cooperation in modernization. The statement makes that perfectly clear.

Senator PERCY. I would accept that amendment, Mr. Cutler.

Mr. CUTLER. Since the statement is more detailed and we think covers a wider range than the narrow description in the language, Senator Percy, we would suggest adding it at the very end, after modernization, put comma, and "as set forth in the United States statement to

the North Atlantic Council on June 29, 1979." That would make it perfectly clear.

Senator JAVITS. What was the first change?

Mr. CUTLER. To change the word "including" to "and."

Senator PERCY. And then the last is as set forth in what?

Mr. CUTLER. In the U.S. statement to the North Atlantic Council on June 29, 1979.

Senator PERCY. Thank you. I have no problem with that.

The CHAIRMAN. Could we have the text as it has now been amended with the consent of the principal sponsor, Senator Percy, prepared for Senators before the vote?

Senator LUGAR. Mr. Chairman?

The CHAIRMAN. Senator Lugar?

PROPOSAL TO MAKE ARTICLE XII UNDERSTANDING CATEGORY III

Senator LUGAR. Mr. Chairman, I appreciate mention by my colleague, Senator Percy, that some of us had been involved in trying to think through this problem, and I accept the language that he has proposed with regard to the understanding and likewise the technical amendments the administration has mentioned. The amendment, though, which I will offer now, to put the issue squarely before us, is to strike section 1 in the first line of the Percy understanding and insert in lieu of that section 3. The reason for offering this amendment, and I have appreciated the testimony today by the administration, and likewise as the Senators have reviewed it, that this is essentially the information offered to us or the interpretation by Secretary Vance and Secretary Brown.

I quote this to review what they said. Secretary Vance during the hearings, in response to Senator Sarbanes, when referring to the issue at hand, said:

> This relates to how we deal with our allies, and that is something that is between us and our allies, and we have treated it as such. They tried to get a non-transfer clause—

they referring to the Soviet Union—

> into the article which dealt with noncircumvention. They originally wanted it to be a noncircumvention, nontransfer. We did not agree to that. We agreed upon a noncircumvention clause.

Later in the hearings Secretary Kissinger was asked a similar question, and Secretary Kissinger said in response to Senator Percy,

> I am not in a position to judge whether the Soviet Union would object to it or not. It seems to me that either the administration is prepared to share cruise missile technology with our allies, in which case it should welcome such an expression from the Senate, or it is not, in which case it would have massive difficulty with our allies, and we had better know that now, but if there is an intention to share cruise missile technology with our allies, it is everybody's interest, ours, our allies' and the Soviet Union's, that this be made clear and that the treaty not be made ambiguous at this point.

Now, Senator Percy and others could argue that a section 1 understanding would be nonambiguous, that it would fit Secretary Kissinger's advice, but Mr. Chairman, I would simply call to the committee's attention the fact that as we have proceeded through the markup, and I think this has been especially true in the last 2 or 3 weeks, initiatives by the Soviets to throw our NATO allies into a

status of some unease, and corresponding attempt, I believe, by the administration to bring our NATO allies really almost into a lobbying force on this committee and on the Senate highlight the fact that it is not at all clear precisely what is going to happen in this area.

In short, it is not altogether a subtle point but, I think, a very real point, that the Soviets are going to work very hard to rattle and to disconcert our allies with regard to transfer and with regard to this noncircumvention situation. Some of our allies may be very nervous about that affair because in fact a treaty at best merely reflects the realities of power. We can pin down the language backward and forward, but if in fact our allies are not certain how the Soviets will react, and as a matter of fact believe the Soviets will protest and that things will therefore be in turmoil, then clearly this is something I believe that now requires comment and approval by the Soviets so that it is attacked at the beginning.

I believe that short of that, the transfers or the noncircumvention provisions are going to be protested, and our allies will claim that we should have gotten Soviet agreement, but absent that, they don't want to take those sorts of risks.

Now, that may not be said overtly, but it certainly will be said privately, and we are now, it seems to me, in a bluffing game with the Soviets with regard to the NATO alliance. I appreciate the hazards of a section 3 situation in which it does bring it back up to the fore, and the Soviets may say, well, indeed, we don't believe that you ought to furnish anything under any circumstances, but I assert that clearly we are going to have to reassure our NATO allies if it is going to be meaningful.

It is far better to assert the situation now as opposed to leaving things in ambiguity, where clearly then the balance of power or the suppositions of the time influence the way it comes out, so I am suggesting section 3 not simply to create turmoil for the administration, but rather to create certainty for our alliance. I think it is best to face that problem now and to get beyond the status of nerves that clearly characterizes the relationship.

For these reasons, I asked my colleagues to support a section 3 category on misunderstanding and hope that that will be the will of the committee.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Percy?

Senator PERCY. Mr. Chairman, I would like to make one statement and then yield to the administration for their comments. There is no single issue that is now subject to more propaganda attacks by the Soviet Union than this. The Soviets are making every attempt to reach directly the NATO allies. All of them are sensitive to the pressure under which they are being put. The Soviets are going so far as to charge in their propaganda that the United States is trying to get around the SALT II Treaty with our clearcut intention to install 572 medium-range missiles in Europe beginning in late 1983.

Our NATO allies want that program. We want that program. We feel it is absolutely essential and necessary. I have no doubt that all through the negotiating process we have told them exactly why it is necessary, because we must offset the Soviet SS–20 missiles which are longer in range and also extremely accurate. We need the Pershing

II which can fly up to 1,500 miles. We need a modernization of these forces.

I would like to ask the administration to explain first how much discussion there was of this in the treaty negotiations? How clear did we make our position at that stage? Did the Soviets, although they didn't agree with us at that time, accept it? Taking into account what they have in Eastern Europe, how have the official responses corresponded now with the propaganda responses that are pouring out of the Soviet Union? It is one thing to try to do everything they can through propaganda to influence the NATO allies and their own citizens, but it is another thing to take a hard and fast negotiating position. Are we past the stage where they have in a sense reluctantly accepted our position and are willing to go along with it? There is no equivocation or lack of clarity and ambiguity about that position.

Perhaps either one of you could answer that question or any aspect of it on which you would care to comment.

Ambassador EARLE. Senator Percy, with respect to the negotiating history of this, it was made amply clear to the Soviets in the course of the discussions of this provision that we fully intended to continue our patterns and programs of collaboration and cooperation with the allies. At no time did they ever discuss specifics. For a long time they insisted upon a nontransfer clause, and eventually dropped it. At no time did they say that it would prohibit the continuation of those programs. Obviously, they would prefer that we didn't, and therefore, to ask them to agree that we would continue seems to me to be asking for some kind of comment on their part that we should not go ahead, but as far as the binding effect of this provision is concerned, they never took issue with the statements we made to them.

Senator PERCY. And they fully understand the difference now in categories. They are keeping up with these markup sessions here, and our NATO allies have unequivocally indicated to you that they prefer category I. Would you be free in open session to state why, or would you rather do that at some point in executive session?

Mr. CUTLER. Senator Percy, I can state that categorically. I would like to say to Senator Lugar that if there is any point with respect to SALT on which you and every other member of this committee and the administration are in absolute and complete agreement, it is on the desire to have SALT work out so that it permits us to go forward with the strengthening of the NATO nuclear arsenals and to assist our allies, including the nuclear allies like Great Britain in other ways, and ultimately to leave the basis for the theater arms limitation agreement.

We are all talking about how we can do this in the way most helpful to the allies. The allies feel quite strongly that the agreement as it stands is satisfactory on this point, and that it would be a mistake to reopen the issue. Let me read just briefly from the United Kingdom Foreign Office statement of June 27, which is in your record on page 31 of part 2:

> Throughout the negotiations leading to the new agreement, the United States has kept its allies informed of progress and has consulted them, particularly on aspects of special concern to them. The governments are satisfied that the agreement will not interfere with continued nuclear and conventional cooperation between the United States and its allies, and that the essential security interests of the alliance are safeguarded. They hope that the treaty will be ratified.

In recent days on the issue of a noncircumvention amendment or understanding, they are very clear that they don't want to see this issue reopened. Since all of us share the common purpose of trying to do this in a manner that is helpful to them, it would seem to us that their views should be taken into account and given very substantial weight.

That is not the allies dictating to the Senate. That is an important piece of advice on an issue where we all have the same common concern, both you, the administration, and the allies, and it does seem to me that as members of an alliance we should take their views on this point into account.

PRECEDENT OF DISCUSSING WITH SOVIETS RELATIONS WITH ALLIES: IMPLICATIONS

The CHAIRMAN. I want to say that I strenuously oppose changing this category from category I to category III. During the hearings, this question came up over and over again. Regardless of whether we were hearing from Secretary Vance, Secretary Brown, or General Jones, the Chairman of the Joint Chiefs of Staff, invariably the witnesses protested any effort to connect our cooperation with our allies with the necessity for obtaining some kind of Russian consent.

I would like to quote from the record. In an exchange with Senator Helms, and I am quoting now from page 148, Secretary Brown said:

> I must say, Senator Helms, that I think it a mistake to negotiate with the Soviets our cooperation with our allies. I think for us to ask their permission to get their agreement would be a very dangerous precedent.

I agree with Secretary Brown. It would be the first time that we ever submitted our proposed cooperation with our allies in connection with the transfer of technology to the Soviet Union for their comment, and if we were to make it a category III proposition, we would have to submit it to them for their consent.

Once we start down that road, how far will it take us and what will it mean for the future? I think it would be a very serious mistake.

Let me also quote the Chairman of the Chiefs of Staff when the same proposition was put to him. I am quoting from page 412 of the record. General Jones said:

> Obviously, we have concerns in this area, Senator Sarbanes, but I want to be clear where the decision is up to the United States, we should be willing to make the decision without having to negotiate with the Soviet Union. We in the Joint Chiefs strongly support it not having a nontransfer clause, and the Soviets have pushed hard for a nontransfer clause that, had it been agreed to in the treaty, would have precluded any transfer of arms, but we were successful in keeping that provision out of the treaty.

Now, having been successful in keeping such a nontransfer provision out of the treaty, I think this committee would make a great mistake by trying to put it back in. That would be in effect what we would do if we made this a category III understanding.

We would be soliciting the consent of the Soviet Union. I think that is a dangerous precedent. Sometimes I wonder whether we can stand success. We have success in preventing a nontransfer clause from being inserted in the treaty. We should rest with that success.

Having said that, I strongly approve of the proposal that Senator Percy has made, and which Senator Javits and I have joined with

him in presenting to the committee, because it would clearly establish the policy of the United States and make explicit that such a policy has the endorsement of the Senate.

I think this is properly a category I proposition.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Percy?

Senator PERCY. I think we should note for the record that all members of the committee are well aware of the current Soviet attempt in this area to redefine it in a sense. Just on Sunday, October 14, on a program called Studio Nine, Valentin Falin, the deputy chief of the International Information Department of the Central Committee of the Soviet Communist Party, as such clearly speaking for the Kremlin, made some very strong charges.

The Soviets charged that the United States is trying to get around the SALT II Treaty with the missiles that we intend to place in Europe. Tass apparently picked up his TV remarks and sent them out on October 15 on its worldwide service, thus aiming them at all of Western Europe. So they are taking it very, very seriously.

Now, they should know that our unequivocal response and that of all of our NATO allies has been very clear right from the outset. It has been that SALT II covers long range strategic weapons and launchers, not missile systems based in Europe. This is why we simply say that the propaganda charges that they are making are absolutely baseless. The knowledgeable Soviet negotiators who know this treaty and fully understand it I don't think would make such assertions or attempted to in our negotiating sessions. They should understand that our definition coincides with their definition as to what this treaty covers.

Now, obviously, they would like to dissuade the NATO allies from modernizing. They would like to dissuade us from going ahead and doing anything, because they would like to keep the preponderance of power they have in the Warsaw Pact. They do have a preponderance of power in conventional weaponry. We simply have to offset that by this modernization program which we are intending to do and which we will do on a unilateral basis because it is not covered by the provisions of this treaty.

Senator Lugar?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, if I may respond to Senator Percy for a moment, I would point out that I agree the Soviets are putting enormous pressure on our NATO allies that apparently is going to be characteristic of the next few weeks and months and perhaps longer still, but it makes the case that I am trying to present even stronger.

In other words, the Soviets already are interpreting the situation in a very different way than we are. The reason why I am insistent on a section 3 classification is, article XII as it is written in the treaty is very short and simply says:

> In order to ensure the viability and effectiveness of this treaty, each party undertakes not to circumvent the provisions of this treaty through any other state or states or in any manner.

That is all that it says. You know, we are talking about a negotiating record, about pages of testimony as to what the Soviets said and we said, and we have asked even, are they sophisticated enough to know what a section 2 or 3 understanding is, are they following this debate, and all the words we have to say?

The point I am making is, article XII covers just a very few words. Now, the Soviet Union already is interpreting article XII in a manner which is adverse to ourselves and our allies. We don't even have the treaty ratified at this point. The point has been made through executive branch comments on noncircumvention and in the last two sentences it says,

> This provision does not impose any additional obligation nor does it broaden the interpretation of the other obligation in the treaty. It will not affect existing patterns of collaboration and cooperation with our allies, nor will it preclude cooperation and modernization.

This is the executive branch comments.

Well, I am not certain the Soviet Union agrees with that at all. As a matter of fact, I think our NATO allies are pretty nervous in terms of Soviet objections to the things that we are going to do. That is why it is imperative we pin it down now. As it is, nothing is pinned down that I can see. Article XII stands as it is without anything more being said about it, and the Soviets could claim that everything we are going to do presently is a circumvention of the letter or the spirit of this treaty. Now, if we are serious, and everybody is today, and we have agreed across the board, whether we are for section 1, 2, or 3, we need to provide this sort of assistance to our NATO allies for modernization, that the NATO alliance is absolutely the most effective thing that we've got going, and that we've got to back it up. Very clearly a section 1, another letter to ourselves about this, another clarification of what was on our minds, with the thought that the Soviets will read what we are doing over here and by and large will cease and desist in their protest is not acceptable. The Soviets are not going to cease and desist. We are going to have to face up to this problem now, and it is best we do it now.

Section 3 will make that sort of a showdown, I believe, in a timely fashion, so that it is perfectly clear once we get through with it that we can move along to assist our NATO allies, and that article XII, thin as it is, is beefed out with those sorts of assurances.

Senator JAVITS. Mr. Chairman, it seems to me that we would take a very unwise course if we adopted the category III course for this amendment, and I will say why. If, Senator Lugar, the adoption of a category III course would solve anything, I would be with you, but it won't. The only thing it will help us do is to give the Russians another opportunity to kick us in the teeth and state their case. They are not going to solve anything. They are not going to agree to anything.

As a matter of fact, even if we make it category I, they are going to issue some kind of denial or demurer, but then we can maintain our position that this was fully discussed in the negotiation and that it was dropped in the negotiation. That is why we didn't make it a category III, because it is a definitely closed and settled question, and, Mr. Russia, that is the way it is going to go. So if you want to cancel this treaty, you had better do it now.

If we make it category III, it just invites another demurrage by Brezhnev. All we would do would be to feed them a propaganda opportunity, in short.

If you were right, and have the showdown would conclude the matter, I would be all with you, because I believe that we ought to try for conclusiveness if we can, but knowing them as we do, and with the negotiating record, we know it won't.

Therefore, why should I give them an opportunity to put it up in lights on Times Square? That is why I must vote for category I.

Senator GLENN. Will the Senator yield for a question?

Senator JAVITS. Yes.

Senator GLENN. If that is the interpretation we are putting on this, then why was it ever brought up? If it is something we should not be concerned about, and if it should be put to bed, and they have accepted it and we have accepted it, then why was this amendment even brought up and supported?

Senator JAVITS. For the NATO allies who were nervous; that is why. It is an internal proposal for us and them. They are nervous. Now, why are they nervous? Not because of the negotiating record. Not because there is any question about it, but because Brezhnev is brandishing a deal to them. He is worrying them. Let's remember, John, his deal. His deal says, we will pull out 20,000 troops and some old missiles provided that you agree that you are not going to accept any of these new missiles from the United States. The proviso is forgotten in the public discussion, but NATO knows it. That is why I argue as I do.

Senator GLENN. I agree absolutely that that is the reason why this should be brought up. I also think that is the specific reason why we should settle this thing very carefully, so that we make sure they do have assurances from us, and I don't think we do that just by stating it to our own Government.

NATO ALLIES' VIEWS ON ARTICLE XII

Senator JAVITS. Now, I was going to ask a question which you may not be able to answer in open session, and that is, what is the attitude of our NATO allies on this subject? Are they satisfied or aren't they? As I say, you don't have to answer it here. Perhaps you will have to answer it in executive session.

Mr. CUTLER. I believe I can answer it here, Senator Javits. Not only are they satisfied with the language as it stands. In the United States statement to the North Atlantic Council on June 29, they urge us not to reopen this subject with the Soviets by a formal understanding or reservation that would invite a comment or require the agreement of the Soviets. Let me also point out something. If you look at Senator Percy's language or any other language, and you think of it as a category III proposition, the first thing the Soviets would say is, you refer to "existing patterns of collaboration and cooperation with your allies." Well, what are those patterns, what are you doing? Show us the plans? How many do you plan to put in? Of what type? On what date? You refer to "cooperation in modernization." What modernization? Of what type? And what date?

If we were asked to buy that kind of pig in the poke, that they could do anything they wished to do by collaboration, let us say, with the Warsaw Pact nations, I would imagine our Defense Department would have quite a few questions, and we would have another 2 years of negotiation.

Why ask them when the thing is already clear? You refer to this being very short and very general, Senator Lugar. It has about the same number of words as the first amendment. Sometimes a short clause is much better than a long one.

Senator PERCY. I believe Senator Lugar wishes to ask Senator Javits a question. I will yield for that purpose, and then I would like to ask Mr. Cutler a question.

Senator LUGAR. Thank you, Senator Percy.

I would like to ask Senator Javits this question. It refers in a way to what Mr. Cutler just said. Article XII really is what we have on the books here. It is short, and as Mr. Cutler says, about the same size as the first amendment, which, of course, has been subject to a considerable amount of constitutional discussion during the last two centuries. That is the problem that I have with it.

The Senator from New York has pointed out correctly that we are engaged in this exercise today because of potential nervousness, if not actual nervousness on the part of our allies who are not certain that we are prepared to act in this way. We are trying to reassure them, but it appears to me that article XII offers the possibility for one protest after another by the Soviet Union which we might simply ignore, but which our allies must not feel so safe in ignoring, and which might frustrate our policies.

The reason, it seems to me, that the issue is worthy of discussion through the section 3 apparatus is that we are going to have to pin down, I think, more clearly our relationship with our allies. The point I wanted to raise in the question is, as you read article XII, does it not offer problems as it stands? In other words, we have at this point a section that states simply that we agree not to circumvent the provisions of this treaty through any other state or states or in anv other manner.

Even getting to the so-called executive branch comment is a long leap. Now, just as a constitutional lawyer, and a very good one, why would you argue that we ought to leave article XII in this status without any further comment by the Soviet Union?

Senator JAVITS. I am going to be brutally frank with you. Remember that this article says, "each party." In other words, the Soviet Union is giving itself plenty of out with the Warsaw Pact powers, but as we know the Soviet Union has never given nuclear weapons to its allies. They give themselves the same privilege, but in my judgment, we are much better off with our NATO allies, who have much greater freedom of action than the Warsaw Part, in NATO everything is on the table, and recorded, and advertised in all of the newspapers of the world. We must stick to our interpretation, without letting the Russians muck it up and worrying about what use they will make of this particular article. This article is for us.

Mr. CUTLER. I think that is the key point, Senator Lugar. This article is meant as a restriction on us. We are fortunate enough to

have major allies, including two of the five nuclear powers, important allies, who we work with as allies. We are much less concerned about what the Soviets are going to transfer to their so-called allies. It is a restriction on us, and the more general it is and the less detailed and precise it is, the better.

Senator LUGAR. Gentlemen, I cannot understand why we are not concerned about what the Soviets are transferring. In other words, the suggestion is, clearly, that they are going to be doing some things here that we will not be all that much interested in. I wonder why not. In other words, are we stating at the outset that we anticipate that they are going to be engaged in circumvention with Warsaw Pact nations and with other allies, and we are perfectly willing to ignore that because we don't think they will be able to cheat on the treaty as much as we will, and therefore, leaving all things considered, we would sort of like to leave it in that fashion, with both sides knowing that the whole thing will be circumvented, and we simply don't want to pin it down or discuss it any further.

That, at least, is the reading I get from the discussion here.

The CHAIRMAN. Senator McGovern has asked to be recognized, and twice I have overlooked his request to be recognized, so I will recognize him now.

Senator MCGOVERN. Mr. Chairman, I think the point has been well made that we do not want to put ourselves into a position of having to clear our cooperation with NATO with the Soviet Union. I don't understand Senator Lugar's reasoning that this is somehow going to reassure our allies if we leave the impression that we can't cooperate with them unless the Soviets approve. We have never done that in the past. I don't see any point in beginning that precedent now. But beyond that, I think it is a false assumption that the anxiety either in Moscow or among our allies on this matter of theater weapons systems is a result of the circumvention issue or the noncircumvention issue.

EUROPEAN NUCLEAR UPGRADE ITSELF AS UNDERLYING ISSUE FOR ALLIES

I think it stems from the fact that that issue itself is a cause for anxiety. When you upgrade or modernize nuclear weapons in Europe obviously that is a matter for debate and for anxiety on the part of the Russians as well as our allies. It seems to me that is the context in which they have raised the issue. If you go back to Brezhnev's speech in which he makes his proposal on the matter of nuclear weapons in Europe, he doesn't even mention the matter of circumvention. He is talking about the issue on its own merits and what it does to détente and any helps for stability in Europe.

The same thing is so for the Europeans. So far as I know, they have not raised so much the issue of noncircumvention as they have the question of what their position ought to be with regard to installing nuclear weapons on their territory. When the Germans, for example, talk about theater nuclear weapons on their territory, they say they are not going to do it unless some other nonnuclear NATO country joins with them. Now, that has nothing to do with noncircumvention. It has to do with balancing the issues of security against the demands

of détente. The West Germans are understandably sensitive to developing an enhanced nuclear capability, sitting, as they are, practically on the Soviet border. But it has nothing to do with what we are talking about here in terms of the noncircumvention issue.

I think we will be in a much stronger position in terms of reassuring our allies if we tell them we are going to cooperate with them whether the Russians like it or not. We are putting the Russians on notice in this understanding, as Senator Percy, Senator Javits, and the chairman have drafted it, that this is what we are going to do. But to leave the implication that we can't do that unless they approve it seems to me to undo a very careful negotiating posture that the administration has preserved for us.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. I agree with you, Senator.

Senator Glenn has asked to be recognized. Then I will recognize Senator Percy.

Senator GLENN. Mr. Chairman, during our testimony Dr. Kissinger, General Haig, and Dr. Sonenfeld all expressed their deep concerns about this particular matter. I will not read all of their testimony on this, but in particular Patrick Wall of the United Kingdom stated:

> Mr. Chairman, my Government believes in the importance of a continued British nuclear deterrent. The Nassau Agreement allowed us to purchase your Polaris A3 and to fit them with our own nuclear warheads. One of the options for replacing these A3's in the future could be a similar purchase of your Trident 1's or cruise missiles or a mixture of both. It is therefore of primary importance that the noncircumvention clause of the treaty is clearly understood not to prohibit such a purchase should this be desired by our two countries.

In other testimony that same day by Mr. Thyness of Norway, Mr. Wall of the United Kingdom, and Mr. Corterier of Germany on behalf of the North Atlantic Assembly, Mr. Thyness appeared to be reasonably happy with the way things were worded in the treaty, but Mr. Wall went ahead and said:

> May I take a different view? Administrations change, and their policies change, and public opinions change, but as I understand it, Senate resolutions do not change. The have the effect of law. Therefore I would like to see the two particular issues I raised, noncircumvention and the transfer of technology, written into a Senate resolution if this is possible.

The chairman, not our presiding chairman today—another Senator was presiding then—The chairman said—

> Mr. Wall, I expect that your wish will be carried forth. We have all introduced various resolutions on the same subject.

Mr. Corterier replied—

> Mr. Chairman, as I have said, I think the assurances that have been given by the administration are satisfactory, but at the same time I think it will certainly be useful if the Senate adopts a resolution that more or less goes in the same direction as the administration has done.

So, I think that spells out a little better that all was not unanimous on the other side, that this was quite satisfactory from a NATO standpoint.

I might add that since we seem to be in a mood these days of not only welcoming but encouraging all of NATO allies to come over here and lobby us on this particular subject, that the NATO allies that

have come into my office and lobbied me have all expressed their concern that this particular item of noncircumvention be something that is clearly understood. I do not think there is unanimity of opinion among our NATO allies that this is all taken care of adequately.

That is the reason I have stated my case as I have this morning, Mr. Chairman.

The CHAIRMAN. Let me just comment that a Senate resolution is more analogous to a section 1 provision than a section 3 provision. I think that that bears out the fact that the preponderant weight of testimony was against placing this understanding in category III.

Senator GLENN. Will the chairman yield?

The CHAIRMAN. Yes.

Senator GLENN. I think at the time Mr. Wall made his statement, neither Mr. Wall nor the committee had any concept of what different understandings and categories for understandings would be developed. He spoke in very general terms about his Senate definition. I don't think we should hold him to our definition of a Senate resolution.

The CHAIRMAN. Well, a Senate resolution does not require the consent of the Soviet Union, so obviously it follows that it is more analogous to a category I than a category III proposition.

Now, I promised Senator Percy that he could speak next.

Senator PERCY. Mr. Chairman, I think we are ready for a vote on this. Looking at all of the propaganda efforts of the Soviet Union in the last few weeks, it would seem to me that a category III understanding would be exactly what the Soviets would want. They would like to see this put into a category III. They are trying to reopen this issue. They are trying to get around the fact that it has been accepted and approved, and they would like to see it reopened. The way to get it reopened would be to have a category III understanding go to them so that they could act on it. All of the fur would fly at that point.

This gets really to the heart of the matter. It is probably what will induce them to go right on to SALT III, to cover theater forces. But this area is specifically excluded from SALT II, and I think, therefore, a category I understanding is all we need to clearly and unmistakably make the record that this is a unilateral action we intend to take, and it is outside the scope of the treaty.

Senator LUGAR. Mr. Chairman?

The CHAIRMAN. Yes, Senator Lugar?

Senator LUGAR. Mr. Chairman, the logic of going to the section 1 idea of merely informing ourselves as opposed to the section 3 situation which we discussed with the Soviets leads me to raise a further question, and that is, why do we have article XII in the treaty at all? I raise that not simply as the devil's advocate, but as it has been interpreted here today, article XII is in the treaty even though it is clear to both parties that in the case of the Soviets, they will proceed to modernize the Warsaw Pact nations and other allies of theirs, and it is clear on our side that we will move toward modernization of our forces.

The thought that in any way this will be pinned down and clarified is opposed, because it is already claimed that the thing has been negotiated out with the Soviets and we had a victory. I think the victory would have been the omission of article XII altogether. Despite

all of the thoughtfulness we may have communicating with each other the article says—

> In order to insure the viability and effectiveness of this treaty, each party undertakes not to circumvent the provisions of this treaty through any other state or states or in any other manner.

I don't care what the negotiating record is. That is what somebody a few years from now, maybe even a few months from now, is going to say. They will say, article XII is signed by both parties, and that is what it says.

We are saying that it means something very different. As a matter of fact, it means we have the right to continue to cooperate as we have been doing with our allies, and I think we need to say that and we need to have the Soviets check off on that. Clearly, the reason why section 3 language is being opposed by the administration is that it does make for one more thing we have to visit with the Soviets about, but this is a pretty important one, and I think anything short of tying it down in a very explicit fashion will fall short when people go back and take a look at article XII.

DISTINCTION BETWEEN NONCIRCUMVENTION AND NONTRANSFER

The CHAIRMAN. Senator, I disagree completely with you, because you fail to make a distinction between noncircumvention and nontransfer. This treaty does not apply to theater weapons. It doesn't apply to theater weapons on the Soviet side or theater weapons on the American side. This treaty applies to strategic weapons. The noncircumvention clause, article XII, is a pledge on the part of both parties that they will not circumvent the treaty with respect to the kinds of weapons that are included in the treaty by transferring them to other countries. But the theater weapons are excluded from the provisions of this treaty.

Now, the nontransfer provision could have had applicability to the NATO allies, and we succeeded in avoiding having that put in the treaty. So, I think we have to be clear that there is a distinction to be made between noncircumvention of the provisions of the treaty and the transfer of weapons or technology to our allies based upon past patterns.

Mr. CUTLER. Mr. Chairman, may I just point out briefly before you vote that the noncircumvention clause was a U.S. proposal made in Dr. Kissinger's time in 1973 to counter the Soviet demand for a nontransfer clause? When Dr. Kissinger testified before you, he made a certain three proposals about clarifying the treaty and the protocol, one of which had to do with this subject. He proposed only that the noncircumvention clause be interpreted by the Senate as not interrupting cooperative relationships, and so forth.

He preceded that with a statement at page 174 of part 3 of your hearings with respect to this proposal and two others. None of them requires renegotiation with the Soviet Union.

Senator JAVITS. Could we ask Mr. Cutler and Ambassador Earle to state what is meant by the statement of June 29, 1979, to the North Atlantic Council reading as follows—

> Transfer of weapons systems or technology for systems which were not numerically limited or prohibited by the agreement would be unaffected by the agreement.

Mr. CUTLER. That is part of the third paragraph of the statement which is part of your record. Perhaps if I read it in context, it might be a little more clear. I will start two sentences ahead of that.

> We have made clear in the negotiating record that transfers of weapons or technology to our allies will continue and cannot ipso facto constitute circumvention. The United States will deal with future requests for transfers of weapons systems and technology on a case by case basis under the SALT II agreement as it has done in the past. The transfer of weapons systems or technology for systems which were not numerically limited or prohibited by the agreement would be unaffected by the agreement.

And then the next sentence reads,

> With respect to systems numerically limited in the agreement, as under the interim agreement, transfers would not be necessarily precluded by the agreement.

What that means, and Ambassador Earle can correct me, is that we would be free to transfer to our allies except to the extent that any particular system was prohibited to us as, for example, the treaty flatly prohibits submarine systems attached to the seabed. You cannot put a system on the floor of the seabed. It might well be circumvention if we helped someone else do that.

Senator JAVITS. Ambassador, do you want to add to that?

Ambassador EARLE. Thank you, Senator, but I think this has pretty well been covered.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

Senator GLENN. This would not prohibit the Soviets from transferring any of their cruise missile technology now to their allies, nor submarine launched systems if they so desire. Is that correct?

The way it is written now, there would not be an objection lodged at the SCC if they did transfer cruise missile technology to other Warsaw Pact nations or submarine launched ballistic missiles to other Warsaw Pact nations. Is that correct?

Mr. CUTLER. I would say that it is correct, Senator Glenn, except to the extent that actual deployment might be prohibited by the protocol during the period of the protocol.

Senator GLENN. OK. Turning it around, if you interpret it in that way, we would have that same right, and that would be prohibited during the protocol.

Mr. CUTLER. That is correct. In response to something Senator Lugar said, the reason why we believe this essentially is a restriction on us and therefore it is best to have it in these broad general terms, putting it in the most diplomatic language, is that we trust our allies more than the Soviets trust theirs.

Senator GLENN. Well, I think that is open to some interpretation.

Senator JAVITS. What about counting? In other words, transfer of launchers?

Ambassador EARLE. Senator Javits, as I and I think most of us interpret the noncircumvention provision, to circumvent the agreement would be to upset the purpose of the agreement, which is to establish strategic stability or essential equivalence.

I think that any particular example that you cite would have to be considered in the context of the situation as it then existed, but I think it would have to be tested against that overall criterion. It is

difficult to say that this is OK and this is OK without considering all of the other circumstances.

Senator JAVITS. That goes for both parties?

Ambassador EARLE. Yes.

The CHAIRMAN. The question before the committee is Senator Lugar's amendment would change from category I to category III the understanding proposed by Senator Percy, Senator Javits, and myself.

Senator LUGAR. Mr. Chairman?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, the reference to the North Atlantic Council statement is important. I think that members of the committee need to know what is in the first two paragraphs of that statement. The administration said,

> In the view of the United States, the noncircumvention provision in the SALT agreement simply makes explicit the inherent obligation any state assumes when party to an international agreement not to circumvent the provisions of the agreement. It is a basic tenet in international law that agreements, once entered into, are to be carried out and not circumvented, and the United States would be so obligated with or without a noncircumvention provision.

It is the position of the United States that the noncircumvention provision does not impose any additional obligation whatever on or beyond the specific obligations of the provisions of the treaty.

Once again, the administration said, it is the position of the United States to do this. It goes on to say in paragraph 2 that:

> The United States believes that in practice the noncircumvention provision which it will apply as stated below will not interfere with continued nuclear and conventional cooperation with its allies.

The Secretary may be absolutely correct in the assurances he has given that we really do not need this article XII to begin with because parties in treaties say as a basic tenet that obligations once entered into are to be carried out, but having gone ahead with the provision anyway, we believe that it will have these situations. We keep stating our interpretation of the agreement.

Now, the case for getting down to brass tacks with the Soviet Union in section 3 is simply to nail this down so that all parties have confidences as to what we agreed to in article XII, or I would seriously consider our better bet would be to eliminate article XII and any need for interpretation whatsoever.

Senator HAYAKAWA. Mr. Chairman?

Senator JAVITS. Mr. Chairman?

The CHAIRMAN. Gentlemen, Senator Hayakawa has not been recognized. Senator Hayakawa?

Senator HAYAKAWA. I would like to bring this up on a continued relevancy basis. I cannot refrain from protesting the presence in article XII of the vulgar and meaningless word "viability." I cannot give it the dignity of presence in an international treaty. The word "viability" means capable of sustaining life. When you say a baby born 3 or 4 months prematurely is or is not viable, that is correct. There is no excuse for the existence of this word in a social science or political context.

I think you would have a stronger statement by saying, "in order to insure the effectiveness of this treaty," and that lacks the contentiousness of trying to give scientific flavor to a nonscientific utterance.

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[General laughter.]

Mr. CUTLER. If there is a way, Senator Hayakawa, without changing the Russian text, if there is a way to change the English text, perhaps we can do that.

VOTE ON CATEGORY III

The CHAIRMAN. I think that is an appropriate note on which to conclude this discussion. Let us move to a vote. The question is on changing from a category I to a category III the understanding that has been offered. The clerk will call the roll.

Mr. BADER. Mr. Pell.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. McGovern.

Senator MCGOVERN. No.

Mr. BADER. Mr. Biden.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

[No response.]

Mr. BADER. Mr. Sarbanes.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. No.

Mr. BADER. Mr. Javits.

Senator JAVITS. No.

Mr. BADER. Mr. Percy.

Senator PERCY. No.

Mr. BADER. Mr. Baker.

Senator LUGAR. Aye by proxy.

Mr. BADER. Mr. Helms.

Senator LUGAR. Aye by proxy.

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. No.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

On this vote, the ayes are 4, the nays are 10, and the amendment has been rejected. Senator Stone was later polled in the affirmative. The question now occurs on the proposal itself.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

DISCUSSION AND VOTE ON CATEGORY II

Senator GLENN. Mr. Chairman, I would move that the Percy understanding be modified to start out reading in section 2 of the resolution. I think we have gone through all of the arguments, I can see no reason why we should not, at least at this stage, let the Soviet Union be

aware of our concerns that the treaty be interpreted in this manner, and that is what moving into category II would do.

The CHAIRMAN. I think that in this case we would go halfway toward inviting the same problems upon us by moving this to category II, that is, a halfway house moving in the wrong direction, and for the reasons that I voted against the original Lugar amendment I would oppose this amendment.

Senator PERCY. I oppose it, too, Mr. Chairman.

Senator GLENN. Mr. Chairman, I would say that the statements made previously about category II have been that they might make such statements of their understanding back to us, since we are making understanding statements to them. I for one would welcome such statements from the Soviet Union as to how they are interpreting these different items where they may well have made unilateral statements during the negotiating process.

I think if there is a misunderstanding it should be brought out now before this treaty is approved and not afterwards when they bring something to the SCC that we may disagree with entirely. So, I do not see the same objections applying to category II that we have discussed with regard to category III.

Senator JAVITS. Mr. Chairman, I addressed myself to that subject before and did not want to debate it again. It simply seems so obvious that there is no misunderstanding, but we are going to create one in the public anyhow by putting it either in category II or category III.

There is no misunderstanding. They do not want us to continue the existing pattern of collaboration and cooperation with our allies on the ground that we are circumventing the treaty, and we say forget it; that is not the case.

So, the idea of prohibiting that was dropped out of the treaty. All we are doing is giving them another forum. That is all. I cannot see for the life of me how that helps us. We have got to do this or forget the treaty. It seems to me if you are opposed to the treaty, this is an ideal one to write to a farethewell, because this is the surest way to forget it.

Sure, they don't want us to collaborate with NATO. The whole policy of the Soviet Union ever since World War II has been to pull the European countries out of NATO because they have no other place to go but to the Soviet Union, so I cannot see that, John.

Senator GLENN. If the Senator would yield, it seems a bit inconsistent to me that we propose this important understanding and the importance of making certain that they understand these things, but then when we try to make certain that they do understand it certainly becomes inconsequential. Suddenly they already understand it, our allies understand it, everybody in the world understands it.

If this understanding was important enough to bring up, important enough to pass, and important enough to have as an understanding that goes before the Senate, then I think it is important enough that we make a little bit more out of it than just talking to ourselves. We are preaching to the choir in this country on this one.

Senator PERCY. John, I would say in this regard that I am appreciative of the fact that we all feel this understanding is important. We all agree on that, and that is what I had hoped we would agree on. But I

would much prefer it if they are going to make propaganda protests, that they have the least formal format and theater in which to do it. What we say in propaganda and what they say in propaganda goes on every day of the week, and it will go on on this particular issue.

There is no question that they are on notice that we intend to continue cooperating with our allies on this. The procedures that we use in notifying them and keeping them abreast of every single thing that is being done by this committee and will be done on the floor of the Senate leaves no room for doubt. Obviously, they are present right in the room now. They know what is going on. But what I don't want to do is force them into a position where they then must formalize their protestation and then force us to take it up again and go back and forth and back and forth. We can both have our propaganda views on it, but I would just as soon let it rest at that.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. That is what we are doing now. We are going back and forth and back and forth.

Senator Glenn?

Senator GLENN. We are going to go back and forth one more time at least, Mr. Chairman. The Soviet record in SALT I was that they lived up to the letter of the agreements. They did not go for these vague, general understandings. The four understandings I have had approved by the committee so far have been efforts to tighten up the treaty so that there could not be that kind of misunderstanding applied to SALT II. Their track record so far has shown that they will live up to the specifics of the treaty and will push to the very limit on items that are not well tied down. That is the reason I wanted to add this to category II, and we will continue to have other understandings in that direction as we proceed.

Thank you, Mr. Chairman.

Senator PERCY. There is no need for collaboration on this issue. There are other issues that I think clearly should be category III, because their assent must be obtained in writing, but in this I see no real reason to collaborate.

The CHAIRMAN. After this discussion this morning, if in fact we are preaching to the choir, it is within hearing distance of the full congregation, and I think it will be no secret as to our position.

If there is no further discussion, the question comes on the amendment offered by Senator Glenn to shift from category I to category II the proposed understanding. The clerk will call the roll.

Mr. BADER. Mr. Pell.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Biden.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

[No response.]

Mr. BADER. Mr. Sarbanes.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. No by proxy.

Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator LUGAR. Aye by proxy.
Mr. BADER. Mr. Helms.
Senator LUGAR. Aye by proxy.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.

On this vote, the ayes are 6, the nays are 8. The amendment is defeated. Senator Stone was later polled in the affirmative.

VOTE ON CATEGORY I

The vote now comes on the understanding proposed by Senator Percy, Senator Javits, and myself. We have had a full discussion. The clerk will call the roll.

Mr. BADER. Mr. Pell.
The CHAIRMAN. Aye by proxy.
Mr. BADER. Mr. McGovern.
The CHAIRMAN. Aye by proxy.
Mr. BADER. Mr. Biden.
The CHAIRMAN. Aye by proxy.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
[No response.]
Mr. BADER. Mr. Sarbanes.
The CHAIRMAN. Aye by proxy.
Mr. BADER. Mr. Muskie.
The CHAIRMAN. Aye by proxy.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Baker.
Senator LUGAR. Aye by proxy.
Mr. BADER. Mr. Helms.
Senator LUGAR. Aye by proxy.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.

On this vote, the ayes are 14, the nays are nothing. The understanding is adopted. Senator Stone was later polled in the affirmative.

Mr. Sauerwein, may we proceed now to article XIII on page 32 of the markup?

ARTICLE XIII: PROHIBITS CONFLICTING OBLIGATIONS

Mr. SAUERWEIN. Article XIII reads:

Each party undertakes not to assume any international obligations which would conflict with this treaty.

The CHAIRMAN. This article reads: "Each party undertakes not to assume any international obligations which would conflict with this treaty." It seems to me to be self-evident. If there are no suggestions, questions, or proposals, the committee will move on to article XIV.

ARTICLE XIV: FUTURE NEGOTIATIONS

Mr. SAUERWEIN. Article XIV reads:

The parties undertake to begin, promptly after the entry into force of this treaty, active negotiations with the objective of achieving, as soon as possible, agreement on further measures for the limitation and reduction of strategic arms. It is also the objective of the Parties to conclude well in advance of 1985 an agreement limiting strategic offensive arms to replace this treaty upon its expiration.

The CHAIRMAN. Is there any discussion of this article?

Senator GLENN. Mr. Chairman, I might ask Ambassador Earle this question. Was any time agreed to on this thing? These time periods are left very wide open. This could mean anywhere from 30 days to 3 years. In the negotiating record, was there any specific that once entry of this went into force, we would have things ready to go and the first meeting would occur hopefully at least, although not written into the treaty, within 3 months or 5 months or 3 years?

Ambassador EARLE. Senator Glenn, there is nothing that I can remember in the negotiating record as such. I know that statements have been made by the Soviet leadership that they are prepared to enter into negotiations immediately following entry into force of SALT II, but the short answer to your specific question is, no, we did not discuss specific dates.

Senator GLENN. Let me ask further, do we have a group now actively working on SALT III so that we are prepared to move without delay on our side if this goes into effect?

Ambassador EARLE. We do throughout the executive branch, Senator Glenn, have a number of people working on SALT III and attempting to determine where we should go and the positions we should take.

Senator GLENN. Is this a working group with a chairman? Is there a regular agenda? Are they meeting now on a regular basis?

Ambassador EARLE. Yes, they are.

Senator GLENN. At what stage do we get informal on what we are going to be pushing for? I think it is obvious with the disparate views that we have around this table here that we would like to be party to some of those things that are going to be proposed in SALT III, and if this goes through the Senate, we may have missed the train by that time. We may be into negotiating sessions before we make our input.

EARLY SALT III CONGRESSIONAL CONSULTATION

Ambassador EARLE. In a general sense, Senator Glenn, the views of the executive branch are embodied in the joint statement of principles which was signed by President Carter. As far as specifics beyond that, none has been decided. Obviously, there will be consultation with the Senate when some further progress has been made as to where we are going to go.

Senator GLENN. The statement of principles is a very general statement. It does not deal with specifics at all. I think when we get down to the specifics of what we are going to deal with in this, a number of members of this committee, Senator McGovern and others, have expressed a very great concern about specifics that we get into with regard to reductions or what areas we will push for.

I would think it would be advisable at the very earliest possible stage for us to be party to some of those deliberations.

Senator JAVITS. I have another question, Mr. Chairman, about this matter.

The CHAIRMAN. Senator Javits?

THEATER WEAPONS AND SALT III

Senator JAVITS. I noticed in the last two lines the reference is to limiting strategic offensive arms to replace this treaty. Now, strategic offensive arms is a phrase of art. Does it apply to the theater weaponry which will be the subject of the negotiation? If so, how is it distinguished from what is covered by this treaty, intercontinental, and so forth?

Ambassador EARLE. Senator Javits, as you know, we have never agreed on what the word "strategic" means. However. I think given the content of the joint statement of principles, in which, among other things, defensive arms may be discussed, and it is specifically provided that either side may raise any issue it chooses to in the SALT III negotiations, I think it is a carte blanche at the moment as far as what either or both sides may bring up in those discussions.

Senator JAVITS. In other words, do you ask us to believe then that the provisions of this treaty will be open to renegotiation in SALT III?

Ambassador EARLE. Yes; with respect to further limitations and reductions.

Senator JAVITS. So the SALT III negotiation you expect will include all weaponry covered by this treaty as well as all theater weaponry in Europe of an offensive character?

Ambassador EARLE. Senator Javits, I would hesitate at this point to say categorically that all weapons in the latter category will be discussed, but they certainly are open to discussion as well as all the weapons covered in this treaty.

Senator JAVITS. That is what I meant. I accept that. That does not just include nuclear. It includes also conventional.

Ambassador EARLE. This treaty, of course, deals with delivery systems and not warheads, but it is conceivable that warheads could also be discussed.

Senator JAVITS. So it is the broadest possible term which will cover everything?

Ambassador EARLE. Yes, Senator, it is.

The CHAIRMAN. In connection with article XII, though the issue has not been raised in this committee, we are all aware of a proposal by Senator Moynihan which I think relates to article XIV. I wonder if you could place on the record at this time the position of the administration respecting the Moynihan proposal.

Ambassador EARLE. I would prefer, Senator Church, to return to that at a later date, if I may.

The CHAIRMAN. All right. In connection with what article, article XIX?

Ambassador EARLE. Nineteen, or the joint statement of principles.

The CHAIRMAN. Very well. We can take it up at that time.

READING OF ARTICLE XV: VERIFICATION

That brings us to article XV. Mr. Sauerwein, would you please read article XV.

Mr. SAUERWEIN. Article XV, paragraph 1 reads—

For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

The CHAIRMAN. Paragraph 2 reads?

Mr. SAUERWEIN. Paragraph 2 reads—

Each party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with Paragraph 1 of this article.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator, before we start a discussion of this matter, shall we complete the reading of it?

May we have paragraph 3?

Mr. SAUERWEIN. Paragraph 3 reads—

Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this treaty. This obligation shall not require changes in current construction, assembly, conversion or overhall practices.

Associated with this paragraph, Mr. Chairman, are two agreed statements and three common understandings. Would you like me to read those now?

The CHAIRMAN. Yes, if you would, please.

Mr. SAUERWEIN. The first agreed statement reads—

Deliberate concealment measures as referred to in Paragraph 3 of Article XV of the treaty are measures carried out deliberately to hinder or deliberately to impede verification by national technical means of compliance with the provisions of the treaty.

The second agreed statement reads—

The obligation not to use deliberate concealment measures provided for in Paragraph 3 of Article XV of the treaty does not preclude the testing of antimissile defense penetration aids.

The first common understanding reads—

The provisions of Paragraph 3 of Article XV of the treaty and the first agreed statement thereto apply to all provisions of the treaty, including provisions

associated with testing. In this connection, the obligation not to use deliberate concealment measures associated with testing, including those measures aimed at concealing the association between ICBM's and launchers during testing.

The second common understanding reads:

Each party is free to use various methods of transmitting telemetric information during testing, including its encryption, except that, in accordance wih the provisions of Paragraph 3 of Article XV of the treaty, neither Party shall engage in deliberate denial of telemetric information, such as through the use of telemetry encryption, whenever such denial impedes verification of compliance with the provisions of the treaty.

The third common understanding reads:

In addition the obligations provided for in Paragraph 3 of Article XV of the treaty, no shelters which impede verification by national technical means of compliance with the provisions of the treaty shall be used over ICBM silo launchers.

Mr. Chairman, there are two staff comments that I might bring to your attention if you would like at this time.

The CHAIRMAN. Very well.

Mr. SAUERWEIN. Relative to the first agreed statement, the staff comment reads:

This agreed statement has the effect of nullifying or deleting the word "concealment" from Paragraph 3. In other words, measures prohibited by Paragraph 3 need not conceal, they need only deliberately hinder or deliberately impede verification by national technical means of compliance with the treaty. Thus, for example, replicas of strategic offensive arms that impede verification but do not conceal are prohibited.

Relative to the second common understanding:

With respect to telemetric information, this understanding goes beyond the first agreed statement in that what is prohibited is deliberate denial whenever such denial impedes verification, rather than only the deliberate impeding of verification. The terms of this understanding would seem to create an affirmative duty on the part of each party to refrain from denying telemetric information whenever such a denial would impede verification of compliance with the treaty. There are no agreed criteria, however, for determining when denial of telemetric information could impede verification of the treaty.

The Soviet Vienna Summit statement reported by the Executive Branch to say "There must be no encryption of information involving parameters covered by the treaty" seems to acknowledge that there are some parameters in telemetry whose denial would impede verification of compliance. The Executive Branch reported that its parallel statement at the Vienna Summit was: "Certain telemetric information was relevant to verification of compliance with the provisions of the agreement, and that the deliberate denial of such telemetric information such as by encryption, was therefore prohibited." The texts of these statements were not a part of the texts of the documents signed at the Vienna Summit on June 18, 1979.

Senator PELL [presiding]. Would you read the next comment, please, Mr. Sauerwein?

Mr. SAUERWEIN. Yes, sir.

This understanding sets forth the only case specified under Paragraph 3 where the intent of the party engaging in a measure which impedes verification is irrelevant. That is, shelters which impede verification may not be used over ICBM silo launchers, regardless of the purpose of the shelters.

The substance of this understanding was agreed in the Standing Consultative Commission in May 1977, in the context of the Interim Agreement but was not made public as a result of the agreement to keep the proceedings of the SCC private.

Senator PELL. Thank you.

What is the difference between this third common understanding and the present understanding that we have in SALT I?

Mr. SAUERWEIN. There is no difference, Mr. Chairman. It really just carries over the understanding from SALT I to SALT II.

MINUTEMAN SILO COVERS

Senator PELL. Along that line, I would like to ask the administration this question. The question came up about the canvas covers that we added to our silos for purposes of weather. They were not reaching inside, and certain changes in the covers were made, but they also prevented verification by national technical means.

I believe we persisted in doing that for a couple of years. Would that be permitted under this understanding?

Ambassador EARLE. Senator Pell, if the shelters in question impeded verification, they would be prohibited under this common understanding regardless of their purpose. In other words, they could have an innocent purpose, such as being environmental protection for any changes that might be made, but they would be prohibited if they impeded verification by the other side of compliance.

Senator PELL. Just for the record, the shelters that were used previously to which the Soviets objected, do they impede Soviet verification?

Ambassador EARLE. They claimed that it did.

Senator PELL. What was the material made out of, the covers?

Mr. SLOCOMBE. They were light, kind of temporary construction buildings. They weren't canvas. They were, I believe, aluminum. They were the kind of building that you see over a temporary construction site to allow work to proceed during the winter months.

Senator PELL. Were they transparent?

Mr. SLOCOMBE. No.

Senator PELL. Were some of them in place for more than 6 months?

Mr. SLOCOMBE. I don't know that any were in place for more than 6 months. It was our consistent view that they did not impede verification, and that if the Soviets had followed an identical practice, that would not have impeded our verification. However, in the context of the resolution of this issue, in this provision, all of those shelters have been removed, and we will not use them in the future.

Senator PELL. Do the Soviets use similar covers?

Mr. SLOCOMBE. My hesitation has to do with what the public record is that we know about Soviet practices.

The Soviets used covers at various stages in modernization work on their silos. They used covers, for example, to keep people from falling in the hole when the top was off. I think in open session I would rather not go into more detail about what their covers are.

PROPOSALS RELATING TO VERIFICATION

The CHAIRMAN [presiding]. I was going to suggest that since Senator Glenn has six amendments and Senator Percy has one relating to article XV——

Senator LUGAR. I have two, Mr. Chairman.

The CHAIRMAN [continuing]. And Senator Lugar has two. I would ask the staff to contact other members so that any amendments that other members may have, together with those about which we know now, may be tabled, reviewed and analyzed in the ordinary way.

Then we would be in a position to take them up and consider them tomorrow or the next day, after we have considered the Baker amendments. Senator Baker's amendments will come first. He indicated last week that he wished to press for his amendments, which relate to articles we have already covered, the heavy missile matter. He wanted to press that on Tuesday. We will take that up the first thing tomorrow, then we will move ahead with the article XV amendments. Senator Glenn?

Senator GLENN. I support the chairman fully in that. We had a conversation earlier this morning with some of the administration representatives, and we would like to get together to discuss some of these prior to bringing them out before the committee. I am happy to do that. I think that is fine.

So long as we don't lose our place, I think we can come back to this if we move on to other items. I would be happy to go along with that. We are going to try to get together either some time late this afternoon or tomorrow. Since Senator Baker will be up tomorrow, it might be we will get these up Wednesday or Thursday or whenever they come up. I would be happy to do that, Mr. Chairman.

The CHAIRMAN. Thank you very much for your cooperation, Senator Glenn, and for yours, Senator Lugar.

I would like to go until 12:30 this morning. This afternoon at 2 o'clock I would suggest an executive session. A number of questions have come up which have not been answerable in public session. We have been stockpiling those questions, and Senators who are interested in pursuing them could do so at 1 o'clock this afternoon.

That session would continue as long as necessary to satisfy Senators who have raised these questions. Meanwhile, that would free us to take up the Krueger nomination on the Senate floor at about 3 o'clock, and thus we would accommodate the request of Senator Lugar. That will take the balance of the afternoon.

Tomorrow morning, I think it would be well for the committee to begin at 9:30, because we are going to have a heavy schedule to take care of. I suppose there will be some debate on the Baker amendment. If there is no objection to our calling an executive session this afternoon——

Senator GLENN. Mr. Chairman, may I comment on that, please? I believe four of the six items to be brought up in executive session are matters that I raised. I wanted to be on the floor for that Krueger nomination. I chaired the hearings on that when it came before the committee. I don't want to preclude an executive session going forward just on my part, but I probably will not be able to be present at the executive session, and four of those items are items that I raised.

The CHAIRMAN. I think that the likelihood is that the Krueger nomination will not be up before 3 o'clock, and so we would have a full hour. We would address the questions that you have asked first, while you could be present, and we will work around it in such a way that we could take care of your concerns.

Is there any further discussion, then, about the committee's schedule? At 2 o'clock we will have an executive session, to be held in S. 116, the committee's regular meeting room in the Capitol Building. Tomorrow we will go back into public session at 9:30 in the morning here in this room. Meanwhile, let us proceed with article XVI.

ARTICLE XVI: ADVANCE NOTICE OF ICBM TESTS

Mr. SAUERWEIN. Article XVI, paragraph 1, reads:

Each Party undertakes before conducting each planned ICBM launch to notify the other party well in advance on a case by case basis that such a launch will occur, except for single ICBM launches from test ranges or from ICBM launcher deployment areas which are not planned to extend beyond its national territory.

There are three common understandings, Mr. Chairman, that are associated with this. The first common understanding reads:

ICBM launches to which the obligation is provided for in Article XVI of the treaty apply, include, among others, those ICBM launchers for which advance notification is required pursuant to the provisions of the agreement on measures to reduce the risk of outbreak of nuclear war between the United States of America and the Union of Soviet Socialist Republics, signed September 30, 1971, and the agreement between the Government of the United States of America and the government of the Union of Soviet Socialist Republics on the Prevention of Incidents On and Over the High Seas signed May 25, 1972. Nothing in Article XVI of the treaty is intended to inhibit advance notification on a voluntary basis of any ICBM launches not subject to its provisions, the advance notification of which would enhance confidence between the parties.

The second common understanding reads:

A multiple ICBM launch conducted by a Party, as distinct from single ICBM launches referred to in Article XVI of the treaty, is a launch which would result in two or more of its ICBM's being in flight at the same time.

The third common understanding reads:

The test ranges referred to in Article XVI of the treaty are those covered by the second agreed statement of Paragraph 2 of Article VII of the treaty.

The CHAIRMAN. There are some staff comments with reference to article XVI. Would you read those, Mr. Sauerwein?

Mr. SAUERWEIN. Yes, Mr. Chairman.

This understanding adds to already existing notification requirements from other agreements, the requirement to notify in advance of multiple ICBM launches.

The majority of Soviet flight tests are single launchers which do not extend beyond the territory of the Soviet Union and thus will not require any notification.

The executive branch stated that the word "launch" as used in Article XVI does not cover so-called pop-up tests. The executive branch has supplied additional information in the letter of August 15, 1979, to the effect that this was agreed with the Soviet Union in the SALT Delegation Drafting Group in Geneva. Because the agreement appears to be between Drafting Groups, its legal status is not clear.

The CHAIRMAN. I wonder, Ambassador Earle, if you could explain to the committee what notification is required pursuant to the earlier agreements between the United States and the Soviet Union that are referred to in the agreed statements and common understanding, and just what article XVI adds.

Ambassador EARLE. Thank you, Mr. Chairman. I will do my best.

With respect to the agreement on measures of September 30, 1971, article IV of that agreement provides, and I quote,

> Each party undertakes to notify the other party in advance of any planned missile launch if such launches will extend beyond its national territory in the direction of the other party

Now, with respect to that, this new article XVI in effect eliminates the words "in the direction of the other party." In other words, any extraterritorial launch requires prenotification regardless of the direction in which it is launched.

The CHAIRMAN. But only if it is a multiple launch.

Ambassador EARLE. No, sir. With respect to extraterritorial launches, they all must be given previous notification. There is also a general requirement that exists that any launch into a maritime area requires a general notice to mariners. Article XVI goes beyond that and requires a specific bilateral notification by one party to the other.

Finally, with respect to your general question, all extraterritorial launches require prenotification under article XVI and any intraterritorial multiple launch requires prenotification. That is, a situation in which two or more missiles are in the air at the same time.

The CHAIRMAN. I understood your explanation, but I will have to read article XVI again to find it there:

> Each party undertakes before conducting each planned ICBM launch to notify the other party well in advance on a case by case basis that such a launch will occur except for single ICBM launches from test ranges.

Now, let's just go that far. It says, "except for single ICBM launches from test ranges." In other words, if the launch occurs from a test range as described in the treaty, and it is a single launch, the notification would not be required. Am I misreading it?

Ambassador EARLE. Senator, one has to read farther down to the final clause, which reads, "which are not planned to extend beyond a special territory." That modifies both of the previous obligations.

The CHAIRMAN. Yes, I see. Thank you for clarifying that for me.

RELEVANCE OF SEA OF OKHOTSK AS INTERNATIONAL WATERS

Senator PELL. Mr. Chairman, just one question. In the Soviet Union their test missiles go, as we know, go from the interior of the Soviet Union to Kamchatka and to get there you have to go over international waters, over the sea of Okhotsk. Does that limit them in this regard or not?

As I read it, it would be territory that would not be national territory to get to Kamchatka.

Ambassador EARLE. I take your point, Senator Pell, and that was discussed, but the interpretation given to the words which are not planned, to the words, "which are not planned to extend beyond its national territory," we concluded the launch point and the impact area were within the national territory. That would be a launch which would not extend beyond its national territory.

Senator PELL. But at the same time, if we were going to do a launch to Hawaii—of course, that wouldn't be very pleasant for Hawaii—would that require notice under the same provision?

Ambassador EARLE. We could make the same argument, Senator Pell, but I am not sure what the Senators from Hawaii would say about it.

Senator PELL. It doesn't mean quite what it says, but I think I see what you are suggesting.

Senator GLENN. If the Senator would yield, we talked about this some time ago. Apparently this has always been interpreted that the water between the main body of land in the Soviet Union and the Kamchatka peninsula has been agreed upon. It has sort of been agreed upon that they could fire across that area even though technically it is international waters. Now, I suppose we could make a case that we could fire to one of our islands out in the Aleutians if we wanted to do that, and in a similar vein would not have to notify anybody, but this is a technicality that apparently everybody has accepted from way, way back as far as the testing procedures go, but I would agree with the Senator, and if he wanted to propose an understanding, I would probably support him.

As to whether they could shoot over international waters, I am sure this would have the effect of really opening up this whole thing again. It would mean they could not use any of their test ranges now except those that fire into the broad ocean areas, and it would mean that every launch would have to be announced in advance, which would not be bad at all for this treaty.

CATEGORY III PROPOSAL REQUIRING NOTICE OF ALL ICBM TESTS

I plan to bring up notification of ICBM launches later but we want to hold that for our discussion of article XV, so I will not bring that particular one up at this time, but the Senator raises a very good point, and I would be happy to support whatever action he wished to take in this regard.

Senator PELL. I do not wish to introduce a reservation here but I just wanted the record clear as to what we mean and what we don't mean. I think it is still a little obscure, but I think it is best perhaps left as it is.

Senator GLENN. What percent of their flights are exempted because of this firing over international waters thing? What number of flights go over international waters?

Ambassador EARLE. When you say what percentage are exempted, they are not required to give——

Senator GLENN. Let me put it in a different way. What percent of their tests go over international waters and arrive at Kamchatka?

Mr. SLOCOMBE. We can get you that figure, Senator. I don't know it offhand.

Senator GLENN. I think the answer is, all of them. Now, I am not sure if they use their northern test range. Not quite. Yes, it would, too. I think all of them would go over international waters.

Mr. TIPSON. Mr. Chairman, there is a notification requirement in the Agreement on the Prevention of Incidents at Sea which you could argue would be violated by over flight of any international waters. The specific language in article VI, paragraph 1, is:

That both parties shall provide to the established system of radio broadcasts of information warning to mariners not less than 3 to 5 days in advance as a

rule. Notification of actions on the high seas which represent a danger to navigation or to aircraft in flight.

Now, it may be stretching that interpretation to suggest that over flight of international waters to Kamchatka would be a danger to aircraft in the international air space or to vessels in the seas, but at least it is something to hang an objection on.

Senator LUGAR. Mr. Chairman?

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, each of the amendments that I will offer with regard to the verification issue will be consistent insofar as removing monitoring from the cat and mouse category and making it a much more straightforward enterprise. In article XVI, as staff has already commented, the majority of Soviet site tests are single launches which do not extend beyond the territory of the Soviet Union, and thus will not require any notification.

For that purpose, when it is proper and depending upon what Senator Glenn is doing, I will offer an amendment simply which will make it imperative to each party before conducting each planned ICBM launch to notify the other party well in advance. I see no reason whatsoever why all of this ought to be left in obscurity. I am informed that presently not only a majority of Soviet flight tests, but as Senator Glenn has suggested, something closer to 90 to 95 percent occur within their own national boundaries. In fact, one would have to look for the exception rather than the rule. That is simply unsatisfactory. I believe we cannot agree to this. I believe we are going to have to come to grips with the fact that as opposed to a cat and mouse game, if somebody is going to have to launch, we will have to be notified, and we will have to be prepared to monitor it.

Otherwise, we simply are going to engage, it seems to me, in a question of probability, of monitoring and verification all the way along. I see no reason to undertake that at this point.

Senator GLENN. Will the Senator yield?

Senator LUGAR. Yes.

Senator GLENN. I believe the figure is 95 percent of the flights are not announced because there is only 5 percent that extend beyond Kamchatka into the broad ocean area. Is that correct?

Mr. SLOCOMBE. Yes, sir. A very large percentage of Soviet flights are to Kamchatka.

Senator GLENN. Yes, only about 5 percent go beyond there, I think that is what is usual.

The CHAIRMAN. Senators, it is 12:30. I would suggest that we take up the various amendments that we now have notice of that relate to article XVI and article XV, and previous articles which we have considered. When the committee has disposed of those amendments, reservations, understandings, or declarations, later in the week, the committee then will resume its consideration of the treaty with article XVII on page 35 of the markup print. The executive session will take place at 2 o'clock in room S–106. This meeting is adjourned.

[Whereupon, at 12:30 p.m., the committee was adjourned, to reconvene in executive session at 2 p.m. of the same day.]

THE SALT II TREATY MARKUP

TUESDAY, OCTOBER 23, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 9:54 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

The CHAIRMAN. The hearing will come to order.

The Chair will recognize Senator Baker.

Senator BAKER. Mr. Chairman, that was without many preliminaries.

Mr. Chairman, I apologize to the committee for my necessary absence yesterday. May I assume that we are ready to proceed with article IV, section 3, and the reservation I proposed in respect to heavy missiles?

The CHAIRMAN. That is correct.

CATEGORY III AMENDMENT ALLOWING UNITED STATES EQUAL NUMBER HEAVY ICBM'S

Senator BAKER. Mr. Chairman, I will read an amendment, or would invite the staff to do that if you prefer. Let me read it. In section 3 of the resolution of ratification, I propose that we include the following reservations.

One, before the period at the end of paragraph 3 of article IV insert a comma and the following, "except that the United States of America may convert into launchers of heavy ICBM's a number of launchers of light ICBM's not to exceed the number necessary to enable the United States of America to deploy as many heavy ICBM's as were deployed by the Union of Soviet Socialist Republics on the date of signature of this treaty."

Paragraph 2 reads, before the period and at the end of paragraph 9 of article IV insert the following, "and the United States of America may flight test and deploy one new type of heavy ICBM."

Mr. Chairman, the purpose of this proposal is to provide for equality between the parties in terms of heavy ICBM's. The amendments would have the effect of establishing the right of the United States to modify 308 light ICBM silos to heavy silo configuration. The second portion of the amendment would allow the United States to test and deploy a heavy missile in addition to the light missile allowed both parties. I would emphasize, Mr. Chairman, that I am perfectly

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aware that the United States has no intention of building such missiles, that we have, in fact, considered such an option and rejected it.

Moreover, I am not advocating that that decision be reconsidered or changed. All that I am trying to do is to provide the basis by which this agreement might comply at least numerically with the congressionally established prescription for SALT II, which was a treaty that inter alia would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided the Soviet Union.

NUMERICAL EQUALITY INTENDED BY SENATOR JACKSON SALT I AMENDMENT

There are other elements of this problem, and in the interest of strategic stability their resolution may also be sought, but for the moment, let us merely determine whether we are interested in establishing that simple numerical equality spoken of in the debate on the Jackson amendment during the course of the consideration of the SALT I agreement. For a treaty whose major selling point has been the establishment of equal aggregates and sublimits, it would seem to be only a matter of simple equity to allow the United States an equal right to all of the sublimits.

Mr. Chairman, I will not prolong the record excessively. I would just point out, as I have pointed out before, that I believe in the SALT process as I believe most Members of the Senate do and as most Americans do. I feel there is a moral imperative that we try as best we can to reduce and minimize the threat of nuclear war. All of us agree on that.

The purpose of this amendment really is to go forward, however, with a clearly stated senatorial intent that we are going to do a better job next time. After SALT I, our expectations were disappointed in that the spirit of détente did not prevail, and instead of reducing the level of armament, the Soviet Union increased it; that instead of desisting in the buildup of not only strategic weapons, but in theater-type and conventional weapons as well, the Soviet Union set about building a huge new war machine.

Following on that disappointment, we adopted the congressional language of which I have spoken. That is, to insure that on some future treaty that we would provide numerical equality, but we have not done that.

We have instead permitted an opportunity for the Soviet Union to build and maintain at least 308, depending on the counting method, maybe as many as 312, superheavy missiles, usually referred to as the SS–18. There is no particular purpose for me to point out here for this record the terrible, awesome, destructive power of those superheavy missiles. They are in the aggregate in terms of throw-weight, in terms of explosive capability, truly astonishing. They are astounding in relation to our throw-weight and destructive capability. More to the point, in my view, there are two parts of the SALT II Treaty that have created an essential, important, critical, destabilizing situation. There are two faults that need to be corrected. One of them I have already spoken of, that is, the Backfire bomber.

I think it is entirely inappropriate for us to permit the Russians to build an advanced, manned, I believe, strategic bomber such as the Backfire and not to count it and control it on some basis.

The other is the problem of the heavy missiles. I think the heavy missiles drove our decision to build the new M–X system. Without those heavy missiles, it might not even be necessary to do that. I support the M–X system, but in a very real way, the M–X also is our first frank imitation of Soviet technological military prowess. The first time we have attempted to build a missile of this size and complexity, and mostly because we did not control or we did not gain equal rights to build heavy missiles of our own.

My own personal preference, my instruction to the bargaining team, if I had that authority, would be to negotiate until you get those monsters out of there, eliminate those SS–18's or their equivalent. Some say that that could not have been done. Well, I think it could have been done. I believe the Soviet Union has sane leadership. I believe they feel, as I feel, as I believe all Americans feel, that there is a moral imperative involved in trying to do those things which will at least minimize the possibility of nuclear disaster. I think we could have gotten rid of the SS–18's. It is a matter we can argue at length, and I would be prepared to match speculation against speculation, but the point is, we did not eliminate the SS–18's. The remaining fact is that the treaty is unequal in respect to the SS–18's and that the Soviet Union can have at least 308 superheavy missiles without a corresponding right on the part of the United States.

I do not believe that is equality. I do not believe that is desirable. I do not believe that it advances the cause of peace. I do not believe it provides a disincentive to the Soviet Union to take the next step on the basis of equality in SALT III or MBFR. I do not believe it is best for our country, and I thus offer this amendment.

NO U.S. WISH TO ACTUALLY DEPLOY HEAVY ICBM

The CHAIRMAN. May we have a response from the administration to the arguments that Senator Baker has presented?

Mr. CUTLER. Yes, Mr. Chairman.

We would oppose Senator Baker's amendment as unnecessary, as not conferring any military advantage on the United States, as either nonnegotiable or, if negotiable, only in return for some other, more valuable concession which we have so far not been required to give.

I will not repeat what has been said earlier about the history of the heavy missile situation, how it was essentially resolved both in SALT I and in Vladivostok, and how the present treaty does nullify it to a considerable extent by the limitation on the number of reentry vehicles on each missile. I take really as my starting point Senator Baker's recognition that the United States would not build these heavy missiles in any event, and that he does not himself quarrel with that decision as a military decision.

So, what we would be asking for is a right we would not use. In exchange, assuming we could get it at all, considering this past negotiating history going back through three administrations, in exchange, if we could get it for some other valuable concession we have not had to give up.

You will notice, of course, that this proposal would give the United States only the right to replace a Minuteman II or Minuteman III in a

fixed silo with a heavy missile in the same silo. It would be every bit as vulnerable as the present Minuteman II's and III's in a fixed silo.

The problem with fixed silos for the United States, at least, which has no intention of ever making a first strike, is their vulnerability when fixed. That is why we are building the M–X in mobile form rather than fixed form.

The last thing the Joint Chiefs of Staff or the military people would like to do, as I gather Senator Baker recognizes, is to build a new, heavy missile at a cost that would be at least comparable to the cost of building the M–X in addition to the M–X and putting it in a very vulnerable fixed silo. Indeed, a couple of years ago, when Congress was considering some initial development money for the M–X, it expressly forbade the deployment of M–X's in fixed silos.

We do not want, and when I say we, I mean the Department of Defense and the Joint Chiefs of Staff, either fixed or mobile heavy missiles. This provision proposed by Senator Baker would not let us have heavy mobile missiles in any event. It limits us only to a heavy fixed missile, but when the issue came up in the SALT II negotiations, when mobile missiles were to be allowed of whether a mobile missile could be heavy or not, the Joint Chiefs came down in favor of limiting mobile missiles to light missiles and barring both sides from building a heavy mobile missile.

So, we have no interest at the moment in heavy missiles either in the fixed silos or in mobile form. Moreover, in the form these amendments are presented by Senator Baker, you will note that they authorize the United States to have two new types. He is not proposing that we give up the mobile M–X, the light M–X, as our one new type. He is asking instead that we have a special unilateral right to have two new types, not only the M–X, the light missile, but also a new, heavy missile, and since we have no heavy missile today, any heavy missile that we were now to design and build would, of course, be a new type.

PROBABLE SOVIET RESPONSE TO ADDITIONAL NEW ICBM ALLOWED UNITED STATES

Does anyone imagine for a moment that the Soviet Union would allow the United States to have two new types while it only had one. If the Soviet response were, well, we will go along with this Senate reservation or amendment provided we also can have two new types, obviously, that would be a very bad trade for the United States, especially since, as Senator Baker concedes, we don't have the slightest intention or desire to build this second heavy missile, the second new type, while the Soviets might be very interested in having two new types, since they seem to want both a single reentry vehicle new type and a multiple reentry vehicle new type.

As Secretary Brown explained, one of the advantages of limiting them to one new type is that they will have to make a choice between those two new types in which they seem to be interested.

Further, if we were to go ahead and build this second new type, it would have to be built during the same period when we are building the M–X. It would probably cost, at a minimum, at least as much as the new M–X, and it would impose totally unjustifiable costs, that is, dol-

lar costs as well as a strain on all of our development and aerospace facilities in order to build it.

So, we would say it is nonnegotiable or negotiable only at the cost of concessions that none of us, that no one here would want us to make, that it gives us no negotiating or political or military advantage, even if we got it, and that since we obviously can make no use of it ourselves, the possession of this right would give us no future bargaining advantage, giving it up, let us say, in SALT II in exchange for something else, because the Soviets would know in advance that we couldn't use it.

So, I would say, Mr. Chairman, on behalf of the administration, if there ever was a cosmetic amendment, this is it, and also, that it does us no good of any kind, and in addition, that it is totally nonnegotiable, or negotiable only in exchange for making a concession we have not yet had to make, and that we should not make.

The CHAIRMAN. Mr. Cutler, the amendment in its present form would require a change in the text of the treaty, and thus, if approved by the committee and by the Senate, would force the treaty back to the negotiating table. Isn't that correct?

Mr. CUTLER. That is correct. That would be equally true. I think if it were not a category III proposal, in the committee's terminology.

The CHAIRMAN. In either case, we would go back to the negotiating table for the purpose of securing a right we don't want.

Mr. CUTLER. Correct.

The CHAIRMAN. I should think that would sum up the argument against the proposal. Of all of the military witnesses who have appeared before the committee, only one, and I am including all of those who appeared to oppose the treaty as well as those who appeared as proponents, when taken all together, only one suggested that we should have reserved a right to build a big missile. That one was Admiral Zumwalt. All of the rest concurred in the judgment that the United States had no need for a big missile, that we had previously decided against the big missile, that this had been settled in the SALT I Treaty, that it had been carried over into the SALT II Treaty, and that the missile we wanted to build was a light missile, the M–X missile, and a mobile missile, which has the characteristics necessary to decrease the vulnerability of our deterrent force during the mid-1980's.

None of those attributes would apply to a big missile in a fixed silo. So, I should think that there is no going argument for this proposal except its end effect for those who oppose the treaty itself, the end effect being to kill the treaty. For that reason, I would certainly hope that the committee would reject this proposal offered by Senator Baker. I have heard his arguments. I know he feels strongly about this issue, but on balance, it seems to me that the arguments against it greatly outweigh the arguments for it, at least for those of us who believe that the treaty is in the best interests of this country.

Senator Baker?

Senator BAKER. Mr. Chairman, thank you very much.

Mr. Cutler avers that he speaks for the administration as surely he does. I have tried in my statement to point out that I speak for the

Senate. The amendment that was adopted on September 14, 1972, in the Senate is the language I refer to, and it says,

> The Congress urges and requests the President to seek a future treaty that would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided the Soviet Union.

If there is a reason for this, it might be as simple as saying that the treaty negotiators and the administration honor the expressed intent of the Senate of the United States. That is the reason for it, and I have not yet heard a sound and convincing reason why the negotiating team ignored the expressed intentions of the Senate of the United States and did something else.

Now, Mr. Chairman, I entertain just the barest thought that this amendment may not pass this committee, and I would remark in two parts on that. The first is that in the unlikely event that it does not prevail here, I most surely will offer it to the Senate and try to ask them to recall their previous statement, which was accepted by an overwhelming vote of the Senate. I would point out that was the statement of the Senate and it was ignored.

ALTERNATE HEAVY ICBM PROPOSALS

The second thing I might say, Mr. Chairman, and I hope it doesn't pose a problem for the committee in respect to the 48-hour rule. If it does, I will be glad to wait 48 hours. The second part is that if this amendment does not pass, I will have two other amendments in respect to heavy missiles, one which will amend the treaty in order to eliminate heavy missiles altogether, and the other is an amendment patterned after the proposal made by Senator Moynihan of New York relating to the entire treaty, but in my case it would relate only to heavy missiles.

That is to say, if we ratify this treaty and if we don't successfully negotiate the elimination of these heavy missiles by, say, 1981, that the treaty would be of no further force or effect. I intend to offer those amendments, as I say, in the unlikely event that this one is not adopted.

Senatoor JAVITS. Mr. Chairman?

The CHAIRMAN. Senator Javits?

Senator JAVITS. Mr. Chairman, I will address myself directly to the point made by my colleague, which is the so-called Jackson amendment to the ratification of the SALT I Treaty. I would like to discuss that for a moment with the committee. The key word to me in what has been read is the word "inferior." And it reads as follows:

> Would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.

It seems to me that the key words in Senator Baker's amendment are the words which say "may convert into launchers of heavy ICBM's a number of launchers of light ICBM's." In short, the question is whether our negotiators have negotiated an inferior deal because they have permitted the Soviets to have heavy ICBM's in place of our light ICBM's, because there is no difference in numbers. The numbers are the same. The numbers are not inferior. The question is whether the quality as distinguished from the quantity makes us inferior.

CHOSEN UNITED STATES AND SOVIET FORCE POSTURES DIFFERENT

Now, I hasten to point out that SALT II has a limitation on that issue of quality, because whereas the SS–18, as I understand it, could carry two or three times the re-entry vehicles that it is permitted by SALT II to carry, it is limited under SALT II to 10, just the same as our light ICBM's are so limited.

So, it seems to me there is no inferiority because what we have chosen, and all of our military authorities agree, is a weapon which suits us, to wit, a weapon which has the same number of re-entry vehicles and sufficient accuracy and megatonnage to do the job. It may not have the same amount of throw-weight, but we have chosen marksmanship, accuracy, and other considerations as against sheer throw-weight.

Let us look at this from another point of view. We always seem to forget that the Soviet Union made a considered decision that it was going to put 70 percent of its strategic nuclear weaponry into land-based weapons. We decided we would only put about 30 percent into land-based weapons.

Now, that probably is the best strategy for us, just as the heavy weapon they believe to be the best strategy for them. Now, it seems to me that we have complied with the Jackson requirement. It is not inferior. It is different, but the difference is attributable to our strategy against the Soviet strategy.

I noted what the Senator said carefully, and I think I will quote it correctly. The Senator said that the Soviet weapon is "truly astounding in terms of throw-weight," I would like to point out to the Senator that it was not all that astounding, because the hard target effectiveness of the M–X missile is comparable with that of the SS–18.

The throw-weight of the M–X is certainly an improvement, a material improvement, over the throw-weight which we have in the light Minuteman ICBM, which is in a configuration which we think commends itself for its purpose.

Mr. Chairman, there is one thing that I would like to call to the committee's attention. This is an amendment to the treaty. For myself, I do not feel that I would have any inhibition in voting for an amendment to the treaty just because it would throw it back into renegotiation as it would. That does not scare me, if I think the amendment is worthwhile, but if I do not think this one is worthwhile, and I think it simply adds another disadvantage.

As I do not believe that this is worthwhile for the reasons which I have stated, and I believe the negotiators have not made a treaty in this respect that makes us inferior to the Soviet Union. The injunction we placed upon them back in 1972 has been maintained. I believe the amendment ought to be rejected.

The CHAIRMAN. Thank you very much, Senator Javits.

Senator Glenn?

POST SALT II SOVIET HEAVY ICBM RV BREAKOUT POTENTIAL

Senator GLENN. Mr. Chairman, I think what Senator Baker is asking for, is not that we build something comparable to the SS–18, but that we have the right to the same potential that the Soviets have.

Senator Javits is correct that the SS–18 now is limited to 10 warheads, 10 RV's, but our M–X has a throw-weight estimated to be about half that of the SS–18, or roughly half. I think when stressing potential we need to know what we are talking about on this. The SS–18 is limited to 10 right now, but they have already tipped their hand as to what their hopes are. They have tested simulating an additional 2 which would give them 12 RV's, and our best experts feel they can go at least a couple above that without other major modifications to the existing booster and its weapons delivery system.

But these same experts have indicated that they could probably use the throw-weight of the SS–18 to go to somewhere between 25 and 40, and nobody really knows how many they could add if they redesigned the racks and the SS–18's post-boost vehicle. If we went up to 25, that would give them a total of about 7,700 warheads or a capacity of 4,620 additional warheads.

If you took the extreme case, which I think is unlikely, but which has been mentioned, develop the capability for 40 RV's on that vehicle, then it comes out to an astounding 12,320 total warheads, an addition of 9,240.

That is quite a breakout potential. I think that is what Senator Baker is talking about, the potential, and not the fact that they already have this capability, and that he would like to see us have the same potential.

I don't think we are going to build something that is comparable to this, but for us to have the right to it, I think it might well be something we would want to consider favorably in this treaty.

Mr. Cutler indicated that this was nonnegotiable, locked in tight, a concrete, nonnegotiable item. Why did the Soviets lock it in that tight? Why did they take such a nonnegotiable attitude toward this thing, and what did we get for their nonnegotiability in this particular case?

We must have gotten something for this, because they have a breakout capability here that we have been aware of all along that we let them retain. What did we get in trade for this?

Ambassador EARLE. Mr. Chairman, let me address that question. The freeze on launchers of heavy ICBM's was in the SALT I agreement and was confirmed at Vladivostok in November of 1974, at which time the Soviets dropped their demands for unequal aggregates and dropped their demands for inclusion of forward-based systems.

Mr. CUTLER. In addition, Senator Glenn, remember that this would give us the right to two new types, whereas the Soviets would have the right to one new type. It strikes me it would be exceedingly difficult to claim a right to two new types for the United States and only one for the Soviet Union.

It was Secretary Kissinger's opinion when he testified before you that this particular amendment or any of the other heavy amendments would be essentially nonnegotiable.

Senator SARBANES. Mr. Chairman?

The Chairman. Senator Sarbanes?

Senator SARBANES. I would like to ask Ambassador Earle a couple of questions?

The CHAIRMAN. Senator Sarbanes, would you pull your microphone up, please?

Senator SARBANES. Under SALT I, there were unequal aggregates, were there not? The Soviets were permitted more missiles and launchers than we were permitted. Is that correct?

Ambassador EARLE. Yes; it was a freeze on the then existing forces, and they had more than we did.

Senator SARBANES. So, SALT II in that regard represents an improvement in the U.S. position vis-a-vis the Soviets, in terms that we now have equal aggregate numbers.

Ambassador EARLE. Clearly, it does.

Senator SARBANES. We also have equal subaggregates within the overall figures, especially in the MIRVed category. Isn't that correct?

Ambassador EARLE. That is correct, Senator Sarbanes.

Senator SARBANES. Now, were there fractionation limits in SALT I?

Ambassador EARLE. There were none.

Senator SARBANES. In other words, the Soviets could have put as many warheads as the heavy SS–18 was capable of carrying. Is that correct?

Ambassador EARLE. That is correct. Under SALT I, there were no limitations on MIRVed systems at all.

Senator SARBANES. This treaty limits both sides to 10. Is that right? Ten is the maximum number?

Ambassador EARLE. Yes. To 10 on the SS–18 and on the one new type for each side.

Senator SARBANES. The M–X will be capable of carrying 10 warheads, will it not, as we projected?

Ambassador EARLE. That is correct; it will.

Senator SARBANES. Mr. Chairman, it seems to me that we have gotten a lot in the tradeoff.

The CHAIRMAN. I think so.

Senator SARBANES. We have moved to equal aggregate numbers. We have moved to equal subceiling aggregates. We have imposed the fractionation limitation which is enormously important. All of the figures which Senator Glenn quoted which were of concern were precluded by the fractionation limitation. Is that not correct?

Ambassador EARLE. Yes; that is correct.

Senator SARBANES. So the problem is the extent that you have to anticipate a deliberate and egregious breach of the treaty provisions in terms of addressing those numbers. That would mean that there would be an absolute violation of the treaty. To get those numbers, I think the figures used were 25 in one instance and 40 in another, in terms of the number of warheads that could be in place.

Third, I don't quite understand why there is such a desire to get an option which our military has said they would choose to exercise, even if available to them. That was General Jones' and General Allen's testimony before the committee in very direct terms. They are prepared to go with the M–X missile which will give them the 10 warheads, the equivalent number of warheads that the SS–18 is now limited to by the terms of this treaty.

My perception of it is that it is a significant improvement over the situation existing under SALT I, and a far greater improvement over the situation that would exist without any SALT Treaty at all.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Percy?

Senator PERCY. Mr. Chairman, Senator Baker has said that Mr. Cutler is speaking for the administration, as truly he is, and that Senator Baker is speaking for the Senate as it relates now to the Jackson amendment. I don't think Mr. Cutler speaks for the administrations that preceded him. After all, there were 4 years of Republican administrations and 2½ years now of a Democratic administration during which the treaty was negotiated.

In the past, Mr. Kissinger was a spokesman for the administration. I don't think that they would be or would want to be in a position where they felt they did not adhere to the directive of Congress to never get ourselves in an inferior position.

ISSUE IS WHETHER SENATE SALT I EQUALITY ADMONITION ACHIEVED

We had testimony that this administration does not believe we are in an inferior position. It is up to each of us to interpret whether this admonition has been carried out. So far as I am concerned, I am satisfied that it has been carried out. I would not vote to ratify a treaty that I felt put us into an inferior position. I do not think we are in an inferior position today. I think we are in a comparable if not superior position. What we have traded off is something we did not want. Only one person of all of the witnesses before us has testified that we should have it, but speaking on behalf of the Joint Chiefs of Staff, Gen. Lou Allen, representing the Air Force, said, "We have not proposed a missile the size of the SS–18 in any serious way over the years in which we have been studying follow-on systems."

Now, we have heard testimony, and I believe it, that we gave up this concession which we didn't want. No administration, no President, no Congress has ever asked for the right to build a heavy missile. I think the Soviets went down the wrong road, and I think they are stuck with it. We went another road. We went the road of accuracy and reliability. We went a road that makes us less vulnerable. Seventy percent of their missiles are exposed and based on land, and 70 percent of ours are under water and in the air. They will not be able to find them.

I have been out with our Navy on missions where they have tried to locate our own submarines and they cannot locate them. If we cannot locate where some of our own ships are, I don't think they can. [General laughter.]

Senator PERCY. So, as I see it, we have carried out this particular admonition of this amendment. We are not today in an inferior position. I for one, if given the choice, would not want to change places with the Soviet Union today. I will take our strategic force, our air forces, sea forces, and land forces over theirs at this very minute.

I would be very surprised if any Members of the U.S. Senate today would want to change places with the Soviet Union. There has been so much talk about inferiority. Let's put it right up to them. Would they want to change places with the Soviets now, today, knowing what we have and knowing what they have? Well, I don't think so.

I think the Jackson amendment has been carried forward. I as a bargainer, as a negotiator, first of all, would not want to go back and

reopen the whole thing. Second, I would not want to bargain and possibly have to give away something for nothing. Senator Baker is the first to say that. He is not advocating building a heavy missile and does not want the authority that would be given to us by this amendment. We are not going to get something for nothing. We have tried to prove around here that there is a free lunch for years. Well, there just isn't. We are going to have to give up something.

Now, why give up something for nothing, for no power that we want. It is for that reason that I think Senator Baker is quite accurate in predicting that his amendment may not prevail. It certainly will not prevail with my vote.

Mr. CUTLER. Senator Percy, in support of what you are saying, might I call to your attention some remarks of General Jones before the Armed Services Committee on the question of compliance with the Jackson amendment? He said this on August 17, at page 32 of the printed transcript.

"If the issue is equality within the treaty in throw-weight and throw-weight authorization and the fact that we are not authorized as much throw-weight in the treaty as the Soviets—I am putting weapons systems aside. I am saying the treaty itself—then we in the Joint Chiefs of Staff were a party to that, because I believe that we could have had a right to build heavy mobiles.

"If we had had a right to build heavy mobiles, we could have built up to 820. I am talking about right, not about programmatic actions. We would have had the right to build 820 heavies. So would the Soviets. In the ultimate, we would have had a right to equal throw-weight in the treaty. Obviously, it would not have been practical to do it from a programmatic standpoint. We also in our judgment thought it was more likely that the Soviets would go with the heavy mobile than the United States, so we urged that heavy mobiles be banned in the treaty and that was accepted."

It seems to me, sir, that that bears out your point that the Joint Chiefs felt that equality in throw-weight by building heavies or allowing heavy mobiles was of no advantage to them. They certainly didn't want to build fixed heavies, and it is their view and the view of the Department of Defense that the M–X is essentially equivalent in hard target kill capability with the SS–18 and will remain so even after both are improved or deployed and that they are essentially the same in soft target capability as well.

Senator BAKER. Mr. Chairman?

The CHAIRMAN. Senator Baker?

Senator BAKER. General Ellis is the Commander in Chief of the Strategic Air Command and supports the SALT Treaty, but in this connection I would like to refer to pages 129 and 130 of the hearing record.

Senator BIDEN. Which part, Howard?

Senator BAKER. Part 3, in which he makes certain references to both SS–18 and the Backfire.

Senator HAYAKAWA. What pages, please?

Senator BAKER. Pages 129 and 130 to part 3.

Mr. Chairman, I believe this relates to the point made by Senator Glenn. I assume that in considering SALT we are going to consider the

prospects for the advancement of Soviet technology and strategic advantage, if we concede for the moment that there is the slightest possibility that they may cheat. Now, I don't think they will. I certainly hope they don't, but I am going to consider what would happen if they did. I am especially going to do that in light of the fact that they have already tested, I believe, 10 RV's plus 2 dummies. I assume they are 2 dummies, that is, simulated RV releases, so that makes 12. For the life of me, I do not know why you test for 12 when the treaty limits it to 10, but they have, and maybe they have tested to 14. I don't know that, but the point of the matter is that there is at least the slightest question in my mind about whether they entertained a tiny flicker of thought that there might be some advantage beyond literal and strict compliance with SALT.

General Ellis makes an interesting statement. He said, with regard to the SS–18 during SALT II, to expect the Soviets to concentrate on identification of methods for exploiting the enormous throw-weight availability of the missile, almost twice that of the M–X in the post-treaty period. The technology of fractionation is well known to the Soviets, and I expect them to progress in this area during the course of and within the limitation of the treaty.

The Soviet planner will also identify other techniques for utilizing this excessive throw-weight, such as accuracy improvements and increased warhead yields. The question then becomes whether the United States would prefer the Soviets to do this with their agreement or take their chances without cross-fractionating on additional SS–18 deployments without a treaty.

I choose the former with the hope that future negotiations will cancel out this Soviet advantage.

IMPLICATION OF RV SIMULATIONS IN SS–18 TESTS

Mr. Chairman, as I said, General Ellis supports the treaty, and he makes a good point. Maybe we have a clearer understanding of what they can do legally than we would without a treaty, but I have a nagging fear. Why did they do that? Why did they make this simulation with 12 warheads? Why do they have the 50 percent excess throw-weight? How might they utilize that to their advantage? What are the prospects that they might break out of this treaty and do something beyond the scope of what they can do now?

So, Mr. Chairman, in that view, I have a new respect for the Jackson language adopted by the Senate, and I urge that this amendment be adopted.

Senator BIDEN. Mr. Chairman?

The CHAIRMAN. I will recognize Senator Biden in just a moment, but first I want to put one question to Ambassador Earle.

Under the terms of the treaty, would it be permissible for the Soviet Union to test a heavy missile equipped with more than 10 warheads?

Ambassador EARLE. It would not be permitted.

The CHAIRMAN. Does anything in our past 25 years of experience in the nuclear arms race suggest that a new weapon capable, say, of carrying twice as many or three times as many warheads as the present weapon would be deployed without testing?

Ambassador EARLE. Not to my knowledge, Mr. Chairman, particularly since the Soviets run very conservative testing programs. That is, they test extensively before they deploy.

Mr. CUTLER. I believe, Mr. Chairman, that Secretary Brown has also testified that he considers it quite unlikely for them to be able to deploy even with or without testing more than 12 or at most 14 reentry vehicles without substantially redesigning the entire SS–18, and further, that the M–X itself is capable of deploying more than 10. So, we do have a reprisal should this happen.

The CHAIRMAN. As I recall from the extensive testimony we had on verification, counting the number of reentry vehicles is not a problem that causes us great difficulty.

Ambassador EARLE. It does not.

The CHAIRMAN. In other words, they could not test a big missile with more than 10 vehicles without violating the treaty, and it is well within our capacity to know if they were to undertake such a test program.

Ambassador EARLE. That is correct, Mr. Chairman.

Senator STONE. Mr. Chairman?

The CHAIRMAN. I promised to recognize Senator Biden next. Then I will recognize Senator Stone.

ROLE OF SS–18 IN SOVIET FORCE AND WHETHER TREATY ADEQUATELY COMPENSATES

Senator BIDEN. Mr. Chairman, we have in our hearings here and in testimony before the Intelligence Committee been focusing at great length on what this amendment concerns. And that is the significance of 308 heavy Soviet missiles, when the United States does not have an equivalent missile.

If you take the position that there should be absolutely equal provisions throughout the treaty on everything, then not only should we change this provision, but we should change a number of other provisions in the treaty, and essentially rewrite the whole treaty, because it is balanced by its asymmetries. I doubt whether most of my colleagues on this committee would suggest that that is a reason to change this particular language.

This amendment could, of course, make sense if we thought it would be worth our while to have in our arsenal the equivalent of an SS–18. But testimony from everyone from Paul Nitze through the Joint Chiefs affirms that we don't need it and we don't want it in the future.

Nor does the SS–18 have a significant bearing on the vulnerability of our land-based system. I will not once again bore the committee with the testimony, but I would prefer you all to part 1 of the committee hearing record beginning at page 345 and extending through to page 360, where we discuss at length how the vulnerability problem is in no way solved by elimination, even by total elimination of the SS–18.

Now, one Senator asked, why would the Soviets insist on this? Why are they so adamant about having the heavy missile and in turn, what do we get in return? Well, the answer to what we got in return has been given already.

Let me briefly reiterate. One, the limitation on new type ICBM's. Two, the prohibition on heavy ICBM's with a launch-weight or

throw-weight greater than the 18. Three, a prohibition on the increase in the number of RV's on the SS–18, and four, an overall limit on the number of RV's on ICBM's. These are not inconsequential items. As to the question of why the Soviets want this weapon, it seems to me that all you have to do is look at the configuration of their strategic system. The SS–18 represents a significant percentage of their lopsided triad, which is overwhelmingly based upon their land-based system. How could they, negotiating in the midst of a treaty, negotiate essentially a total reconfiguration of their arsenal?

So, it seems to me it comes down to one thing. Unless you agree that there should be absolute symmetry and that is what you are seeking, this amendment is designed for no other reason by Senator Jackson than to kill the treaty.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. I promised Senator Stone that I would recognize him.

Senator STONE. I yield to Senator Glenn.

UNITED STATES CAPABILITY TO DETECT RV BREAKOUT

Senator GLENN. Mr. Chairman, in open session I did not have an opportunity to debate Senator Biden on this, but I would disagree strongly with some of his statements about our capability now. Senator Biden is aware of where some of that information came from before that did let us monitor the Soviet's capability and I don't think in open session we can discuss this, but I would take our exception to our ability to determine some of those things at this time.

Senator BIDEN. If the Senator would yield for a question that would in no way get us into classified material, I would ask the Senator to tell me whether or not he thinks there is any possibility of the Soviets being able to test or deploy 20 or 30 RV's on an SS–18 without us being able to detect it. Does he think there is any possibility of that occurring?

Senator GLENN. Mr. Chairman, I am not going to answer that in open session. I would be glad to discuss it in closed session, but we are getting into an area that we have no business getting into in open session.

Senator BAKER. Mr. Chairman, I think that is true.

Senator GLENN. I deplore us getting into this area. Anything concerning verification I hope we would save for a closed session.

Senator BIDEN. I will withdraw the question, then, Mr. Chairman.

The CHAIRMAN. Very well. I think we are all fully aware of the particulars with respect to verification, because we have all been through many executive sessions.

Senator BAKER. Mr. Chairman?

The CHAIRMAN. Senator Baker?

Senator BAKER. Mr. Chairman, I wonder if we should not have a brief executive session on this point. I think it is relevant to the question that I put in this amendment.

The CHAIRMAN. Well, if Senators on this committee are not fully aware of these particulars now, they never will be. We have had hours and hours and hours on this.

Senator BAKER. I think it is pretty clear that we all aren't.

The CHAIRMAN. I would not draw that conclusion from anything that has been said in the open session thus far. The real question here relates to one aspect of verification which has to do with counting the numbers of reentry vehicles.

Senator GLENN. Mr. Chairman?

Senator BAKER. Mr. Chairman?

The CHAIRMAN. I had promised Senator Stone.

Senator STONE. That is all right. I will wait.

The CHAIRMAN. Senators, let me say that we have this amendment and two others, as Senator Baker has indicated he wishes to offer. He has told me that although we had planned a long session today, he has a meeting with Republican senior members that he has scheduled for 12 o'clock. Senator Javits among the senior members would be attending, so I would hope since we are all very familiar with the arguments in both directions that it would be possible for the committee to move ahead with the vote this morning. We have just 1 hour and 5 minutes to get to the votes. We have waited for several days in anticipation of this amendment and are well prepared, I think, to vote on it.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Stone?

Senator STONE. I will wait for Senator Percy. Please go ahead.

Senator PERCY. My comment will be very brief, and thank you for yielding.

Senator Baker read from testimony given by Gen. Richard Ellis, Commander in Chief of the Strategic Air Command. I think he rightly anticipates that the Soviet Union will go to the maximum that it can. That would be the maximum within the treaty terms. In the testimony that Senator Baker read to us, General Ellis said that he would expect them to progress in this area, that is, in fractionalization and adding additional units in this area during the course of and within the limits of the treaty. But he adds that with the treaty they will go to the limit of fractionalization and they would add additional SS–18 deployments without a treaty, and he therefore chooses to go with the treaty.

I think we should put into the record at this point what General Ellis said just a little bit before that, because he commented specifically in saying the treaty places a limit of 10 warheads on each SS–18 missile for a total of 3,080 for the entire SS–18 force until 1985.

In the absence of a treaty, we believe the Soviets have the technology and production base not only to increase the number of SS–18's that could be deployed but also to increase the number of weapons each SS–18 could carry during the 1980–85 time period.

Additionally, such increases in the SS–17's and SS–19's could also be achieved. I would presume, Senator Baker, as a natural followthrough of his comments, if the Soviets would maximize what they can do under the treaty, they would maximize what they can do without the treaty. We are therefore faced with the prospect of not only additional SS–18's which they are prohibited under the treaty from doing, and there is no question we can verify that, but they also will maximize the number of warheads. Potentially, they can add 20 additional warheads for each SS–18 now restricted to 10. That brings them up to 6,160 which the

treaty prohibits them from doing, and I for one, Senator, am satisfied that we can verify, and that the Soviets would not dare cheat in this particular area.

So, I can see clearly why Senator Ellis conclusively came up that the national security of the United States of America is better off with this treaty than it is without the treaty in that particular area.

The CHAIRMAN. Is there further discussion?

Senator BAKER. Mr. Chairman.

Senator PELL. Mr. Chairman.

The CHAIRMAN. I believe Senator Stone is next.

Senator STONE. I would be glad to wait.

The CHAIRMAN. Senator Stone.

RELATIVE RISKS TO UNITED STATES OF LOOPHOLES

Senator STONE. Mr. Chairman, each time a proposal is offered either to close a loophole or to render U.S. capability and options the equal of the Soviet side, a number of the ranking or leading members of the committee term such a proposal as a killer amendment because it requires the Soviet Union to agree, the assumption being the Soviet Union will never agree to anything and if it would, it would require extensive negotiations to get the Soviets to agree.

Some members are willing to take the view that, well, I might be willing to vote for such an amendment, but it isn't worth it. Taking the chance of requiring additional negotiations or submission of even a notification of class 3 that would require the Soviet Union to agree even tacitly that it is not worth it.

I have to consider the prospect that taking that stubborn a line when a loophole ambiguity or inequity is disclosed or sought to be remedied or closed may lose sufficient ratification votes so that this treaty will narrowly not be ratified, maybe even more than narrowly.

To think that the administration, that three administrations could negotiate for 7 years before wrapping up the treaty while the Senate under its advice and consent jurisdiction—and it is jurisdiction, and not style, it is jurisdiction. We have the duty not merely to advise, but in the form of our consent to review what is submitted here other than just voting up or down. We do not have a closed rule, such as the House sometimes under, appropriately, under its rules.

Under the advice and consent function of the Senate, we are supposed to look closely at these treaties, and we have the right, and if we feel the necessity, we have the duty to make appropriate amendments, reservations, and understandings. I am worried about the administration's own testimony about the vulnerability of the vast majority of our strategic forces during the period from late 1980 until at least 1983 or 1984. The heavy missiles that the Soviets possess can knock out our land-based missiles and our nonready other parts of the Triad. They can just knock them out, but we can't knock theirs out during this period. They can knock ours out, so our war fighting doctrine of mutual destruction does not really apply to at least that option that the Soviets possess and can use diplomatically.

We all know that if you have a strategic superiority, that gives you a strategic diplomacy. Unfortunately, that is the real world. So, I am

concerned about this period or window of vulnerability which the Soviet heavy missiles provide them and which nothing we have provides us during this period of most of the treaty.

I am also not confident about the so-called race track. That does not give us a mobile missile. It gives us limited mobility among vertical silos above ground, which extremely heavy throw-weight and multiple reentry vehicles might conceivably, maybe more than conceivably address.

I am not too sanguine about that whole $30 billion proposal putting all of our new heavy missiles, and that is what the mobile missile will be in one or two areas on some racetracks above ground. When one of our members says, would anybody exchange strategic forces with the Soviets, well, during the bulk of the life of this treaty, compared to our vulnerability and their vulnerability, yes, I would. I would do this because as strong as we are with our Triad, thank heaven, and with our accuracy, we do not have any counterforce capability. We have no counterforce capability. We can hurt their people, but we cannot address their weapons. They can hurt our people and they can address and knock out most of our weapons, during this period of the life of the treaty.

There is something else that troubles me, and it is this. With the strategic comparison that we had at the end of the SALT I Treaty, we were able to negotiate this comparison of forces. With the comparison of forces that we will have legally and without cheating on either side at the end of this treaty, what kind of a SALT III Treaty will we have the comparative strength to negotiate?

I asked all during the hearings, both open and closed, why wouldn't the Russians agree to reductions of any real dimensions? Why wouldn't they agree to Secretary Vance's proposal in Moscow? Well, I never got a good answer. I got one answer in a closed session which I am not going to repeat which was not a good answer.

It was just a bad answer. I have never satisfied myself as to why we can't put a lid on the arms race now. Why is it that the fragile alliance between doves and hawks has persisted all through the hearings and up to now? Why do we have doves like Senator Hatfield, who wants a freeze, and hawks like Senator Garn, also who wants a freeze, as compared to the terms of the SALT II Treaty? It troubles me. I have not made a final decision but it troubles me. The unwillingness to close a loophole of diesel nuclear armed missile submarines which the Soviets not only have but can duplicate troubles me.

These things all trouble me. I detect stubbornness on the side of an unwillingness to ask the Soviets to agree to close loopholes and inequalities. That troubles me. Frankly, I would much rather be supporting an amendment to eliminate the heavies or to render firepower equal than I would support an amendment to allow us to escalate to the Russian firepower which is what this does. This allows us to escalate and make our firepower more equal to the Russian firepower. I would much rather bring theirs down than bring ours up.

It would be cheaper for both sides, but they won't do it. Never have I had an answer why they won't equate their firepower. I have had members of the committee say, well, that is fundamental to their version of the Triad, but the problem is, their firepower is greater than

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ours, and their accuracy is approaching ours. All of those things trouble me.

While I am going to support the Baker amendments, I would much rather support the Hatfield amendments here and on the floor, and I will support the Hatfield amendment here and on the floor. I would much rather equate at a lower level than have to wrap around with a treaty like this and equate at a higher level if we ever can at great expense.

All of those things trouble me. I am not assured by the administration or the members' arguments here this morning. My inner compass works better than anything I have heard here today. When I feel a little more relaxed and secure about this, then maybe I can vote for this thing, but until I do, all of this forward-based system argument doesn't get to me at all. I have heard it trotted out every time we have one of those things. The fact of the matter is that when it comes to Europe, the Russians have more strategic fire power trained on our allies than we have trained on them by far, and want to keep us from equating that.

All they want is a fair edge. All they want is an edge. Well, that is very nice, but the object of this exercise is to get equality in strategic forces. I am troubled. I am not ready to say yet that we are there or even that we are going there in this process the way it is going at this point.

The CHAIRMAN. Senator Pell had asked for recognition. Senator Pell?

Senator PELL. Thank you, Mr. Chairman.

I think in this whole treaty we have to bear in mind that it is asymmetrical, that it is apples and oranges and not even balanced. The Soviets with their heavy missiles could fractionate maybe 25 or 30 times if it were not for the treaty. They would not have to reduce the heavy missiles, so it is a question, I think, of balance, but along the line of Senator Baker's testimony I would like to ask the administration one question. If it passed, do we have any intention of building weapons, heavy missiles in the period before the expiration of the treaty in 1985?

Mr. CUTLER. As a practical matter, Senator Pell——

Senator PELL. Except for the M–X.

Mr. CUTLER [continuing]. It would be impossible, because that missile would have to be designed, developed, and built, and even the M–X, as you have heard, which is a light missile, although its development started several years ago, will only begin to be deployed as this treaty expires and will not be fully deployed until after 1985.

Senator PELL. In other words, if it passed, it would not alter the course of events one jot?

Mr. CUTLER. Well, it would alter whether or not we have a treaty but it would not alter what the United States would do. So far as intentions go, General Jones is categorical for the Joint Chiefs. Secretary Brown has been categorical, and I gather that Senator Baker is categorical, that we would not build it for sound military reasons.

Senator PELL. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Is there further discussion?

Senator JAVITS. Mr. Chairman?

The CHAIRMAN. Senator Javits?

Senator JAVITS. I would like to say a word about Senator Stone's moving statement on his concern. It seems to me that all of those concerns validate the position that we are better off with the treaty because the treaty reduces the concerns in every department. Now, if we were going to sit still and rely upon the same signal that we relied on after SALT I, we are not going to do much further. Even in that case we did a good deal, and we assume the Russians would feel the same way. But now we are going to send them a new signal as I have stated on many occasions.

It is a two-man poker game, so why should they put up any bigger stakes. They didn't feel the same way. Now, Senator, we will all have to see this, you and I. The difference is going to be that we are going to give them a new signal, and that is that the power of American creativity and industrial strength will be unleashed in this matter, as it already is being unleashed in respect of the M–X. If they take that new signal, the world will breathe a sigh of relief. If they don't, at least the United States, and taking your own feeling as sincerely expressed, will be more secure.

Now, pinpointing our situation in the Baker amendment, it is interesting to see what Henry Kissinger had to say about this. He is no particular friend of the treaty. This is what he said, and I look at page 173 of his testimony. He referred expressly to this amendment. He said when speaking of the kind of amendments, "The second type would represent a claim of equal entitlement such as an American right to possess 308 heavy missiles." And then he goes on to explain, "Which cannot be exercised during the life of the treaty and would therefore represent an assertion of principle rather than a contribution of strategic balance."

Secondly, on the next page, page 175, when he gives his conditions, he takes account of this heavy missile business and he says:

> Second, the Senate should specify that as part of SALT III the United States would be entitled to any weapons system permitted to the Soviets in the new agreement unless the Soviets agreed to some compensation by giving up a weapons system of equivalent characteristics allowed to us.
>
> This should take care of the heavy missile inequity within the only framework, that of SALT III, which would give us a real option to produce it.

So, in his mind, it is very clear as to what the sequence is. I share the concerns of the Senator from Florida. The whole question in my mind, speaking personally, is that we are better off with SALT II than without it, and it takes us on to SALT III, which gives us a chance to do even better, assuming that we are now going to give the Russians a new signal. If there is anything on which we are united, it is that. That signal is, look, if you want a competition in strategic nuclear arms, you have one and we can beat you at it.

ASYMMETRY AND EQUALITY

The CHAIRMAN. Senator Lugar?

Senator LUGAR. Mr. Chairman, it seems to me that the case for the Baker amendment comes down to an assertion really of commonsense. It has just been suggested by Senator Javits that Henry Kissinger said it would be an assertion of principle, which indeed it is. It is a

principle that most Americans find very appealing. As a result, the administration and those who have tried to negotiate a treaty, it seems to me, have had a very difficult case to make as to why this equality really has not been a part of the treaty.

The assertions again and again are to the effect that it is an apples and oranges problem and that asymmetry has replaced symmetry. As to the facts of the matter, it seems to me that again and again in testimony, critics of the treaty came back to this. Admiral Moorer, for instance, says:

> I have always been concerned about the large missile, the SS–18, which the Soviets are allowed to have, or the United States denies is a weapons system. The argument that we have no program to build the missile is a specious one. What possible basis can there be for permitting the Soviets to deny the ability which they possess?

Similar comments were made by General Rowny. He said:

> First, the treaty is not equitable. Let me cite three major examples. One, the treaty grants the Soviet Union a unilateral right to 308 launchers for heavy ICBM's. While the Joint Chiefs recognize at the outset that Soviet heavy missiles would pose a serious problem, we did not press hard enough for the elimination of the Soviets' SS–9's and SS–18's, and so forth.

Even more interesting is what we find when we comb through the testimony of the Joint Chiefs. At one point Senator Sarbanes pressed the Chiefs for any reservation they had about the treaty.

General Meyer said, "My concerns all along have been with a strict accounting of equity. Specifically, I consider the Backfire, the 308 heavy missiles, our monitoring capability and the Soviet breakout capability to be inequitable in the strictest sense."

General Meyer goes on to say, "However, I am satisfied that the military significance of these inequities is not such as to pose unacceptable risks to us during the period of the treaty. I believe I have a greater concern over these specific risks than my peers here at the table do."

General Meyer, as did the other Joint Chiefs, finally came down on behalf of the treaty. But, nevertheless, even here this question of equity keeps coming through. It is hard to keep explaining away that essentially it is something we don't want, that we don't want to build, that it is impossible for us to build it, and, in fact, assertions are made, although they become more and more hollow, that the Soviets may have made a bad decision. This becomes more tortured, I think, as we now see that they not only have greater firepower but also greater and greater accuracy. Whereas we might not have wanted to go that route, it will do no good at this point to bad-mouth the Soviets for having made a bad choice because, apparently, they have something out there that is a great threat to the United States of America. Even if we are not prepared to counter it, the minimum that we could do—the minimum—is to at least make an assertion of principle. Granted we may not have the money, the will, or the desire to get up to speed on this situation, but at least in the treaty we ought to have the right to try.

At this stage, the administration and advocates of the treaty are suggesting why assert this if you upset the applecart and have to go back to the negotiating table.

One of the benefits might be that we would get back to the table. One of the benefits might be, as Senator Baker and others have suggested, that we might see a reduction at the table.

I agree with Senator Stone, clearly the desirability in this sequence of amendments is not to build heavier missiles. It is to reduce the threat to the United States of America. We were not able to do that in the first negotiating round. We shall have to try at some point. To assert, as Senator Javits does, that SALT III is the place to do this, begs the obvious question.

Why not now? There is no magic with regard to SALT III. There is no magic with regard to our negotiating posture during that period of time.

It just seems to me that it is an assertion of principle, an assertion of equity, and an assertion of commonsense. We had better adopt the Baker amendment and, if necessary, get back to the negotiating table, as I would hope we would do, to see whether some degree of arms limitation and a greater safety for our country might ensue promptly.

The CHAIRMAN. Thank you, Senator.

Senator Zorinsky.

Senator ZORINSKY. Thank you, Mr. Chairman.

I would like to ask Senator Baker a question about his amendment.

Senator, would I be correct in saying that the advantage of heavy missiles to the Soviet Union is in the increased number of reentry vehicles that the greater throw-weight of a heavy missile can deliver?

Senator BAKER. I think in part the advantage is in throw-weight. The Soviets have the option, at least, to deploy a greater number of RV's and reentry vehicles than would be possible to deploy with an M–X.

Senator ZORINSKY. Because of their heavy throw-weight?

Senator BAKER. Because of the larger throw-weight there could be larger RV's and great number of RV's.

There is another aspect of concern, if I may add to the answer. It is sometimes said that without SALT we might see Russia build 30 or 40 RV's on the SS–18, and maybe that is so. Maybe that is a danger, and I freely concede that it is. But there is another danger.

I recall that Russia tested 50 megaton weapons, once. As a matter of fact, it was 55 to 60 megaton weapons, and they did it in October 1961, despite a resolution of the United Nations asking them not to do that. It was an atmospheric test of a huge weapon.

I have always thought, for my part, that the SS–18 might relate in some way to the Soviet option to use such a weapon. It is an enormous hole-digger, an enormous weapon which they could have, beyond even the capability to launch larger RV's and more RV's than we do.

I might point out that the use of one large warhead of that type on the SS–18, which would be a whole new ballgame, would not be in contravention of any deterrents of the SALT Treaty.

Senator ZORINSKY. Although the greater throw-weight enables a heavy missile to carry a greater number of reentry vehicles, is it correct that SALT II limits the number of reentry vehicles with the SS–18?

Senator BAKER. It does. But it does not limit the size of the RV's. It limits the number but not the size.

Senator ZORINSKY. Then which would best serve to limit the number of RV's which the greater throw-weight allows—the passage of SALT II or the failure of passage of SALT II?

Senator BAKER. The very best result would be the result that Secretary Vance attempted in March 1977, which was to try to negotiate the elimination of or reduction of the SS–18's. If my recollection serves, the Vance proposal in Moscow at that time was for the reduction of the SS–18, or the heavy missile, from 308 down to 150. A preferable result would be to reduce it down to zero.

But, absent that result, in view of the breakout capability, in view of the extraordinary heft of the SS–18, in view of the fact that the Russians have tested a 55- to 60-megaton weapon, in view of the fact that they can have much larger RV's than we can have, even under the terms of the treaty, I think it would be far preferable to amend this treaty than to ratify the treaty as it now stands.

So, my effort is not to make an argument at this point in opposition to the treaty, but rather to argue that the treaty should be amended to eliminate as many inequities as possible before we approach the final question of how we vote on it.

Senator ZORINSKY. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Zorinsky.

I would like to sum up for a minute my own feelings on the matter, having had the benefit of this discussion.

It seems to me that we have never thought it to be in the American interest to build a deterrent system that is a mirror image of the Soviet system. We have opted for asymmetry because we felt it served our security to do so.

We never have thought it necessary to build big missiles of the kind the Russians have built. We opted, instead, for missiles that were adequate to destroy any possible target and that were equipped with multiple warheads of great accuracy.

Even now, given the choice, nearly every military witness has said that he would not advocate building a big missile. The M–X missile meets our need. It is permitted by the treaty. It is a mobile missile and thus addresses the problem of the growing vulnerability of those Minuteman missiles that are in fixed silos.

If we were to build a big missile at the expense of $25 or $30 billion, just to mimic the Russians, we would be putting them into fixed silos under the terms of the Baker proposal, and they would be just as vulnerable in 1984 and 1985 as our present Minuteman missiles.

So, this amendment is not addressed to our national security needs.

I think it would be irrational for the committee to adopt the amendment simply to establish a principle that we do not want to exercise and to force the whole treaty back to a renegotiation. I have muc' sympathy for the position that Senator Stone took a few moments ago when he said that he was concerned that this treaty does not do enough. Well, I do not think it does enough, either. I would like to see substantial reductions. In fact, I would like to see a world in which there were no nuclear weapons at all, no weapons of mass destruction capable of obliterating whole societies. But I do not know quite how we can get to that world from here.

This treaty is the only game in town. All of us could devise, I suppose, each to his own standards, a treaty we each would prefer. But the question before this committee is whether a treaty that has been negotiated does, in fact, enhance the security interests of the United States. That is the question we should ask ourselves. If we answer that question affirmatively, then I think it follows that we should vote against the Baker amendment.

I would hope that this would be the decision.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. I think Senator Lugar's comments are worthy of rebuttal, simply because the logic that he presents is that we ought to have true equality and that we would do so by adopting the Baker amendment. This should really be subject to challenge.

Should we really strike out for true equality?

OK, let's say the United States gets the right to have heavy ICBM's, a right which every one of us has said, including Senator Baker, that we do not intend to exercise. Then what would we give in offset to that? Would we not really open up the whole area of our theater capability in Europe, which is not under the treaty. There is no theater capability that the Soviets have in this area.

Would the Soviets not then press forward? If I were they, I would press forward and say, "If you really want the principle of equality, you have theater rights over in Europe that can strike at the heart of us. We want the right to deploy hundreds of nuclear capable aircraft in Central America, in Cuba, and to have carriers in the Caribbean."

The fact is that we have hundreds of U.S. launchers in Europe and on carriers that are capable of striking the Soviet Union, and these are not in any way affected by the treaty.

So, if we are to go back to square one and have the principle of utter equality, then we are really going to have to start all over again. That is exactly what we do not want, because we absolutely refuse to consider any counterpart for our theater capability in Europe.

This has been argued and argued and argued, ever since the first SALT negotiations got underway. This principle has been established through hard bargaining in one Republican administration after another. Would we want to open that up and go all the way back to square one?

That is exactly what the Soviets would do. They are not naive. They would go right back and say let's take the Baker-Lugar principle of utter equality and renegotiate this whole thing. That is the last thing in the world that I would want as a bargainer.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. I find just preposterous the thought that one who argues for equality at the same time would advise a Soviet strategy that would do us in. Not for a moment am I going to suggest that somehow, because I am going to support the Baker amendment, I am giving away the NATO alliance or will permit Soviet cruisers in the Caribbean. That is nonsense.

What we have to assert is simply as a matter of principle we want to have at least the right to do what the Soviets are doing. We are not giving away anything. We are asserting something.

I, for one, am tired of listening to all of the rationalizations of what the Soviets would do, of what we would have to give up. We are not going to give up anything.

We are asserting right now that we have the right to do this, and if they don't like it, that is too bad. In essence, we are not building a missile, we are saying that we at least want an equitable treaty or we are not going to sign it. That is what this ratification procedure is all about.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I have just a short comment regarding Senator Percy's statement. I think what the Soviets insisted on was negotiating what we would put in Europe while they held out the SS–20 and said it was not a factor in the negotiating process. They are both theater weapon systems. So we are in the position of looking at it from the Soviet viewpoint which is what is mine is mine and what is yours is negotiable. That, in effect, is what they did.

If we want to open this up again and want to put parity on this thing, then we should have insisted on SS–20's being in the treaty, as opposed to our theater nuclear forces in Europe. That would have made it a true negotiation.

One of the reasons we gave in on the SS–18 on this was in return for their agreement on forward-based systems. I think probably that was a mistake because what we did was bargain away something and not demand that their same forces on the other side be a part of the negotiating process.

Senator SARBANES. Mr. Chairman, I don't understand that. I want to be clear.

Maybe I do not really understand this situation.

Our forces there can strike the Soviet Union. The SS–20, unless I misunderstand it, cannot strike the United States. It can strike our Western European allies, but this treaty is addressed to the weapons that can strike either of the two countries. The treaty does not reach weapons under our control that can hit the Soviet Union. As I understand it, it does reach every weapon of the Soviets that can reach the United States.

Senator STONE. Except for the Backfire.

The CHAIRMAN. Senator Sarbanes, that is well put.

Senator STONE. Mr. Chairman, I would reiterate, except the Backfire.

Senator SARBANES. But we are about to put the Backfire in the treaty.

The CHAIRMAN. Yes. We have already partially addressed the Backfire question and we will address it further. Senator Zorinsky made a very good point, too, that with the treaty we have a limitation on the number of warheads that the Soviets can place upon the large missile and without the treaty we have no such limitation.

Senator Baker, as the sponsor of the amendment, may I recognize you as the last speaker, by unanimous consent. [General laughter.]

Senator BAKER. That is a temptation almost beyond endurance, Mr. Chairman. [General laughter.]

Senator BAKER. I can think of a thousand things that I might say if there is no opportunity for rebuttal. But I won't.

Thank you, Mr. Chairman.

I would like to address my remarks primarily to those made by Senator Percy.

For the life of me, I cannot figure out how we ever would be in a position of contending that we traded the SS–18, their super heavy missile, capable of lofting a 55- to 60-megaton warhead, or maybe as high as 40 RV's, who knows, for forward-based systems. I simply can't. If we did that, it would be terrible. I frankly don't think we would do that.

I think we tried very hard in both the Ford administration and in the Carter administration to get rid of the SS–18, and I think we gave up too soon. I think we should still be negotiating on getting rid of the SS–18's because the SS–18's, in my judgment, have driven the necessity to develop the M–X missile. They have raised the whole question of mobility, of vulnerability, of counterforce, of the possibility of evasion of the terms of this treaty and the necessity for a more complex and elaborate verification system.

In a word, I think we gave up too much when we gave up on the SS–18.

That is over and done with, now. That is behind us. The treaty was signed at Vienna and is now before the Senate.

Mr. Chairman, I really do believe that if we have any function at all in the exercise of our constitutional responsibility to advise and consent to the ratification of treaties it has to be an honest judgment, freely expressed in terms of the treaty itself and never on the basis of what we think we might do to the Russians, whether or not we are going to make them mad.

I was particularly taken with the letter from Eugene Rostow and a number of other signatories from the Yale Law School Faculty, which was addressed to you, Mr. Chairman, dated September 27, 1979, and appearing, beginning at page 15 of part 4 of the hearings.

The last paragraph of that reads:

> The Senate should reach its conclusions about SALT II in terms of its analysis of the treaty's impact on our foreign and defense policies as a whole. If it finds there are certain issues on which it would be desirable to alter the text or to obtain clarification from the Soviet Union, it should proceed to state those points in a form that would require the unequivocal and explicit concurrence of the Soviet Union. The notion that we should hesitate to raise fundamental questions for further discussion with any nation out of fear is repugnant to our nature and to our history. If the Soviet Union were as arbitrary and as unreasonable as some spokesmen for the administration seem to think, no agreement with it would be worth having. Yours Sincerely, Eugene Rostow.

and seven other signatories.

Mr. Chairman, I do believe, as I am now repeating for the fourth or fifth time, I really do believe in the SALT process. I do believe that the Soviet Union has sane and sensible leadership. But I believe they are awfully good bargainers. I think we gave up too soon on the two items that we have already discussed: the Backfire, which is not now before the Committee, but will be again before we finish, and the SS–18.

The CHAIRMAN. Thank you very much, Senator Baker. The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. No.

Mr. BADER. Mr. McGovern.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Biden.
Senator BIDEN. No.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. No.
Mr. BADER. Mr. Muskie.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.

On this vote, the ayes are 7 and the nays are 8. The amendment is defeated.

Senator BAKER. Mr. Chairman, might I be recognized for just a moment?

The CHAIRMAN. Yes, of course.

TWO ALTERNATIVE PROPOSALS ON HEAVY ICBM'S

Senator BAKER. I indicated earlier that I would have two other amendments to this section if this amendment were not adopted, and I believe I described them. One would be to eliminate the right of the Soviet Union to have heavy missiles at all and to reduce the aggregates accordingly. The other would be to provide for further negotiations on this subject and an amendment to provide that the treaty would be of no further force or effect by a date in the future if the reductions were not accomplished.

One of these is written in longhand and the other is not yet written. I would be glad to try to do them today, if you wish, or I would be glad to do them when the committee next convenes.

The CHAIRMAN. I would prefer, since we are all familiar with every aspect of the argument relating to this issue, that we present them and vote on them today.

Senator BAKER. All right, Mr. Chairman. I am perfectly willing to do that.

I wonder if it would suffice simply to state the amendments, as I have done.

The first would be an amendment to reduce the total aggregate by the number of SS–18's, by the 308.

I would be happy to discuss that further, Mr. Chairman, if the committee wishes.

The CHAIRMAN. Do you have a copy of your amendment. I would like to have every Senator read it, if possible.

Senator BAKER. Mr. Chairman, this is going to be a little difficult. I have one of the amendments here with a longhand addition to it. The other we can prepare in a few moments.

The CHAIRMAN. Very well, if you would explain again the amendment you are now presenting, I think we would be prepared to vote on it.

Would you just read it to the committee.

Senator BAKER. Mr. Chairman, let me say that I have no desire whatever to delay this. I would be glad to do it this afternoon within the time that we have available, or I would be glad to do it in the morning. We can take up something else now. But it really is a little messy to try to have a penned amendment here to be read. When I look around, I see quizzical looks on some of the faces at the table here. I might even see one on my own if I had a mirror. So I would respectfully request, Mr. Chairman, that I be permitted to offer this amendment either at the resumption of the hearings of the committee this afternoon or as the first item of business in the morning.

The CHAIRMAN. Let me just say that we have tried to get this committee back into afternoon sessions during the limited period permitted to us by virtue of the standing objection to our meetings in the afternoon. It has been very difficult to get a quorum, even a working quorum. I am afraid that if we go to the afternoon session, we will find ourselves in that position.

Senator BAKER. Why don't we meet at 9 o'clock in the morning and do it then?

The CHAIRMAN. Well, we were to meet at 9:30 this morning and we got underway at almost 10 o'clock. We have the whole committee present almost. May I suggest this.

Senator SARBANES. Mr. Chairman, why don't we take a 3-minute break. That would enable members to address the question which Senator Baker seemed to think was reflected on members' faces, if I understood that reference. [General laughter.]

Senator BAKER. You understand, Senator, that I was speaking, of course, of only one face per member. [General laughter.]

Senator SARBANES. That would enable the staff to write it out and put it in front of us and we would have everyone here, so that we could dispose of the amendments.

The CHAIRMAN. Let us have a 5-minute break to be sure that the time is adequate for this preparation.

We will reconvene at a quarter to 12.

[A brief recess was taken.]

The CHAIRMAN. The hearing will please come back to order.

Senator Baker asked me, as a personal favor, to allow him to bring up his next amendment tomorrow morning, and I have acceded to his

request, as I would to any other member of the committee who put such a request to me.

This means that we are now free to take up where the committee left off in the reading of the treaty itself, and that was on page 35, where we were about to commence our consideration of article XVII of the treaty.

I will ask Mr. Sauerwein if he would please read article XVII.

ARTICLE XVII: STANDING CONSULTATIVE COMMISSION

Mr. SAUERWEIN. Article XVII, paragraph 1, reads:

To promote the objectives and implementation of the provisions of this treaty, the Parties shall use the Standing Consultative Commission established by the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding the Establishment of a Standing Consultative Commission of December 21, 1972.

Paragraph 2 reads:

Within the framework of the Standing Consultative Commission, with respect to this treaty, the Parties will:

(*a*) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(*b*) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligation assumed;

(*c*) consider questions involving unintended interference with national technical means of verification, and questions involving unintended impeding of verification by national technical means of compliance with the provisions of this treaty;

(*d*) consider possible changes in the strategic situation which have a bearing on the provisions of this treaty;

(*e*) agree upon procedures for replacement, conversion, and dismantling, or destruction, of strategic offensive arms in cases provided for in the provisions of this treaty and upon procedures for removal of such arms from the aggregate numbers when they otherwise cease to be subject to the limitations provided for in this treaty, and at regular sessions of the Standing Consultative Commission, notify each other in accordance with the aforementioned procedures, at least twice annually, of actions completed and those in process;

(*f*) consider, as appropriate, possible proposals for further increasing the viability of this treaty, including proposals for amendments in accordance with the provisions of this treaty;

(*g*) consider, as appropriate, proposals for further measures limiting strategic offensive arms.

Paragraph 3 reads:

In the Standing Consultative Commission the Parties shall maintain by category the agreed data base on the numbers of strategic offensive arms established by the Memorandum of Understanding Between the United States of America and the Union of Soviet Socialist Republics Regarding the Establishment of a Data Base on the Numbers of Strategic Offensive Arms of June 18, 1979.

There is one Agreed Statement associated with this third paragraph and it reads:

In order to maintain the agreed data base on the numbers of strategic offensive arms subject to the limitations provided for in the Treaty in accordance with paragraph 3 of Article XVII of the treaty, at each regular session of the Standing Consultative Commission the Parties will notify each other of and consider changes in those numbers in the following categories: launchers of ICBM's; fixed launchers of ICBM's; launchers of ICBM's equipped with MIRV's; launchers of SLBM's; launchers of SLBM's equipped with MIRV's; heavy bombers; heavy bombers equipped for cruise missiles capable of a range in excess of 600

kilometers; heavy bombers equipped only for ASBM's; ASBM's; and ASBM's equipped with MIRV's.

The CHAIRMAN. Ambassador Earle, is there any comment you would care to make with reference to this article of the treaty?

Ambassador EARLE. Thank you, Mr. Chairman.

I would say that it is largely a carryover from the ABM Treaty with several additions which we believe to be helpful. It incorporates a reference to questions involving unintended impeding of verification, which was not in the original charter of the SCC. Subparagraph 2(e) has been expanded to take care of the prospective conversion procedures under SALT II. Perhaps most important, we added the obligations embodied in paragraph 3 for the maintenance of a data base.

The CHAIRMAN. Is this the first time that the United States and Soviet Union have been able to agree upon a provision that furnishes the other side with a data base?

Ambassador EARLE. It is, Mr. Chairman. Under SALT I, there was simply a freeze. Numbers of ICBM launchers and SLBM launchers were not agreed. In this case, each of the categories is agreed. It is the first time that the Soviets have done anything of this nature.

The CHAIRMAN. And the obligation to provide the data is confined to the weapons systems limited by the treaty?

Ambassador EARLE. Yes. The categories reflect the systems which are limited by the treaty. And, of course, as you know, Mr. Chairman, in Vienna, in June, we executed the so-called memorandum of understanding which reflected agreed numbers between us. Each side also gave the other a statement of the numbers of its own weapon systems as of that date.

One of the important things of the memorandum of understanding and the obligation to maintain the data base is not only that it confirms the counting that we do through our national technical means, which, in fact, it did, but it also confirmed for the sides the application particularly of the definitions of the provisions of the treaty so that there is no misunderstanding as to which systems the definitions apply and to which ones they do not.

So, it serves the dual purpose of confirming our own judgments with respect to numbers, and it serves the second purpose of maintaining an understanding, if you will, between us as to the interpretation and application of the provisions of the agreement.

The CHAIRMAN. Thank you.

Are there any comments or questions?

Senator GLENN. Yes, Mr. Chairman.

The CHAIRMAN. Senator Glenn.

CATEGORY I RESERVATION ON NOTICE TO SENATE OF COMPLIANCE ISSUES

Senator GLENN. I have a reservation on this. It would be in section 1 and is being distributed now.

During SALT I, Mr. Chairman, the Senate was largely kept in the dark about suspected treaty violations. There is some suspicion, even echoed by the Senate Select Committee on Intelligence report, that enforcement on occasion was lax, we were hesitant about taking things to the SCC.

This proposal would require the administration to notify appropriate Senate committees when compliance issues were to be discussed by the SCC and 30 days later to submit a report detailing the results of that meeting.

I must say that I submit this with mixed emotions, Mr. Chairman. I do not want to set up a situation where we might have violations that the intelligence community had identified but failed to take to the SCC because they were going to have to report them to us.

In balance, however, I think we do not like the surprises that were occasioned by such things as Mel Laird's Reader's Digest article of a year or so ago, which came as quite a shock to many people. I don't think we would want to repeat a situation like that again.

So, what this reservation would do is this. It would be in section 1 of the resolution. It would state,

> That before the date of exchange of the instruments of ratification the President agrees—(1) to notify promptly the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate whenever either party to the treaty raises a question concerning compliance with any provision of the treaty or of any agreement relating thereto; (2) not later than 30 days following a notification under clause (1), to prepare and transmit to each such committee an initial report summarizing any discussions relating to such question of compliance held between the parties; and (3) at 6 month intervals to prepare and submit to each such committee status reports summarizing any further discussions until the compliance issue has been resolved to the satisfaction of the United States.

This would be a category I understanding in the resolution of ratification.

Senator SARBANES. Mr. Chairman, may I speak to this?

The CHAIRMAN. May I ask first, Senator Glenn, if you are presenting this for the committee's consideration at this time?

Senator GLENN. Yes; I am. I'm sorry, Mr. Chairman, if I did not state that to begin with. I would move its acceptance by the committee, Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

PROTECTION OF CLASSIFIED COMPLIANCE

Senator SARBANES. Mr. Chairman, I really have some problems with paragraph (1). Whenever a question concerning compliance is raised, do you want that promptly made public, because I think that in effect is what paragraph (1) amounts to.

I just think in terms of enforcing the treaty and obtaining resolutions of questions with respect to compliance, it probably will not contribute to it. The fact that a question has been raised would become public almost immediately upon its being raised. This complicates greatly the process of trying to resolve it, obviously.

I think it would have some effect also on whether matters were brought to the Standing Consultative Commission.

I think the Congress needs to be kept informed on a reasonable basis so that these questions are not being raised and discussed and resolved or not resolved without our ever being aware of what is going on. But I do not think notifying three committees of the Senate and their attendant staff virtually on the moment of raising a question concerning compliance really is going to further the compliance process.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Senator Pell.

Senator PELL. I think Senator Sarbanes' thoughts are pretty valid because we all know if we release this information to these three committees, it will reach public consciousness pretty soon thereafter. At least this has been our experience in the past. In addition to that, it will harden the positions of both sides. So, the opportunity of compromise and reaching an agreement will be made much more difficult.

I remember seeing somewhere two memoranda that describe all of the work, all of the issues that have come before the Standing Consultative Commission during the life of SALT I. It is digested pretty thoroughly there. I wonder if this could not be done perhaps on an annual basis, where we do not get into the heat of the moment, and we are more likely to have the issues resolved peacefully.

I would be very interested in the reaction of Ambassador Earle to this, who has been in the middle of the maelstrom on this.

Ambassador EARLE. Senator Pell, I confess I am not that experienced in this. That is, I did not actively participate in the proceedings of the Standing Consultative Commission.

I think in principle that indeed the Congress should be kept informed. I don't think there is any disagreement from what I have heard here today.

As to the mechanics and the timing of it, I think we would like to give some further consideration to the proposal made by Senator Glenn.

Senator SARBANES. I wonder if Senator Glenn would be willing to work at this further.

John, would you be willing to do that? I think we have a problem of the sort that I have mentioned.

Senator PELL. I think it can be worked out and modified.

The CHAIRMAN. I might say, in this connection, that there is another proposal that has been introduced into the Senate by Senators Huddleston and Bayh of the Intelligence Committee which relates to this same subject matter. As I read it, it would confine the notification to the Select Committee on Intelligence for the Senate. I think it might be well for us to look at this draft to see if there is some revision that might accommodate the concerns that have been expressed here.

Senator Glenn, I am in basic agreement with you that there ought to be a mechanism by which the appropriate committee, at least, would be informed of alleged violations that were being taken up in the Commission so that the Congress would not be left out, as has been the case in the past. But it is just a question of the wording and how far we want to spread the obligation to inform various committees. I think we ought to give that a little more thought before we go to a vote.

Senaor GLENN. I am supposed to get together perhaps later this afternoon if our schedule works out right and if we don't have a committee meeting this afternoon to talk over some of the other verification proposals that I have with members of the administration. Perhaps we could discuss these at that same time.

I might only add another factor that led me to this. We have been very, very concerned about the will, the strength of will of our Government to be willing to go to the mat on issues that violate this. That

was raised over and over again during the hearings, and it has been mentioned a couple of times since we started our markup here. This would address that. It would mean that when they got intelligence information which indicated we should be at the table, it will certainly strengthen the administration's willingness to show our will and go to the table on anything that violates the SALT Treaty.

I see that Mr. Cutler wanted to be heard.

The CHAIRMAN. Mr. Cutler.

Mr. CUTLER. Mr. Chairman, I just wanted to say that the principle of Senator Glenn's proposal corresponds to assurances that the administration has already given to the Senate Select Committee on Intelligence. Those, of course, would be under a seal of security. And, of course, other Senators have access to what the Intelligence Committee knows.

The CHAIRMAN. If I might interrupt for a moment, I would think that we could insert a provision that would lay an obligation upon the Intelligence Committee to inform this committee, which has the primary jurisdiction, in the event that it believes a significant problem has developed.

There are many questions that can be raised in the Commission that are rather routine, and yet, if a significant problem has developed which, in the judgment of the Intelligence Committee, constitutes or could constitute a serious violation of the treaty, then I think this committee should be informed.

If you could work on language that would accomplish that objective, I would appreciate it.

Mr. CUTLER. We would be glad to do that, Mr. Chairman.

Senator GLENN. Mr. Chairman, with the idea in mind that we can work on this, we will discuss it later with the administration when we take up some of these other issues.

I would change this from a reservation to an understanding. I think this would fit in better with the other things that we have done here.

We will discuss that this afternoon. I will withdraw it for the time being with the idea of submitting it later.

The CHAIRMAN. Thank you very much, Senator Glenn.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Yes, Senator Lugar.

Senator LUGAR. While we are in this subjet matter area, I noted the staff comment on page 35 of our committee print. It reads:

> If the regulations of the SCC are not amended, agreed procedures, any additionally agreed clarifications or interpretation revised data base numbers and other agreements reached in the SCC concerning SALT II might not be made public.

Then there is a footnote which says:

> Paragraph number 8 of the regulations reads: "the proceedings of the Standing Consultative Commission shall be conducted in private. The Standing Consultative Commission may not make its proceedings public except with the express consent of both Commissioners."

Despite the debate that we have been having on Senator Glenn's proposal, I am wondering how we have worked our way out of the box that whatever occurs within the SCC cannot be made public.

The CHAIRMAN. I believe the answer to that question is that although the Commissioners themselves cannot make public the proceedings of the Standing Consultative Commission, unless both agree, this has been interpreted as not binding upon the two governments. The Commissioners are so bound, but one government or the other, if it chooses, can make public matters that have been tabled at the Commission.

Am I correct in that?

Ambassador EARLE. Yes; that is correct.

Senator LUGAR. In other words, the Secretary of State or some official of our Government could approach the Intelligence Committee of the Senate, for example? I am just wondering how the communication would occur.

Senator SARBANES. Mr. Chairman, I would not regard that as being made public. I was dealing with it being made public as a practical matter and not as a theoretical matter. That is only the leak problem, which is separate, from making this information available through a committee or committees of the Congress. The committee is not making it public and therefore is clearly within the regulations as they stand and therefore does not require some way of getting around the regulations.

It is a theoretical proposition. I recognize the practical problems.

Would that be correct?

Ambassador EARLE. Senator Sarbanes is entirely correct.

The transmission of information regarding the discussions in the Commission to a committee of Congress in closed session would not come under the prohibition.

Mr. CUTLER. And we do periodically advise the Senate Select Committee on Intelligence of every issue that is discussed and the results reached.

The CHAIRMAN. But beyond the practice of advising the Senate Committee on Intelligence, if the U.S. Government wished to make public a dispute that had arisen in the Commission, the Government of the United States is not bound by this provision of the treaty not to do so, except with the consent of the Russian Government. Is that true?

Mr. CUTLER. That would apply as we read it, Senator Church, only to the proceedings that transpire. I think we would be free, if we so elected, to make public that we had raised an issue.

Senator LUGAR. Mr. Chairman, while we are pursuing this particular point, prior to the hearings on the SALT Treaty, and during that time the Intelligence Committee, of course, met frequently, I do not recall ever hearing anything with regard to the Standing Consultative Commission, at least not during the period of time I have served in the Senate. This would be just from January 1977 onward. I have been a member of the committee from that point onward. I am wondering what the channel of communication has been.

PRESENT ARRANGEMENTS TO NOTIFY CONGRESS OF COMPLIANCE ISSUES

Mr. Cutler has mentioned that it has been the practice to advise the Committee on Intelligence, but I am not clear how that could

have occurred unless the communication has been with the chairman only or with some other mechanism.

I raise the point not to be difficult about it because I think in due course during these hearings we found out most of what has been occurring in the Commission and so we are up to date at this point. But Senator Chafee, for one, has mentioned and has circulated a "Dear Colleague" letter suggesting that a subcommittee might be formed on the Intelligence Committee that would be a proper vehicle in which some monitoring of this could take place. Maybe the desire has not been to share with all members of the committee this sensitive data.

Now I can understand that. We all know how we can compartmentalize these things.

But I am just stating as a fact that I do not recall as a member of the committee ever hearing of anything going on in the SCC from 1977 onward, and I think if we are going to proceed in this direction, we probably had better decide what the flow of information is going to be if there is going to be some check and balance.

Mr. CUTLER. Senator Lugar, could Mr. Graham of the Arms Control Agency answer that question?

Senator LUGAR. Yes; thank you.

Mr. GRAHAM. Senator Lugar, semiannual monitoring reports have been made available to the Senate Select Committee on Intelligence as well as two top-secret classified verification reports. Then there were two unclassified reports that were made public on the proceedings of the Standing Consultative Commission. As you indicated, during the SALT hearings. Commissioner Buchheim and former Commissioner Graybeal did testify before the committee.

Senator LUGAR. In other words, you are suggesting that my problem is to find out where these reports go once they are transmitted by you or others.

Mr. GRAHAM. If I could just make an additional point, Senator Lugar, all of the implementing agreements that have been concluded in the Standing Consultative Commission have been kept confidential but have been made available to the relevant committees of the Congress, the six committees: the two Armed Services Committees, the Foreign Relations Committee, and the House Foreign Affairs Committee.

The CHAIRMAN. Senator Glenn, I appreciate your withholding this for the moment. We will take it up when you have had an opportunity to discuss it further with the administration.

Senator GLENN. May I ask another question, Mr. Chairman?

The CHAIRMAN. Yes.

Senator GLENN. It is required by law that you do this? Is this written in now, or is it something the administration is doing out of the goodness of its heart?

Mr. CUTLER. We have a practice under SALT I, which I think has been satisfactory to the Senate Select Committee on Intelligence. We have made express commitments to them, as I mentioned, with respect to reports under SALT II. This could be incorporated in an appropriate form of your proposed understanding.

Senator GLENN. Thank you.

The CHAIRMAN. Very good. If there are no further proposals to make with respect to this article, we will move on to page 36 and to article XVIII of the treaty.

Mr. Sauerwein.

ARTICLE XVIII: AMENDMENTS

Mr. SAUERWEIN. Article XVIII reads:

Each party may propose amendments to this treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force of this treaty.

The CHAIRMAN. That seems clear enough.

Are there any comments, suggestions, or questions?

[No response.]

The CHAIRMAN. If not, Mr. Sauerwein, would you go on to article XIX.

ARTICLE XIX: ENTRY INTO FORCE AND DURATION

Mr. SAUERWEIN. Article XIX, paragraph 1, reads:

This treaty shall be subject to ratification in accordance with the constitution procedures of each party. This treaty shall enter into force on the day of the exchange of instruments of ratification and shall remain in force through December 31, 1985, unless replaced earlier by an agreement further limiting strategic offensive arms.

The second paragraph reads:

This treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

The third paragraph reads:

Each party shall, in exercising its national sovereignty, have the right to withdraw from this treaty if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests. It shall give notice of its decision to the other party 6 months prior to withdrawing from the treaty. Such notice shall include a statement of the extraordinary events the notifying party regards as having jeopardized its supreme interests.

Done at Vienna on June 18, 1979, in two copies, each in the English and Russian language, both texts being equally authentic.

Mr. CUTLER. I might point out in this connection, Mr. Chairman, that the right to withdraw under paragraph 3 is not limited to events of violation of the treaty by the other party. As it says, it is for any reason that can be described as an extraordinary event relating to the subject matter of the treaty, that jeopardizes the supreme interests of the withdrawing party.

Under standing international law, in the event of a material violation by one party, the other party would be free to withdraw forthwith, if it so elected.

The CHAIRMAN. In paragraph 1 of article XIX, I read: "This treaty shall enter into force on the day of the exchange of instruments of ratification," and no date is specified. So the time at which these instruments of ratification are exchanged is flexible.

Mr. CUTLER. That is correct, and it depends on the will of the Senate.

The CHAIRMAN. So, if an understanding were attached that was binding on our own Government that postpones the time of the exchange of instruments until certain other facts have been ascer-

tained, the President would be obliged to wait until those facts had been ascertained before he could proceed to exchange the instruments of ratification, and it is not until those instruments of ratification have been exchanged that the treaty would come into effect?

Mr. CUTLER. That is correct, Mr. Chairman.

The CHAIRMAN. Are there any further comments on article XIX or on the signatures that have been affixed to it.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. We actually have come to the end of the treaty and are about to move on to the protocol.

Senator GLENN. Mr. Chairman, if this went over into the new year, would that date be extended?

Mr. CUTLER. No, sir.

Senator GLENN. The termination date is locked in, then?

Mr. CUTLER. If you mean the expiration date, that is a firm date in the treaty, is that not correct?

Ambassador EARLE. That is correct.

Senator GLENN. Thank you.

The CHAIRMAN. Is there any further comment on this article?

Senator Lugar.

Senator LUGAR. Mr. Chairman, the language in paragraph 3, just before the signatures, in article XIX, giving the right of withdrawal, under principles of international law, at least in many treaties, would there not be language that would justify immediate withdrawal simply if it was a judgment of supreme national interest? In other words it seems to me that this is modified by saying that there have to be extraordinary events or at least something beyond the immediate withdrawal that would come from simply supreme national interest, as we perceive it.

Mr. CUTLER. It is a standard clause, Senator Lugar. I believe it has been in the earlier arms control agreements with the Soviet Union. If your concern is about the 6-month period, I would think that is in the mutual interest of the parties, bearing in mind the breakout danger. If one party notified the other that it intended to withdraw, the 6-month notice is a reasonable provision to allow the other side to prepare for breakout.

Ambassador EARLE. But, of course, under international law a violation of the treaty by one side would permit immediate withdrawal by the other side.

Mr. CUTLER. That's right.

Senator LUGAR. But there is no provision here, and I cannot conjure up events that might make a fundamental change of circumstance or something that was in our supreme national interest. But in those sorts of situations, regarding the 6-month period, in essence there really is no way out except by a charge of violation.

Senator SARBANES. In those circumstances, I would assume that we would do what we have to do and take the onus of not complying with the 6-month period. If the treaty is violated you can come out of the treaty immediately. You also have the option that even if the treaty is not violated and all of its terms are met, either party can assert a supreme national interest and withdraw from it after a 6-month period, pursuant to its terms, in an orderly way. I guess in

extremis it is available to us as it is available to the other party and we could, in effect, just break out of the treaty. That is what it would amount to. But that would then be out of the orderly or regular process.

Mr. CUTLER. There is no Supreme Court to decide whether one party or the other failed to carry out a provision of the treaty, even the withdrawal clause.

Senator LUGAR. I appreciate that. This is the reason I am wondering why logically the 6-month idea is a good one. It would be, provided you had a Supreme Court. But it seems to me that when supreme national interests are involved, this becomes an academic issue and is superfluous, really.

Mr. CUTLER. Senator Lugar, first it is standard to provide for notice for a withdrawal because of an extraordinary event. Second, the extraordinary event could well be some action by the Soviets which we wished to correct, something that did not violate the treaty. We might wish to serve the notice of withdrawal in the expectation that, having served a notice of withdrawal, in 6 months that could lead to a negotiation resolving the issue which had led us to deliver the notice.

So, it seems to us a reasonable provision.

As I mentioned, there is the break-out problem. Given the danger of break out, certainly it is a reasonable notice before one party or the other withdrew from the treaty and this would seem to be in our interests. We are not likely to be the ones to break out.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I did not have a comment on this matter but had something to say about a statement on page 36.

The CHAIRMAN. Very well, what is it?

DATA BASE: CATEGORIES EXCLUDED AND WHY

Senator GLENN. On the right hand side of the page, under staff comments on page 36, with regard to paragraph 3 of article XVII, the staff comment says: "Other categories of strategic offensive arms limited, but not banned, by the treaty which are not a part of the agreed data base are: launchers of heavy ICBM's," and I presume this would include the MLBM's we talked about this morning. It continues with "air launched cruise missiles capable of a range in excess of 600 kilometers (or the average number of such missiles per heavy bomber equipped for them)."

Why are those not included in the data base? It seems to me that those are rather important items.

Ambassador EARLE. Senator Glenn, with respect to heavy ICBM's, there is no numerical limitation on them. They are frozen, and no more can be constructed or no existing light launchers can be converted. As I said, there is no numerical limitation on them and it did not seem appropriate or necessary to have a numerical limitation on them, or have a category included in the data base.

With respect to the air-launched cruise missiles, there is a provision, as you know, which limits existing heavy bombers to no more than 20, and all heavy bombers to an average of 28. We considered the possibility of including a category of that nature, but, as a practical matter, it would have required 30 or 40 categories, such as

heavy bombers equipped for one cruise missle, heavy bombers equipped for two cruise missiles, and so forth. It was determined that it would be better not to try to do that, but, rather, to maintain the count and if any question arose, to take it up in the Standing Consultative Commission.

There is a category for heavy bombers equipped for cruise missiles.

Senator GLENN. On the MLBM's or heavy ICBM's, I see what you mean about the category being pretty well defined and unalterable as far as numbers go. But doesn't that apply also to some other areas? We have certain limitations on the numbers of SLBM's, for instance, yet we include those in our data base.

Ambassador EARLE. You are correct. They are included in the 2,400 or 2,250. But so do all ICBM launchers whether heavy or light. In other words, there is no point in making a distinction for the purpose of the numerical limitations in the agreement between lights and heavies because there is no numerical limitation on heavies. It is simply a freeze on their additional construction or conversion.

Senator GLENN. Theoretically, then, under the lights, which we are sticking with, there would be a variability from one type to another?

Ambassador EARLE. Only a variability down. The Soviets may not convert any existing launchers of light ICBM's to launchers of heavy ICBM's. If they choose to take down their heavy force, they may do so. But the fact is that they remain as ICBM launchers which are included in one of the categories of the data base.

Senator GLENN. Did they push to get it defined in this way?

Ambassador EARLE. We had proposed that there be such a category and they made the arguments to us that I have just made to you, and we finally accepted them.

Senator GLENN. OK, thank you. Perhaps we may want to discuss this a little bit later.

Thank you, Mr. Chairman.

The CHAIRMAN. That completes the committee's consideration of the text of the treaty and it takes us to the protocol.

I wonder if we could have the protocol read.

NOTICE OF UNDERSTANDING ON PROTOCOL EXTENSION

Then I will want to call the committee's attention to an understanding that I will be proposing, along with Senator Javits, although I will not press for a vote on that understanding today. But I think the committee should have notice of it.

Senator LUGAR. Mr. Chairman, as a matter of procedure, how long does the committee intend to meet this morning? The reason I ask is at 12:30 we have a Republic Policy Committee meeting and my other five colleagues I presume are gathering there at present. I do not want to disrupt the committee meeting, but at the same time, if we could ceasefire in a few minutes, I would appreciate it.

Senator SARBANES. I would not describe our proceedings as something that require a "ceasefire." Mr. Chairman, I want to enter a mild dissent as to that description of our process. [General laughter.]

The CHAIRMAN. Let me just give notice of the understanding that Senator Javits and I will propose, and then we will adjourn for the

day. I think it would be quite futile to try to come back at 1 or 1:30 to get the necessary membership in attendance.

However, we will meet again in the morning at 9:30, at which time after consideration of the amendments to be offered by Senator Baker and any others that Senator Glenn may propose, we will take up, once those matters have been disposed of, with the reading of the protocol.

Senator LUGAR. Mr. Chairman, at that time tomorrow morning could we establish some sequence? Would the Baker amendments come first?

The CHAIRMAN. The Baker amendments would come first.

Senator LUGAR. Then maybe amendments in the article XV area?

The CHAIRMAN. The amendments relating to the general issue of verification could come next, if that is satisfactory to Senator Glenn.

Senator GLENN. We are going to talk those over this afternoon. I hope we will come to some resolution about that.

The CHAIRMAN. I would suspect that we would spend all morning discussing and disposing of these various proposals. The sequence would be the Baker proposals first, then the proposals that Senator Glenn will be offering on the subject of verification. Once we finish that business, we will take up the protocol. I would like to give notice that Senator Javits and I will then be proposing an understanding that the protocol to the treaty, which expires by its terms on December 31, 1981, may only be extended in whole or in part with the advice and consent of the Senate, provided two-thirds of the Senators present concur.

It is our further intention to offer a similar understanding to the treaty itself, that it may not be extended beyond its termination date in 1985, except with the advice and consent of the Senate, providing two-thirds of the Senators present concur.

Very well, it is now 12:30.

Senator LUGAR. Mr. Chairman, I would be happy to yield to Senator Glenn and the amendments he might have on verification, but after he has completed, I have three amendments to present. Two deal with article XV and one with article XVI.

The CHAIRMAN. I would be glad to take up your amendments following the disposition the committee makes on those of Senator Glenn.

Senator LUGAR. Thank you, Mr. Chairman.

The CHAIRMAN. This committee will stand in adjournment until 9:30 tomorrow morning.

[Whereupon, at 12:30 p.m., the committee adjourned, to reconvene at 9:30 a.m., Wednesday, October 24, 1979.]

THE SALT II TREATY MARKUP

WEDNESDAY, OCTOBER 24, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 9:50 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

Also present: Senator Cranston.

The CHAIRMAN. The hearing will please come to order.

We begin the proceedings this morning by turning to the second amendment to be offered by Senator Baker. The Chair recognizes Senator Baker.

Senator BAKER. Thank you very much, Mr. Chairman.

Yesterday, I indicated that I would have two additional amendments. We have distributed four amendments which are variations on the same theme. I wish to announce now that only two will be offered.

CATEGORY III AMENDMENT BANNING HEAVY ICBM'S

One will be as follows: In section 3 of the resolution of ratification, include the following amendments: To article IX, add: "3. Each party undertakes not to develop, test or deploy heavy ICBM launchers and missiles for such launchers. Heavy ICBM's and heavy ICBM launchers in existence on entry into force of this treaty shall be dismantled or destroyed according to agreed procedures by December 31, 1981."

To article V, paragraph 3, add: "(b) Each party undertakes to limit, from December 31, 1981, launchers of ICBM's equipped with MIRV's to an aggregate number not to exceed 512."

This amendment, of course, is simply a complement to the amendment I offered yesterday, which would eliminate heavies on both sides.

Mr. Chairman, I am prepared if the committee wishes to discuss both of these together and then to have votes on them.

The CHAIRMAN. Very well.

CATEGORY III AMENDMENT TO ELIMINATE HEAVY ICBM'S BY END 1981 OR TERMINATE TREATY

Senator BAKER. My other amendment is as follows: In section 3 of the resolution of ratification, include the following amendment: After

paragraph (3) of article XIX, add the following: "4. The Parties shall conclude by December 31, 1981, an agreement to reduce by the expiration of the treaty the numbers of heavy ICBM launchers to zero and to limit the launchers of ICBM's equipped with MIRV's to an aggregate not to exceed 512. The failure to conclude this agreement by December 31, 1981, shall result in the termination of the treaty on that date."

Mr. Chairman, as I indicated earlier, the first amendment is the complement of the amendment I offered yesterday, which was to give the United States an equal right with the Soviet Union to have the same number of heavy missiles. As SALT II is now written, the Soviets are entitled to 308 heavy missiles and we are entitled to none. The amendment I offered yesterday, as you will recall, was defeated by one vote with eight votes against the amendment and seven votes for it.

The amendment that I am proposing today simply says that if we cannot have equal rights to heavy missiles between the United States and the Soviet Union, we should not have any heavy missiles at all.

This is a fundamental change in the treaty and I have no illusions about that. But it is also fundamentally important and I think the Senate would be derelict in its responsibility if it did not address this issue directly.

Mr. Chairman, the second amendment deals with the possibility of a future reduction in heavy missiles. It, frankly, is a variation on the amendment offered and filed by the distinguished junior Senator from New York, Senator Moynihan. The Moynihan amendment provides that if we do not have significant reduction in the overall aggregates in the treaty by a future certain date, the treaty would expire in advance of its scheduled expiration in 1985. This is a further limitation on that proposal, and says if we do not successfully negotiate a reduction in heavy missiles by at least a certain date, the treaty will expire.

It is, in effect, a variation on the Moynihan amendment.

HISTORY OF HEAVY ICBM ISSUE

Mr. Chairman, the United States long has realized that the combination of accuracy and throw-weight in land-based ICBM's was the most destablizing factor in the strategic equation. It is clear from the history of the debate on the interim agreement that limitations on throw-weight, the equalization of the throw-weight disparity that was already apparent, was a goal established by the Congress.

The legislative history shows that throw-weight, in addition to numerical limits, was one of those levels within which the intercontinental strategic forces of the United States would not be inferior to those of the Soviet Union.

The negotiating history, from the interim agreement through the Vladivostok accords, is replete with proposal after proposal endeavoring to deal with this critically important disparity.

In November 1974, at Vladivostok, the United States, for a time, gave up on its attempts to redress the disparity on throw-weight, settling instead for equal aggregates and sublimits on MIRVed launchers.

Mr. Chairman, I supported the Vladivostok accords then, but frankly I question the wisdom of that decision now.

I think at the time we may have been too enamored with the idea of getting a SALT Treaty, and too willing to forget that SALT was merely a means to stability and not an end unto itself. In partial defense of those of us who supported Vladivostok, I would say only that at the time we made that decision, we did so in contemplation of a deployed B–1 bomber and an M–X missile. We now have neither. The Soviets still have their throw-weight disparity.

President Carter remembered the original goal of SALT and pursued it vigorously, but not successfully. I would also note that along the way, the administration forgot that SALT can only be pursued effectively in tandem with the determination to maintain credible and equivalent strategic forces. But that, for the moment, is another question.

As recently as the fall of 1977, the administration was still pursuing limitations on heavy ICBM's, although then with a far more modest proposal than the one offered in Moscow in March. So, here we are. In our pursuit of an agreement—any agreement—we have forgotten our original goal. We have foregone and delayed those programs that would have made the problem somewhat more tolerable. With virtually no recourse, we enter the 1980's with the prospect of an extended period of increasing vulnerability, and by virtue of this agreement with little prospect of improving the situation with future agreements.

I believe we need to reestablish that original goal in some binding form in this agreement, and I am willing to admit that it may not be possible to do that. But I also believe that we need to find out whether or not it is possible within the context of this agreement.

We heard during the debate on the interim agreement that the inequities of that agreement would be fixed in SALT II. Now we are hearing that the problems of SALT II should be fixed in SALT III.

I do not believe that we can accept that assurance. I believe that we need to establish now the principle that throw-weight disparity is destabilizing, and unacceptable.

For this reason, Mr. Chairman, I am asking the committee to consider the two amendments that you now have before you. One of the amendments precludes either party from having heavy ICBM's and requires a commensurate reduction in MIRVed ICBM's. The second of these amendments would allow consent to ratificaton of the treaty, subject to an agreement between the parties to negotiate the elimination of heavy missiles for the expiration of the treaty. Failure to reach such an agreement by the end of December 1981, would result in the automatic termination of the treaty.

Mr. Chairman, I would return to a point I made early in the hearings. There are many important aspects of this treaty. But I believe none is more important than the question of the Backfire bomber and the heavy missile.

I think the United States got out-bargained on both. I think it is inconceivable that we would count our strategic bombers—even though they have not been used as strategic bombers, I believe, since World War II, but rather as theater weapons—that we would count our B–52's—even those in the desert, partially disassembled—and not count their Backfires. But this is the subject of another amendment

which was offered to the committee and was rejected. An amendment dealing with Backfire most surely will be offered on the floor of the Senate when the treaty reaches the full Senate for its deliberation.

UNITED STATES CONCERNS ABOUT SOVIET HEAVY ICBM'S

If it were not for the Russian heavy missiles, a whole category of concerns would disappear and evaporate. If it were not for the heavy missiles we would not be concerned, at least not as concerned, about the vulnerability of our Minuteman force. We would not be enthralled with the idea of an effective counterforce. We would not wonder whether or not we could retaliate after a first strike by the Soviet Union and destroy their war-making potential, as distinguished from the incineration of their citizenry.

Mr. Chairman, I believe that the heavy missiles possessed by the Soviet Union are one of the two issues at the heart of the problems with the negotiating process that led to the submission of a SALT Treaty which I believe is inequitable and unfair. I will continue to pursue an effective remedy. I am not certain that the Soviet Union would agree to either of these amendments, but I am not sure that it will not.

I continue to believe that the Soviet Union has sane leadership, that the Soviets, too, are committed to the moral imperative of trying to avoid nuclear war. But in order to do that, in order to remove the destabilizing forces at work in this treaty, I think we have to address the question of the heavy missiles.

It is for these reasons, Mr. Chairman, that I do offer these two amendments today.

The CHAIRMAN. Thank you very much, Senator Baker. And thank you, too, for the coffee. It warms me, but I fear not enough to support your amendment. [General laughter.]

ROLE OF SS–18 IN SOVIET FORCE

The effect of the first amendment would be to require the Soviet Union to dismantle and destroy 308 heavy missiles by December 31, 1981. That is the backbone of the Russian deterrent, the Russian nuclear strategic force.

We have never thought it necessary in our own national security interest to build these heavy missiles. We have chosen, instead, to give emphasis to our submarine force and to smaller, accurate missiles that contain warheads big enough to destroy any target, any military target, any hardened target, or to obliterate Russian cities, and thus, whichever way a war were to go, weapons designed to fulfill the need that we foresee.

Now, the Russians did not force us not to build heavy missiles. We made that decision on our own. And, if we can judge by the testimony given to us by the Chiefs of Staff and most of the other military witnesses, we do not regret that decision. Practically none of them has advocated that we build a heavy missile if we have the opportunity. The M–X missile, which we do propose to build, does not fall into the heavy missile category.

So why should we impose a condition which we know the Russians cannot accept and demand that they destroy all of their heavy missiles

if they want a SALT Treaty with us, demand that they destroy the kind of weapons that we never have thought necessary to include in our own nuclear force?

Why propose a killer amendment of this kind?

The second amendment would be equally fatal. It simply takes a different approach and poses different deadlines, but would require the dismantling and destruction of the Russian heavy missile force.

I would think if either of these amendments were to be adopted by the committee, we might just as well close up shop. This may be a reason for those who oppose the treaty to support the amendments. But I believe it is critical for those of us who believe the treaty serves the national interest of the United States to vigorously oppose these amendments, either one of which, in my judgment, would prove fatal to the treaty.

I would like to ask the representatives of the administration, Ambassador Earle and Lloyd Cutler, if they would respond to the arguments that have been made by Senator Baker before we proceed further with the debate here at the committee table.

Mr. CUTLER. Thank you, Mr. Chairman.

Senator Baker's proposal is a variant, a fairly extreme variant, of proposals which three Presidents and two Secretaries of State have been trying to negotiate with the Soviet Union for the past 6 years. Administrations of both parties have made various efforts along these lines or along the lines of Senator Baker's other proposal about cutting back the Soviet heavy missiles to 150, along the lines of the proposal he tabled yesterday but has not withdrawn.

It has not been possible in these negotiations conducted by men as skillful as Henry Kissinger, Cyrus Vance, and all of their assistants, to bring about that kind of agreed reduction. One reason is that the proposal to reduce the number of MIRVed intercontinental ballistic missiles to 512 means, as a practical matter, that the Soviets would be required to dismantle 308 heavy missiles, two-thirds of which, at least, have been MIRVed with 10 reentry vehicles each, while we would be obliged only to dismantle 38 Minuteman III's with three warheads each.

Now it would take a very, very skillful negotiator, it seems to me, to make that kind of trade. The reduction in the number of Soviet heavy missiles is a perfectly legitimate objective for SALT III, as Secretary Kissinger has indicated, as the Joint Chiefs of Staff have indicated, and as the administration itself has said.

It may be, Senator Baker, that you will have the high privilege of being able to conduct those negotiations of SALT III, in which we might be able to reduce the number of heavy missiles.

Senator BAKER. That is the most encouraging statement that has been made to me today. [General laughter.]

Mr. CUTLER. I, at least, would strongly support you in that effort. But I respectfully submit, sir, that it would be beyond even your capabilities to negotiate that as part of SALT II. It may be, as you say, that with your skills or someone else's, who has not yet taken a try at this, the Soviet Union might be persuaded to go along. But you would have to admit, sir, there is an equally large possibility—I would say a much greater possibility—that they would not go along and that

the result would be no SALT II and therefore no possibility of reducing the heavy missiles in a SALT III.

HEAVY ICBM THREAT WITHIN UNITED STATES WITHOUT SALT II

The consequences of not having a SALT II, Senator Baker, would be to increase whatever danger these heavy missiles pose to us over the next several years. With SALT II, the number of those heavy missiles is constrained, the number of warheads on each is constrained, and the Soviet ability to test and break out without our knowledge is constrained by the various verification, counting, and other rules.

Without SALT II, none of those conditions would apply and the risks of those heavy missiles over the next several years would be substantially increased. This is not just my judgment or that of the administration; it is the military judgment of General Jones, as he has testified to you; it is the military judgment of General Ellis, and the head of SAC. They have said, much as they would like to reduce the number of Soviet heavy missiles, that they would prefer not to renegotiate SALT II in order to do that and take the chances of delaying SALT II and losing the benefits conferred by SALT II with respect to heavy missiles and many other matters during the period that those negotiations would have to continue.

It seems to me, sir, it would be a very heavy responsibility for anyone voting for your amendment to reject that military judgment and to substitute your own.

Of course, you have the right to do that and the duty to do it if you think your conscience requires that.

From the political side, the foreign policy negotiation side, it is the judgment not only of this President and this Secretary of State, it is certainly the judgment of Dr. Kissinger, which he expressed before you, that it was impractical to try to negotiate the heavy missile issue as part of SALT II, and certainly he tried long enough, and that it should be brought up as part of SALT III.

While it is a somewhat different thing for this committee to substitute its foreign policy and negotiating judgment for Dr. Kissinger's and Secretary Vance's than to substitute your military judgment for that of General Jones and General Ellis, it seems to me that it is a point you should very much bear in mind.

With respect to your other amendment, the one which would call for a reduction in heavy missiles for SALT III, it seems to me that has two grave defects.

In the first place, it is not merely an instruction to the United States side for SALT III. You are proposing that as part of SALT II the Soviets commit now to achieve the reduction in heavy missiles you desire in the course of the SALT III negotiations, and I would think that is something that would prove to be nonnegotiable. If it is to be negotiated in SALT III, let it be negotiated in SALT III and give a suitable instruction to the U.S. negotiators. But it would seem very difficult to me to require the the Soviets, as part of SALT II, to agree that in SALT III they will consent to a reduction in the number or elimination of the heavy missiles, no matter what.

Second, the requirement that if the desired goal has not been achieved by a certain date we will automatically withdraw from SALT II, it seems to us is a good example of cutting off one's nose to spite one's face. It may be that at the end of 1981 or any other date SALT II will continue to have great advantages to us, or it may be that we are close to achieving something in SALT III and that a few more months of effort would be desirable. To have nailed ourselves down that no matter what, no matter how valuable several more years of SALT II might be to us in protecting us against the Soviet heavy missiles or several months or years more of negotiation of SALT III might be to us, we must, by command of the Senate, end SALT II forthwith, it seems to us is a highly undesirable condition.

We have the right to withdraw from this treaty under article XIX at any time when extraordinary events related to the subject matter of the treaty, in our judgment, entitle us to do so. One of those events could be a failure in the negotiations of SALT III or a lack of progress in SALT III. So, the flexibility to pull out of SALT II always exists, and it seems to us unwise to nail ourselves down, to issue an ultimatum to ourselves, in effect—it only binds us and not the Soviet Union—that if we have not achieved a particular result which may not be achievable by a particular date, we will end SALT II, no matter how beneficial a continuation of SALT II might then be to us.

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

Senator BAKER. In light of the fact that Mr. Cutler apparently directed his remarks to me, I wonder if I could reply at this time?

The CHAIRMAN. Of course.

Senator BAKER. I am intrigued with the point, Mr. Cutler, that by an instruction to our negotiators from the administration that we must remove this threat to our existence that we are depriving ourselves of protection that was negotiated under SALT II. In my judgment, this Nation is in grave peril because you did a bad job negotiating this treaty and you left in place those monstrous of all weapons that are available to the Soviet Union and gave us no corresponding right whatever to build such a system.

Now if I am being blamed for trying to remove that threat at some future time or to remove it today, then I accept that blame. If I understand your allegation that I am pitting my judgment against that of the military, I would respectfully submit that, according to my recollection and reading, every single member of the Joint Chiefs expressed his concern about the danger to the Nation from these heavy missiles.

Mr. CUTLER. But they all said do not renegotiate this treaty in order to cover the heavy missiles.

Senator BAKER. Every one of them said that something should be done about it.

Now the statement is made by you, why don't we do that in SALT III. Maybe you don't remember, but I remember hearing the same argument made before. Why don't we do that in SALT II, or why don't we do that at Vladivostok?

We started with SALT I and every time we have been put off from doing what is necessary to protect this country and to establish an equality by postponing it to the next session, to the next treaty.

Well, I am not prepared to do that. Either I want to see us have the opportunity to build a similar system and have simple equality, or I want to see them deprived of that right, or I want to see this treaty, if ratified, expire if we do not succeed with our negotiations in advance of SALT III. I am not willing to wait for SALT III. That is the intent of this amendment.

Now, the threat is always made, "what is going to happen? Are you willing to accept the responsibility if this treaty fails? What is going to happen if the Soviet Union won't negotiate? What is going to happen if the Soviets blow up and tell us to pack our bags and go home?"

In my judgment, the only thing worse than rejecting this treaty would be ratifying a bad treaty, and I think this treaty is bad unless it is amended in this respect.

The CHAIRMAN. Is there further discussion?

[No response.]

The CHAIRMAN. I would sum up the opposition to the amendment by saying that this is not a bad treaty. The fact that it permits the Russians to maintain heavy missiles which they decided to build years ago, which we decided, for reasons of our own, not to build, which we do not want to build now and would not build in the future, does not make it a bad treaty. In fact, with the treaty the number of warheads on the large missiles will be limited to 10, though we have been told that without the treaty the Russians might increase those warheads to 20, or 30, or more.

So, I cannot accept the argument of Senator Baker as being valid on the facts. I cannot see how it advances the interests of the United States to insist that the Russians destroy a force which we know they will not destroy and one which we ourselves are not interested in building.

REASONS FOR U.S. ICBM CHOICES

The reason we are not interested in building a big missile force is that the missiles we have are adequate for their objective, for their military purpose. You don't have to build a bigger missile just because you want it bigger if the missiles you have can get the job done.

Our missiles have the capability of destroying either hardened Russian military bases or, if it every comes to a terrible holocaust, Russian cities and population centers. It is fantastic to think about the power in these warheads.

We have managed to miniaturize warheads and still pack into them the power that can devastate any target toward which they are pointed. That is all that is necessary militarily.

For the life of me, I cannot see what the difference is in the size and diameter of the hole if the city that is the target is utterly obliterated and its population completely incinerated.

This is an amendment without a military purpose. Whatever its purpose is, it is not military. I would hope that we would recognize it for the fatal amendment that it represents for this treaty and that we would vote it down.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, I suppose in saying why I intend to vote against the Baker amendment I should invoke the names of Henry Kissinger, the Joint Chiefs of Staff, and many others. But I shall not do that.

It really gets down to a personal judgment by all of us. I think we are at the stage that existed in the Churchillian story of the animals in the zoo. It goes like this. The animals decided to come together and negotiate for disarmament. The tiger said that all animals should remove their hoofs and their trunks. The elephant said that every animal should take off his claws. The bear said all animals should remove hoofs, trunks, and claws because we should all embrace each other in a big hug and settle all disputes in that way. After they argued about hoofs, trunks, claws, and bear hugs, they could settle nothing and finally all just went back to their cages.

I think we are at the stage of the SALT negotiations which have been carried on by so many administrations for so many years where we are about to decide whether or not to go back to our cages or continue the process of negotiation.

Obviously it is so difficult to try to say why shouldn't we approve such an obvious amendment as this; it certainly is in our national interest that we get them to give up all their heavy missiles. It is clearly to our advantage—except that they are not about to do it.

I have been in an awful lot of negotiations, some of which have been successful and some of which have just fallen through the cracks and disintegrated. As I judge it, this is the stage we are at. We have to decide whether or not we want this whole process to collapse and take the chance that we can pick the pieces up 2, 3, 4, 5, or 10 years from now.

I think we would be waltzing them into a position they would have to reject. They are our adversaries. They are looking after their national interest as we are trying to look after ours. We are at the position where we have to decide whether or not we want the process to continue or collapse.

In my judgment, I think this amendment would be a killer amendment. I think it would end the process of negotiation for some time to come.

Therefore, we come back to the judgment of whether this is a bad treaty or a good treaty. I don't think it is a particularly outstanding treaty. All of us would say that there are certain frailties in it. But I have not found any fatal flaws.

I think we are better off as a nation, we are more secure as a nation, the world is more secure, the leadership of our alliance would be more secure with this treaty. I think the world, the NATO allies, and many of us feel that we are better off, that the human race is better off with this treaty and with a continuation of this process than we are by just going back to our respective cages with no understanding between us.

I therefore will vote against this amendment, though I know it is going to be extraordinarily difficult to explain why we should not do the negotiating right here. The problem is that there is no one to negotiate with. We are not in that position. I think we probably present this administration—and I would say exactly the same thing if it

were a Republican administration—with an absolutely untenable position to carry on if we do this. We would go back to square one, right back to zero, if we adopt this amendment.

I, therefore, will vote against it, but with reluctance because I know the objective that is trying to be served. I wish that some of us had been in the negotiating process. Maybe we would have done better. But at least the Ford administration, the Nixon administration and the Carter administration have not been able to do better on this particular point. No one has been able to get the Russians to give up their heavy missiles.

But we have not given up. Nor have we included our theater nuclear weapons which pose the greatest single threat to the Soviet Union and which they are doing everything they can to get rid of. They would love to use the negotiating process to try to embrace those and put them in this treaty.

We resisted that and I don't want to leave the door open for them to try to negotiate that in this particular SALT II Treaty.

Senator PELL. Mr. Chairman.

The CHARIMAN. Senator Pell.

Senator PELL. Mr. Chairman, I would like to ask one question of the administration, a military question.

Isn't it correct that the security of our land-based ICBM's is better served by the passage of the treaty because of the limitations on the SS–19 than it would be with acceptance of this amendment?

Ambassador EARLE. There is no question, Senator Pell, that the limitation on reentry vehicles is the major step in the treaty toward preservation of our security. If every SS–18 heavy missile sank into the sea tomorrow, the Soviets would still have SS–19's, which could jeopardize our Minuteman. The SS–18 is limited to 10, and that is a major limitation.

Senator PELL. Thank you.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. Mr. Chairman, in your opening remarks on this Baker amendment you raised the question of why this amendment should be offered. Yet clearly Senator Percy in his comments has answered that question. The amendment does have appeal and, as Senator Percy characterized it, it is a fairly obvious amendment because the SS–18, and, for that matter, as has been pointed out by Mr. Earle, the SS–19 and other weapons, are a very serious concern to the security of the country.

SALT PROCESS AND U.S. STRATEGIC POSTURE

It occurs to me that logically you cannot have it both ways. In the event that we are concerned about equity, the committee might have adopted the course that Senator Baker proposed yesterday and that is giving us an even shot at trying to catch up if we wanted to do so theoretically. It was argued that we did not want to do so, but people could change their minds in due course and we might want to.

In the event, however, that we do not want to pursue that course—and I think Senator Baker and many have proposed yesterday and in

the past that that is a very dangerous course to pursue, then it seems to me that we have to pursue the course that is being proposed today, which is that, given the threat to our country and to mankind by this potential for a preemptive first strike which these missiles present, then we have to negotiate how they can be dismantled and done away with. It is not an easy procedure.

I think Mr. Cutler characterized it as a monumental task. It has faced several Secretaries of State and their aides and it might face people in the future. But clearly this SALT debate is bringing to the fore some new thoughts with regard to strategic armaments. They are not new with this committee or with this administration. They are going to be reflected in the debate.

Clearly among these are how in the course of these SALT procedures do we get to a point in which it appears that the arms race might taper off and move down on the other side.

Some have suggested that SALT II is not going to be that kind. Very clearly, it is a treaty that does not provide for disarmament at all; with the exception of the small number of launchers that will be dismantled, it is a cap on a race.

But clearly we are going to push to higher ground.

The claim has always been while we are pushing to the higher numbers in SALT II, somehow we might be able to negotiate smaller numbers.

I think most of us are skeptical that that will occur in SALT III, SALT IV, or any of the other SALT's; that the procedure is flowed by its very nature; and that the prospects of equity, of catching up, of making safe at higher and higher levels almost inevitably means that there will not be a trailing off.

This may or may not be the climatic point of the SALT debate. We may face it again on the floor in several ways. But at some stage the Senate will have to come to grips, and the administration, too, with whether we are going to grasp the problem now or simply let the whole arms race get away from us.

It seems to me that the Baker amendment forces us into renegotiation. It is characterized by the chairman as a "killer amendment." It would, in fact, stop the tracks on this particular series of negotiations and start some new ones.

But I think that is going to be the posture of the Senate and the country, that we do want a meaningful end of the arms race.

It has been pointed out that it is all well and good for us to make those statements unilaterally, that we have no one here with whom to negotiate today. The sad facts of the matter are in this world that during SALT I and SALT II, the Soviet Union has built up armed forces in every respect and shows every sign of continuing to do so.

We may be facing the cold truth today that, regardless of how this debate goes, they will continue to do so, that the devotion of 10 percent, 15 percent, or 20 percent of gross national product to arms will continue. There may be no logic that we can see in that, but for their own logic they may simply continue right on. We may have to face the fact that SALT I, SALT II, or no SALT, we are faced

with a very difficult world situation in which we shall have to do a great deal more, too.

SALT II is neither a panacea or a safety blanket in any respect. In fact, it was an interlude in which we tested the Soviets and we found that, quite apart from our hopes, they intended to move on, not only to first strike capability, but to a war-winning potentiality that was evident to ourselves and to everybody else.

I think we are glad to find that out.

The answer to Senator Baker's amendment may well be that the Soviets will say no to the suggestion that they give up 308 SS–18's. Initially their negotiating posture would clearly be that. But I think we have to look beyond that today in talking about this amendment.

It is at the point where we want to go back to the table; we want to talk about how the arms race could taper off and whether anybody on their side is interested in that.

We are interested, and we need to find out now whether they are.

All of the evidence I see thus far is that for the moment they see no reason even to discuss that problem because SALT II gives them every opportunity to do the things that they want to do to pursue a world strategy that has been a favorable one in many respects for them and to keep us dangling on the SALT III string, at least those of us who are hopeful that we might see some disarmament.

I would hope that every member of the committee and ultimately every Member of the Senate who is truly interested in disarmament and some end to the arms race would vote for the Baker amendment because it does signal a change in our posture. It signals that we must go back to the table now, not in SALT III and not in years to come—but now, to face this issue, and to find out whether the Soviets are serious, and, if not, then to gage our own policies accordingly.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Mr. Chairman, colleagues, I have been doing a lot of thinking about the Baker amendments and I have been doing a lot of thinking about our situation. If the committee will bear with me for a few minutes, I would like to kind of reason with the members together.

COMMITTEE BIPARTISANSHIP ON TREATY

Let me say first that an extraordinary example of bipartisanship is being made here. We have a situation in which the minority leader of the Senate, rather than invoking his leadership, is acting like any other member of the committee in putting up his proposals and beating them with a very sincere and honest division on the minority side, which he understands and which we understand, and nobody is going to be mad at anybody about it.

A similar thing happens on the majority side. Three members of the majority feel as Senator Baker does and the rest have a different position.

It is a very gratifying and very strong demonstration of the American system in foreign policy. I know on that side, too, no one, including the administration, if it has any sense—and I believe it does—is going to be mad at anybody. But it does picture the seriousness of the situation.

To me, I think Senator Lugar has put it the best. Let me parallel his words with my own thinking. He said, "SALT II is neither a panacea nor a safety blanket."

Well, that is true. I think the question before us is this: Is SALT II a terminal point? In short, if we and the Russians having agreed, now negotiate again and disagree, are we willing to accept this as the end because, as John Glenn has properly said, "It takes two to tango." So, if we are going to renegotiate, first, we have to be ready to see failure as well as success, as success is not guaranteed; and, second, we have to be ready to give something as well as to get something.

I don't know yet what we are ready to give.

I think that is the decision the Senate has to make. Do we want this negotiation to continue beyond SALT II because we have agreed on SALT II if we can keep it, as Mr. Franklin said about our Republic; or, do we want to run the risk of its failure and the negotiation ending here? It may mean the end of the world or it may not. We don't know. But that is the judgment in my opinion.

Now my own philosophy is that we should not let it end here, and we should not run the risk that it will end here if we can avoid it. I am ready myself to vote, as I said yesterday, for any amendment or reservation under section 3 that I believe necessary for our country and to run the risk that SALT II will end. I myself will run this risk, and I am one of this treaty's proponents, if I feel the risk is essential to the security of our country. The difference of view, therefore, on this one is that I do not feel it is essential to the security of our country so much that I want the process to end here.

This is what every Senator is going to have to decide for himself.

Now, there are issues which may be that breaking point. I don't think this is one of them. For example, I think we have to lock in the Backfire matter, and we are well on the way to doing that. I think we have to deal with the problems raised by John Glenn's high expertise on telemetry and verification. I think we have to deal—and I think we so far have dealt successfully—with noncircumvention because we cannot let anything interfere with our cooperation with our European Allies.

I think that we have to deal with the continuance, de facto, of the protocol and the treaty so that we do not have a situation like we have today where, without the Senate's advice and consent, SALT I remains in effect. We will have that on the protocol and I am suggesting to Frank Church that he and I join in the same thing on the treaty.

I think those are breaking points where we must be perfectly satisfied. I don't think this is.

Why not?

First, it is because my fundamental philosophy is that this is neither a panacea nor a safety blanket, but that we are better off with this one than with breaking off the whole negotiation because right now we are at a disadvantage. Everything you gentlemen say indicates that right now we are at a disadvantage. Every argument made for the amendment indicates we are now at a disadvantage because our ICBM's may be vulnerable—may be—in the 1982–85 period. That is a disadvantage.

SS–19 RESIDUAL THREAT IF SS–18 BANNED

But will the Baker amendment change that? Of course not. If the thesis is true, they will still have enough warheads in the SS–19 and

SS–17 to do the very same thing to our ICBM that will be done with the SS–18.

So argues Senator Baker, and he has the text, by the way, of the Jackson resolution to back him up. There is nothing flighty about this amendment. It is a very serious, a very real and sincere thing, and I respect it as such. But he is arguing that come 1985, the Russians will still have these big missiles and then they can put 30 warheads on them. But, by 1985, we will be ready. We will have, if we have any brains, the M–X or whatever else we will install to take care of this situation. Our problem is not 1985. We wish it were 1985 today. Our problem is 1981, 1982, 1983, and 1984. So I do not see where this helps us at all. Where it endangers us is that it will break off with a guaranteed lack of success what is essential this time to us, not to them. This time it is our call.

The only question is this. Will we have the fortitude, will we have the stomach, will we have the resolution to really do the things that have to be done to make the Russians understand that there is going to be equivalency come hell or high water, even though there is a recession, even though we have had a bad dollar, even though our budget is out of balance? If we have that resolution, if we have that fire in our belly, then we should ratify SALT II. If we don't then we shouldn't.

To me that is what the situation is.

I do not see that this amendment takes us to where we want to be. If I did, I would vote for it and change the whole result. But, under the circumstances, I must vote against it.

The CHAIRMAN. The proposition is before the committee and each Senator has it before him.

If there is no further debate, I would ask, Senator Baker, if you would like to have a separate vote on each amendment?

Senator BAKER. Mr. Chairman, I believe so. They are significantly different amendments and it won't take but just a moment.

The CHAIRMAN. Certainly.

Let me read Senator Baker's proposition on which the committee will now be asked to vote. It reads: In section 3 of the resolution of ratification, include the following amendments: To article IX add:

3. Each party undertakes not to develop, test, or deploy heavy ICBM launchers and missiles for such launchers. Heavy ICBMs and heavy ICBM launchers in existence on entry into force of this treaty shall be dismantled or destroyed according to agreed procedures by December 31, 1981.

To article V paragraph 3 add:

(b) each party undertakes to limit, from December 31, 1981, launchers of ICBM's equipped with MIRVs to an aggregate number not to exceed 512.

Senator PERCY. Mr. Chairman, is that word "or" or "and" in the phrase "shall be dismantled or destroyed?" Is that the correct phrase?

The CHAIRMAN. It reads "dismantled or destroyed."

Senator PERCY. Thank you.

The CHAIRMAN. Without further debate, the clerk will call the roll.

Mr. BADER. Mr. Pell.

[No response.]

Mr. BADER. Mr. McGovern.

The CHAIRMAN. No; by proxy.
Mr. BADER. Mr. Biden.
Senator BIDEN. No.
Mr. BADER. Mr. Glenn.
Senator GLENN. No.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. No.
Mr. BADER. Mr. Muskie.
The CHAIRMAN. No; by proxy.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.
Senator PELL. Mr. Chairman.
The CHAIRMAN. Senator Pell.
Senator PELL. Mr. Chairman, I would cast my vote in the negative. I vote no.
The CHAIRMAN. Senator McGovern.
Senator MCGOVERN. No.
The CHAIRMAN. On this vote the ayes are 6 and the nays are 9. The amendment is rejected.
We come now to the second amendment proposed by Senator Baker. May I have the text of that amendment, please.
The amendments reads:

In section 3 of the resolution of ratification, include the following amendments: After paragraph 3, article XIX, add the following "4. The parties shall conclude by December 31, 1981, an agreement to reduce by the expiration of the treaty the number of heavy ICBM launchers to zero and to limit the launchers of ICBM's equipped with MIRV's to an aggregate not to exceed 512. The failure to conclude this agreement by December 31, 1981, shall result in the termination of the treaty on that date."

The clerk will call the roll.
Mr. BADER. Mr. Pell.
Senator PELL. No.
Mr. BADER. Mr. McGovern.
Senator MCGOVERN. No.
Mr. BADER. Mr. Biden.
Senator BIDEN. No.
Mr. BADER. Mr. Glenn.

Senator GLENN. No.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. No.
Mr. BADER. Mr. Muskie.
The CHAIRMAN. No; by proxy.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.

On this vote, the ayes are 6 and the nays are 9. The amendment is rejected.

Senator BAKER. Mr. Chairman, may I be recognized?

The CHAIRMAN. Yes, Senator Baker.

POSSIBLE ADDITIONAL HEAVY ICBM PROPOSALS IN FLOOR DEBATE

Senator BAKER. As I indicated earlier, there were four amendments in the package I distributed this morning. But yesterday I indicated that it was only two that I proposed to submit to the committee. I want the record to be clear, however, that on the floor I may—or I may not—offer the other amendments related to this subject. If there is no objection to it, I wonder, Mr. Chairman, if the other two amendments could be printed in the hearing record so that there could be a record of them.

Mr. Chairman, I have one additional amendment not dealing with this subject, but with the MPS basing mode.

The CHAIRMAN. Before you get on to that subject, Senator Baker, let me say that, without objection, the other two amendments will be included in the record. I think we should also include any comments, any executive branch comments, relating to those amendments.

Senator BAKER. We can do that. But I had not planned to include any argument in favor of the other two, but wanted to ask that they be printed in the record only so that Members of the Senate would be on notice. But if you want to do that, we can do it that way.

However, I would prefer just to print the bare bones amendments so that the Members of the Senate would know what they may be confronted with later on.

The CHAIRMAN. Very well. That is satisfactory with me. If it is satisfactory to the committee, the two amendments will appear at an appropriate place in the record.

[The information referred to follows:]

BAKER AMENDMENT ON HEAVY MISSILES

In Section 3 of the resolution of ratification, include the following amendments:

After paragraph (3), Article XIX, add the following:

4. The Parties shall conclude by December 31, 1981, an agreement to reduce by the expiration of the Treaty the numbers of heavy ICBM launchers to 150 and to limit the launchers of ICBMs equipped with MIRVs to aggregate not to exceed 662. The failure to conclude this agreement by December 31, 1981, shall result in the termination of the Treaty on that date. The United States shall have the right to convert into launchers of heavy ICBMs 150 launchers of light ICBMs.

BAKER AMENDMENT ON HEAVY MISSILES

In Section 3 of the resolution of ratification, include the following amendments:

To Article V paragraph 3, add:

b. Each party undertakes to limit, from December 31, 1981, launchers of ICBMs equipped with MIRVs to an aggregate number not to exceed 662. Heavy ICBMs and heavy ICBM launchers in excess of 150 shall be dismantled or destroyed according to agreed procedures by December 31, 1981.

To Article IV, before the period at the end of paragraph 3, insert a comma and the following: "except that the United States of America may convert into launchers of heavy ICBMs 150 launchers of light ICBMs."

To Article IV, before the period at the end of paragraph 9, insert the following: "and the United States of America may flight-test and deploy one new type of heavy ICBM".

NOTICE OF M–X BASING PROPOSAL

Senator BAKER. Mr. Chairman, I was about to say regarding the MPS amendment that it is in a different category. It is now 11 o'clock and I am not prepared to offer it today, but will be prepared to offer it as soon as we can reach the subject at another meeting of the committee tomorrow or the following day.

The CHAIRMAN. If you would be prepared to offer it tomorrow, I think that we should be able to take it up at that time.

Senator BAKER. Are there other amendments on the M–X? If so, I would like to place this in the same sequence with them and have them come up at the same time.

The CHAIRMAN. I don't know of any other than your own.

Senator BAKER. All right; then I will be prepared tomorrow.

The CHAIRMAN. Would you circulate that amendment to the Senators?

Senator BAKER. I believe that has been circulated.

The CHAIRMAN. Very well, then, members have that amendment in their possession and can review it between now and tomorrow.

NOTICE OF TREATY EXPIRATION PROPOSAL

In that connection, I would like to have circulated to the committee a proposal on which Senator Javits and I have agreed. We would like the committee to consider it so that we will be in a position to bring it up at the time that we move to the protocol. It deals with treaty expiration, and it would read as follows:

In section 1 of the resolution of ratification, include the following understanding: "that this treaty, which expires by its terms on December 31, 1985, may only be extended in whole or in part with the advice and consent of the Senate, providing two-thirds of the Senators present concur."

Senator GLENN. Mr. Chairman, I know we are not going to debate this now, but would this also include short-term termination before the normal termination date?

The CHAIRMAN. This relates only to any attempt to extend the life of the treaty beyond December 31, 1985.

EXECUTIVE INDEPENDENT ABROGATION OF TREATY

Senator GLENN. What if something happened and the administration decided to abrogate this treaty, as we have seen happen before, and we are back into a situation similar to that which Senator Goldwater has in court right now? Would your proposal also cover that?

The CHAIRMAN. This particular provision would not. But we are giving some thought to a provision which would.

Senator GLENN. I would think, when we are putting a new treaty into effect with the importance of this one, we would be well advised to cover both possibilities.

The CHAIRMAN. We are thinking about covering both bases, but we have been proceeding with one base at a time.

Senator JAVITS. Would you yield at that point, Mr. Chairman?

The CHAIRMAN. Yes.

Senator JAVITS. I think the legal proceedings and our proceedings here are just in the process of being considered. I think you can be sure that we will be ready to account to the Senate for that possibility and how to handle it, and accountable to you and to our committee, of course, well in advance of any reporting out.

The CHAIRMAN. I think we are ready to move to the understandings that have been offered by Senator Glenn dealing with the verification issue.

The Chair recognizes Senator Glenn.

Senator GLENN. Thank you, Mr. Chairman.

CATEGORY I PROPOSAL TO IMPROVE INTELLIGENCE

I have a series of proposals, some of which have been agreed to by the administration. I believe the first three have been agreed to. We got together and changed some of the language. Regarding the others, there may be some question as to administration support for them.

The first of these is a proposal to improve intelligence collection and analysis capability. I remain very concerned that we perhaps have not had sufficient emphasis on our U.S. intelligence capabilities and, in conjunction with the SALT II negotiations, intelligence resources I feel should have been expanded to account for the added difficulty in verifying the qualitative limitations that we have agreed to in this treaty. We have made agreements that require certain specifications on launch-weight, throw-weight, MIRVing, and so on.

Instead of taking some of those things into account, we have made what I feel are false budget economies and shortsighted congressional actions. Some of these actions were taken, often on the mistaken belief that the Soviets have no incentive to cheat, or without realizing the impact on SALT II.

We have been surprised repeatedly by Soviet strategic developments in the SALT context and many times have been caught off guard by

other Soviet actions around the world. But, I do not think an open session is the time to go into where some of these limitations have occurred.

Mr. Chairman, my proposal would require the administration to form a Presidential Commission charged with preparing and submitting to Congress a long-term, comprehensive plan to improve the overall performance of the intelligence community and to prepare and submit to Congress a list of specific steps to insure that SALT III is verifiable.

I believe the members of the committee have the proposal before them. It is a full page in length and I will not propose to read it aloud. But I would welcome any comments that the administration might wish to make.

The CHAIRMAN. Mr. Cutler.

Mr. CUTLER. Mr. Chairman, with reference to the first three of Senator Glenn's proposals, as he mentioned earlier, we have worked together on the language of those. All three of those would be category I proposals, as I understand it.

Senator GLENN. That is correct.

Mr. CUTLER. While we are not persuaded that any of them is necessary, we have no objection to their incorporation in the action of the committee or of the Senate as category I items, as worded.

The CHAIRMAN. Senator Glenn, would you like for us to take these amendments one at a time, these proposed understandings, and vote on them separately, or would you like to explain all three and then ask the committee to vote en banc on the three proposals?

Senator GLENN. I would like to discuss them separately. If we want one vote on all of them, that would be fine. If any member objected, I would be happy to have a vote on each one of them separately. It makes no difference to me.

The CHAIRMAN. Without objection, why don't you proceed to discuss the three. Then, perhaps, we can manage with one vote.

Senator BAKER. Mr. Chairman, I will follow whatever procedure Senator Glenn wishes, but why don't we reserve the question on the one vote until we hear what the three amendments are. Then we can make that decision a little later.

The CHAIRMAN. I think it is always open to the committee to do that in any case.

CATEGORY I RESERVATION REQUIRING CONGRESSIONAL NOTIFICATION OF COMPLIANCE ISSUES

Senator GLENN. My second proposal, Mr. Chairman, requires notifying appropriate congressional committees of compliance issues to be discussed at the Standing Consultative Commission.

During SALT I, the Senate was largely kept in the dark about suspected treaty violations, and there was some suspicion that was echoed by the Select Committee on Intelligence report that enforcement perhaps on occasion was lax.

My proposal would require the administration to notify appropriate Senate committees when compliance issues were to be discussed by the SCC and 30 days later submit a report detailing the results of the meeting. This would mean that we would not go through some of the sur-

prises that many of us had when we read through some of the critiques by Mel Laird, for example, which appeared in Reader's Digest. Things like that came as a surprise to some of us. This would put into the agreement the fact that we would be kept advised.

I understand in discussing this last evening that there is now a process in effect which does notify the Senate select committee, and this just locks in that that will continue and that we will have that information available to us.

The CHAIRMAN. I notice that paragraph 2 of the understandings would make clear that whenever the Senate Select Committee on Intelligence believes that a significant question concerning possible violation of the treaty has been tabled before the Commission, the Senate Foreign Relations Committee would be informed along with the Senate Armed Services Committee.

Senator GLENN. That is correct, Mr. Chairman.

We went back and forth several times on exactly how this would be set up, as to whether the recipient of the administration's information on what was being taken to the SCC would be the Senate Select Committee on Intelligence or whether all three of the appropriate committees—the Committee on Intelligence, the Committee on Foreign Relations, and the Committee on Armed Services—would all be notified directly.

PROTECTION OF CLASSIFIED COMPLIANCE DATA

Knowing that some of this information is of the very highest classified material, code word material, and some of it is even on a need-to-know basis above even code word classification, it just seemed prudent to make the submission point. The Senate Select Committee on Intelligence has all of the facilities and a guard present at all hours of the day and night. It seems to me that this is the best way to protect this information.

Now all of this information is still fully available to any member who wants to go over there and look at it. Of course, every member is cleared for code word material and can go over there to see this data. But this would guarantee, I feel, the best security treatment of information that we are given and would still make it available. We still provided for notification to be given specifically by the Senate Select Committee on Intelligence any time they thought something was significant. But any of these reports could be gone over completely by any Senator who wished to go over there and do it.

The CHAIRMAN. I want to commend the Senator on the first two understandings. I think they are very constructive and they do correct some deficiencies that we have discovered in the course of the hearings. I would hope that the committee would approve them.

Senator Glenn, would you explain your third understanding.

Senator GLENN. Yes, I will.

CATEGORY I RESERVATION REQUIRING UNITED STATES TO SEEK COOPERATIVE MEASURES BEYOND NTM IN SALT III

This involves cooperative measures which might be necessary in the future to augment our national technical means, or NTM.

The language agreed to in the joint statement was the result of a compromise whereby two conflicting viewpoints could be taken into account.

The U.S. side wanted the Soviets to agree to the proposition that national technical means might have to be augmented with such measures as onsite inspections or onsite monitoring devices, overflights, or whatever, particularly in SALT III, when further qualitative constraints are contemplated.

The Soviets, unfortunately, adamantly refused to accept this position. Instead, they argued that all that was necessary was improvements in NTM, not augmentations. That means each side was still left up to its own devices.

So, the compromise language in the treaty is open to either interpretation.

We know that the sides do not start out on an even basis as far as being able to monitor what happens on the other side. As I have said earlier in the hearings, all the Soviets really need to monitor what we are doing in our programs is to get a subscription of the Congressional Record and Aviation Week, and they will have about 95 percent of their job done for them. Yet we are up against a situation where they are a closed society, a secret society, and we have to somehow, from outside or overhead or around the periphery, get all of the information we need to monitor what they are doing and to know that they are living up to the terms of the agreement.

My proposal would require the Soviet Union to accept the U.S. position. I think this is a vital issue for the future which, if not addressed now, could confound agreement on verification principles for SALT III and I think well before we get into SALT III we should have it very clearly understood with the Soviets that if augmentation is necessary for us to get the information to know that they are living up to the treaty, they will be expected to cooperate with us in that regard.

When we started this SALT process, we did have Iran. We had the sites there. What was going on at those sites has become common knowledge over quite a number of months. Now we no longer have those sites, so once again, we will have to scramble around to see what kind of intelligence gathering apparatus we have, from whatever source we may be able to get that information.

In SALT III, in the complexities of those negotiations—which, as has been said here, may make the complexities of SALT II pale by comparison—we may well need augmentation of NTM. I would not want our negotiators nor the Soviets to go ahead in consideration of SALT III without knowing full well that we will consider it quite an important negotiating item that if we need help in augmenting our NTM, we will, in fact, expect them to give on that point.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. Mr. Chairman, I would like to compliment Senator Glenn on all three proposals, but particularly on this last amendment. I think that it should be underscored that if there is going to be a SALT III, whatever difficulties existed in monitoring SALT II are going to be compounded in SALT III. Although we have prospects as

we move into the 1980's to increase the capabilities of our national technical means, I think it is very important that the Soviets be put on notice that we fully expect that, if there is not a full capability of being able to monitor, we do not intend to go forward with any type of agreement.

In this vein, Senator Lugar and I, who often disagree on this treaty, did not disagree very much when we visited the Soviet Union. We raised this question with a leading general in the Soviet Union who has authority over the SALT process and with Mr. Kosygin. I am told, at least by our State Department people, that for the first time they acknowledged that this would have to be considered.

They are thus on notice, though not in a formal way, that there probably would be a need to do something different.

We mentioned onsite inspections. Senator Lugar mentioned a number of other prospects that would go beyond national technical means as they now exist.

I think it is a very, very important principle that is being established here and it should be carried forward in this treaty. I also think that category I is the appropriate place to do it.

Senator GLENN. I thank the Senator for his comments. I might add that I have been concerned about this particular issue for a long, long time, including writing as strong a letter as I knew how to write to the President last spring. I don't have an answer to that letter yet, I guess, but I know the President's view on it because of personal discussions with him and with his wife on occasion about this. So I do not have any doubt about their reply to my letter.

But I proposed in that letter that we even approach the Soviets with the idea that we did need help now that Iran has gone down and is no longer of use. We could not have foreseen that our national technical means at the beginning of SALT I, which included Iran, was going to be unavailable to us in SALT II, and so we need their cooperative efforts in this regard.

I personally thought it would have been a great international diplomatic coup for the Soviets had they acquiesced in that. It would have shown their cooperative desire to get on with this treaty and it would not have cost them anything.

At any rate, I guess that proposal was never made to the Soviets and we will never know whether they would or would not have been receptive to it.

In SALT III, they would be put on notice that as we start that negotiation, we will expect that, if cooperative measures are necessary to augment NTM, they would be cooperative in that regard.

Mr. Chairman, unless there is further comment on all three of these, I would move that we accept all three and have one vote suffice for all three proposals.

Mr. CUTLER. Mr. Chairman.

The CHAIRMAN. If there is no objection, we will vote on all three. But I believe there is further comment.

I will recognize first Senator Lugar, and then Mr. Cutler.

Senator LUGAR. Thank you, Mr. Chairman.

I will vote for all three of the proposals. I would comment on the third proposal that Senator Glenn has made. I will want to offer an

amendment subsequently dealing with the augmentation of national technical means really for SALT II. But my understanding of this particular understanding is that it refers to future strategic arms limitation agreements as opposed to SALT II. It is a notice to the Soviet Union that we will be thinking ahead with them on this respect.

By voting for this, I simply want to explain, in essence that I am not giving away the debating posture with regard to SALT II. I want to take that up in due course. But I appreciate the notice that Senator Glenn has given in this section 1 understanding.

The CHAIRMAN. If I read your proposed amendments correctly, Senator Lugar, they are all category III amendments.

Senator Glenn, I understand, has two category III amendments to propose to the committee. I should think we should go to a vote now en blanc on the three category I amendments that have been discussed. Then I believe that the administration will request an executive session of the committee to discuss the implications of the category III proposals. We could do that this morning if we can complete this next vote.

Mr. Cutler.

Mr. CUTLER. Mr. Chairman, I just wanted to mention in connection with the third understanding regarding cooperative measures that the same point is covered in very similar language in the second section of the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations.

But we agree that it is constructive for the Senate to emphasize the point by adopting this proposal.

The CHAIRMAN. Very well.

If there is no further discussion or debate, the motion before the committee is on the adoption of the three proposals offered in the form of understandings in category I by the Senator from Ohio, Mr. Glenn.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

[No response.]

Mr. BADER. Mr. McGovern.

Senator MCGOVERN. Aye.

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

[No response.]

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator PERCY. Aye, by proxy.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Hayakawa.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
[Pause.]
The CHAIRMAN. Senator Pell has not voted and I have not voted.
Mr. BADER. Mr. Pell.
Senator PELL. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.
On this vote, the ayes are 14 and the nays are 0. The three understandings are adopted.
Senator GLENN. Mr. Chairman.
The CHAIRMAN. Senator Glenn.

EXECUTIVE SESSION ON OTHER VERIFICATION PROPOSALS

Senator GLENN. I do not know what the procedure is on going into executive session on these matters. Do we plan to discuss these next issues as long as we can in open session before we go into executive session? I think they are important to bring out so that people understand what we are proposing.

I would propose that we discuss this up to such point as the administration feels we are about to get into classified material and then go into executive session.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. Mr. Chairman, I do not have any problem with that, but maybe it would be better if we did it in reverse, if we first went into executive session and then had pretty clear ground rules on what we could and could not discuss in open session. These matters lead into one another very rapidly and once we discuss it in executive session we could come back here and discuss before the public all that can be discussed. That might be better than doing it the other way around.

I am worried that I may, in the course of the debate, slip and say something that maybe I should not.

The CHAIRMAN. Given that obvious risk, perhaps we should go into executive session first.

Senator BIDEN. I know none of you would slip. [General laughter.]

The CHAIRMAN. In any case, we will have a full opportunity to discuss the issues in public session before we move to a vote.

Mr. CUTLER. Mr. Chairman, I would strongly urge that we do the executive session first. You can hardly discuss these proposals in any session without getting into the assets and capabilities the United States has for reading missile telemetry, the effect of these amendments, and Senator Lugar's, if they are adopted, on that ability, and even more important, the effect if they are put into category III and not adopted and, as a result, SALT II fails.

The CHAIRMAN. I think we should consider these six amendments together in executive session and explore all of them. Then we will have the guidelines that can control the public discussion that will precede the vote.

I would like to say this to the members. The executive session will take place in the secure chambers of the Capitol, room S–407. I would ask members of the committee to go directly to room S–407 in the hopes that we could complete the executive session this morning. Let us reconvene there no later than one-half hour from now.

This public session is adjourned.

[Whereupon, at 11:17 a.m., the committee adjourned, to reconvene in executive session at 11:45 a.m., in room S–407, the Capitol, the same day.]

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THE SALT II TREATY MARKUP

THURSDAY, OCTOBER 25, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 1:22 p.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee), presiding.

Present: Senators Church, Glenn, Sarbanes, Zorinsky, Javits, Baker, Helms, Hayakawa, and Lugar.

ANNOUNCEMENT OF VOTES ON VERIFICATION ISSUES IN EXECUTIVE SESSION

The CHAIRMAN. The committee will please come to order.

Before we proceed further with the committee's consideration of the SALT II Treaty, I would like to announce the results of certain votes that were taken during the executive session. The reason the committee took these votes in executive session and discussed the issues involved behind closed doors is because the issues required a very detailed consideration of methods used by the United States for purposes of monitoring compliance with the treaty, the nature of which is extremely sensitive.

Therefore, to safeguard the national security interests, the committee conducted this phase of its work in closed session.

I want to say on behalf of the representatives of the executive branch that the committee appreciates the way they responded to our inquiries and participated in the discussions. I commend Mr. Cutler, Ambassador Earle, Mr. Slocombe, and Admiral Inman as well as other members of the intelligence community who were there and responded to questions raised by members of the committee.

I believe that we have demonstrated that the committee and the executive branch can consider, deliberate, and debate sensitive security issues such as monitoring and verification of this treaty in a manner responsive to the demands of national security.

Now I will read the various proposals that were discussed and debated in the manner I have described and announce the committee vote, together with the names of the Senators voting for and against each of the proposals.

CATEGORY III AMENDMENT ALLOWING COLLECTION DEVICES AT TEST RANGES

The first proposal was put forward by Senator Lugar and related to collection facilities. It reads as follows: In section 3 of the resolution

of ratification include the following amendment: In article XV of the treaty add the following new paragraph:

4. Each party may establish, in accordance with the procedures agreed in the Standing Consultative Commission before the date of entry into force of this treaty, facilities for the collection of intelligence data necessary to verify compliance with these agreements at each test range in the territory of the other party. For purposes of this paragraph, the term 'test range' shall include testing sites referred to or identified pursuant to the second agreed statement to paragraph 2 of article VII.

The proposal was rejected by a vote of 6 to 9.

Those voting in favor were Senators Stone, Zorinsky, Baker, Helms, Hayakawa, and Lugar.

Those voting against were Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Javits, and Percy.

CATEGORY III UNDERSTANDING THAT ANY TELEMETRY RESTRICTION IMPEDES VERIFICATION

The second proposition was offered by Senator Glenn in the form of an understanding requiring telemetry. It reads as follows: In section 3 of the resolution of ratification include the following understanding:

That any practice which impedes the collection of telemetric information concerning the testing of the strategic arms limited by these agreements, including but not limited to the failure to transmit any telemetric information, constitues a concealment measure impeding verification by national technical means of compliance with the provisions of the treaty, within the meaning of paragraph 3 of article XV of the treaty.

The proposal was rejected by a vote of 6 to 9.

Those Senators voting in favor of the proposal were Senators Glenn, Stone, Baker, Helms, Hayakawa, and Lugar.

Those Senators voting against were Senators Church, Pell, McGovern, Biden, Sarbanes, Muskie, Zorinsky, Javits, and Percy.

CATEGORY I UNDERSTANDING THAT ANY UNRESOLVED TELEMETRY RESTRICTION CAUSE FOR WITHDRAWAL

The next proposition was offered by Senator Biden. It reads as follows: In section 1 of the resolution of ratification include the following:

That any practice with regard to the transmission of telemetric information during the testing of the strategic arms limited by the treaty, including but not limited to the failure to transmit relevant telemetric information, which results in the impeding of verification by U.S. national technical means of any provision of the treaty will be raised by the United States in the Standing Consultative Commission and, if the issue is not resolved to the satisfaction of the United States, the United States reserves the right to exercise all other available remedies, including, but not limited to, the right to withdraw from the treaty.

This proposition was adopted unanimously by the committee.

CATEGORY III RESERVATION REQUIRING ADVANCE NOTICE OF ALL ICBM TESTS

The next proposal was that of Senator Glenn, having to do with required advanced notification of ICBM launches. It reads as follows: In section 3 of the resolution of ratification include the following reservation:

That in order to enhance confidence between the parties, each party agrees, on a voluntary basis, to waive the exception for single ICBM launches from test

ranges or from ICBM launcher deployment areas, which are not planned to extend beyond its national territory and undertake before conducting any planned ICBM launch to notify the other party well in advance on a case-by-case basis that such a launch will occur.

The proposal was rejected on a vote of 5 to 10. The following Senators voted in favor of the proposal: Senators Glenn, Baker, Helms, Hayakawa, and Lugar. Senators voting against the proposal were Church, Pell, McGovern, Biden, Stone, Sarbanes, Muskie, Javits, Percy, and Zorinsky.

CATEGORY I PROPOSAL THAT UNITED STATES SHOULD SEEK AGREEMENT ON ADVANCE NOTICE OF ALL ICBM TESTS

The next, and final, proposal was offered by Senator Glenn and it reads as follows: In section 1 of the resolution of ratification include the following:

That in future negotiations the United States should seek agreement that each party will notify the other party well in advance on a case-by-case basis, before conducting any planned launch of an intercontinental ballistic missile, that such a launch will occur.

The proposal was adopted by a unanimous vote of 14 to 0. Senator Stone was not voting.

He will be polled and given an opportunity to vote, according to the rules of the committee. Senator Stone was later polled in the affirmative.

Senator GLENN. He just was not there at the time we voted on this.

The CHAIRMAN. I want to commend Senator Glenn for the leadership he has given on the question of verification and the extreme care he has taken with every detail relating to that issue. He has helped to educate this committee on its complexities and its subtleties, and I think the proposals that he has made which have been adopted by the committee in the form adopted make a very significant contribution to the capacity of the United States to make certain that this treaty is complied with by the Soviet Union. I want the record to show that he has the appreciation of the chairman and other members of the committee for his work.

Senator GLENN. Thank you, Mr. Chairman.

The CHAIRMAN. In the balance of the time remaining to us we will proceed by commencing to take up a consideration of the protocol, which begins on page 37 of the committee markup print.

Mr. Sauerwein, will you proceed with a reading of the preamble of the protocol, please.

READING OF PROTOCOL

Mr. SAUERWEIN. Yes; Mr. Chairman.

The preamble reads:

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the parties, having agreed on limitations of strategic offensive arms in the treaty, have agreed on additional limitations for the period during which this protocol remains in force, as follows.

Would you like me to continue with article I, Mr. Chairman?

The CHAIRMAN. Yes; the preamble does speak for itself. Would you proceed with article I.

Mr. SAUERWEIN. Article I reads:

Each party undertakes not to deploy mobile ICBM launchers or to flight-test ICBMs from such launchers.

The CHAIRMAN. Is there any discussion of Article I? Are there any questions, suggestions, or proposals?

Senator BAKER. Mr. Chairman, I have only the question of whether there is anything in this language that would have any effect on M–X deployment. Does the protocol expire long before we intend to have M–X deployed or before we can construct the system presently developed by the administration and suggested for its deployment?

I assume that there is no complication, but I would appreciate a statement from the administration.

The CHAIRMAN. Ambassador Earle, would you respond to that, please.

Ambassador EARLE. Thank you, Mr. Chairman.

Senator Baker's understanding is entirely correct that, during the period of the protocol, this would have no impact whatsoever on the planned program for the M–X and its mobile deployment.

Senator BAKER. Mr. Chairman, I have a follow-on question for Ambassador Earle.

The CHAIRMAN. Certainly. But let me say that I cannot hear the Ambassador's answers.

Senator BAKER. Is there any expectation, is there any reason to think or precedent that would suggest that inclusion of this language in the protocol might have some carryover effect into the treaty period or the post-treaty period in respect to the deployment of M–X, as we know it to have been suggested?

Ambassador EARLE. There is not, Senator Baker. We have advised the Soviets and they are in agreement that the protocol is not a precedent for the period after its expiration.

GROMYKO STATEMENT ON PROTOCOL EXPIRATION

Senator BAKER. Mr. Chairman, I might say that it was my privilege to be in Moscow in January. I was a part of the delegation which met with President Brezhnev and other members of the Soviet leadership. The question of the precedental value of the protocol came up at that time. In the course of that conversation there was a clear and very explicit statement from the Soviet Union that the protocol would not be a precedent, that it would expire according to its terms on the date by expiration. This, of course, is not an official communication from the Soviet Government, but I would like it added to this record as a part of my own personal observation.

The CHAIRMAN. It is a very important matter to add to the record.

CATEGORY II UNDERSTANDING ON PROTOCOL EXTENSION

Senator JAVITS. If the Senator would yield, let me say that we have a reservation which I should have been here to present when the protocol began to be read. Senator Church and I have drafted this, which he has asked me to call up, and which deals with precisely that problem.

It is in the form of an understanding and it would be notified to the

Soviet Union as a category II understanding. I would like the comment of the administration on it. It reads as follows:

That the Protocol to the Treaty, which expires by its terms on December 31, 1981, may only be extended, in whole or in part, with the advice and consent of the Senate, provided two-thirds of the Senators present concur.

I would ask that it be distributed to the Senators and would make a very brief statement on it. I will leave it for the Chair as to when we should debate and vote on it.

The protocol has the purpose of not tracking—and I emphasize the word "not"—the experience with SALT I, which was continued, in effect, by presidential declaration of policy and, I assume, by Soviet declaration of policy. This understanding would inhibit the administration which is in office at that time from that option. Also, it would require a Senate vote on the proper concept, in my opinion and that of Senator Church, that to continue the protocol, either by declaration of the President or otherwise as another treaty or another protocol, therefore the constitutional provision relating to two-thirds consent by the Senate applies to that action or document, whatever is engaged in.

This was a big thing with everybody and was a major testimony of the opponents. Senator Church and I feel that this formulation does what we need to do without running afoul of the Goldwater case, which is a different situation, because it is not a requirement of the Constitution. At least it is not written in the Constitution that the Senate consent, by two-thirds of that body, is required before a treaty is terminated. But, in this case, it is our belief that it is a treaty if the protocol is extended, either a treaty by oral declaration or a treaty by formal adherence, and therefore it must go through the same form if it is to be extended in any manner.

We used category II because in this case it should be notified to the Soviets so that they will be on notice not to be a party to something which we would consider to ultra vires of the President.

The CHAIRMAN. As far as I know, there is no opposition to this proposal, at least none that has been communicated to me. I would hope that since we have a working quorum we could take a vote on it this morning before we adjourn.

Senator BAKER. Mr. Chairman, I would point out that it is not morning, but beyond that, I have nothing to add. [General laughter.]

The CHAIRMAN. The Senator is right. It is afternoon.

Senator HAYAKAWA. Senator Javits, do you have copies of this proposal for us?

Senator JAVITS. Yes. It is being distributed.

Senator BAKER. While we are distributing copies, may I make an inquiry. In light, especially, of the conversation that I mentioned earlier, which took place during my visit to the Soviet Union in January, what would be the attitude of the sponsors to put it into category III instead of category II? I don't insist upon it, but I would bring it up for your comments.

The CHAIRMAN. Senator Baker, my feeling is that it really would not be appropriate for category III because it is a proposition binding on our own Government and relates to the internal workings of our Government, to the role of the Senate and the executive branch and how the two are interrelated.

What we seek to do here is to avoid what happened in the case of SALT I, when the treaty expired under its terms and the United States and the Soviet Union had not yet reached agreement on SALT II as a successor treaty. Each Government, by unilateral declaration, not by an agreement subject to the review and the advice and consent of the Senate, undertook, in effect, to extend the life of SALT I.

Now we don't want that to happen in the case of SALT II, and, therefore, we would propose that this understanding be offered in a form that would be binding upon our own Government. We would give formal notice to the Soviet Union by making it a category II understanding. I think that will accomplish our objective and does not force the Soviet Union to accept a matter that really is internal to the Government of the United States.

Senator JAVITS. I would add that also we are proposing to do the same thing with the treaty, but I do not have the text of that with me at the moment. We just give notice that we will do that.

Senator BAKER. I thank the Senator.

Mr. Chairman, I agree with that. As I indicated earlier, I will not insist that we amend the understanding to include it in category III.

The purpose for the inquiry was to clarify the words in the first line of the understanding, "which expires by its terms," which is an assertion of a legal condition. If it were in category III, it would require then the concurrence of the Soviet Government to the fact that the protocol does expire according to its terms.

As I have indicated, I have satisfied myself that that is the Soviet position. I have noted for this record, as I have noted publicly before and for other records, that I believe that to be the situation. I will not insist on such an amendment. But I do want it clearly understood that I am casting my vote for this understanding as a category II understanding solely on the basis of the representations made to me that it was, in fact, the position of the Soviet Government that both the protocol and the treaty expire according to their terms when they expire.

The CHAIRMAN. Thank you very much, Senator Baker.

May we have a comment from the administration on this matter?

Mr. CUTLER. Yes, Mr. Chairman.

In the administration's view, the proposal, as just announced, conforms, correctly interprets the protocol itself, and correctly reads the constitutional requirement. We, therefore, would regard it as unnecessary. We think the same situation would exist whether this particular understanding were adopted or not, but we have no objection to the adoption of this understanding in category II. But we do think category II is more appropriate than category III since the internal constitutional requirements of the United States, as the Soviets will tell us if we put it in category III, are no business of the Soviet Union.

Senator JAVITS. Mr. Chairman, Senator Percy has indicated that he wants to add something to this. He himself proposed something like this. I see no difference between what he proposed and our proposal, except for language. But he may have some other idea in mind.

The CHAIRMAN. Is he coming here now?

Senator JAVITS. Yes. He will be here soon.

The CHAIRMAN. I wonder, while we wait for Senator Percy, if we might move along through the reading of the protocol beginning with article II on page 38.

Mr. SAUERWEIN. Article II, paragraph one, reads:

Each Party undertakes not to deploy cruise missiles capable of a range in excess of 600 kilometers on sea-based launchers or on land-based launchers.

The CHAIRMAN. This is the article which would defer for the period of the protocol the deployment by either party of cruise missiles capable of a range in excess of 600 kilometers on sea-based or land-based launchers.

Mr. SAUERWEIN. That is correct.

The CHAIRMAN. Is there any discussion?

Senator BAKER. Mr. Chairman.

The CHAIRMAN. Senator Baker.

CRUISE MISSILE RANGE MEASUREMENT

Senator BAKER. Would a member of the staff give me a standard line on how we measure the 600 kilometers?

The CHAIRMAN. Mr. Sauerwein, would you do that, please.

Mr. SAUERWEIN. Yes.

The definition is repeated as an agreed statement in the protocol and also in the treaty itself. The range definition is the second agreed statement to the third paragraph. It reads:

The range of which a cruise missile is capable is the maximum distance which can be covered by the missile in its standard design mode flying until fuel exhaustion, determined by projecting its flight path onto the Earth's sphere from the point of launch to the point of impact.

By the way, this is identical with the second agreed statement to paragraph 8 of article II of the treaty.

Senator HAYAKAWA. Mr. Chairman, does this mean that in order to maintain the 600-kilometer limit there would be a limitation placed upon the amount of fuel that is carried? How is it to be guaranteed that it will be within that limit? Or, do you put it on a leash or something? [General laughter.]

Mr. SAUERWEIN. The words mean that in applying the standard of determining how far it is flown by measuring the flight path projected on the Earth's surface, you determine the impact point when the flight ends when all fuel has been exhausted. So it must have consumed all the fuel in the process of flying to its maximum range. If there is any fuel left, some account must be taken of that excess fuel.

Mr. CUTLER. I might point out, Mr. Chairman, that the committee already has adopted Senator Glenn's understanding which makes it a category II condition that our interpretation of the cruise missile range is accepted.

The CHAIRMAN. Is there any further discussion?

Senator BAKER. Yes; Mr. Chairman. I was diverted for a moment in my attention and did not hear what Mr. Cutler just said.

Mr. Cutler, would you mind saying that again, please.

Mr. CUTLER. I simply said, Senator Baker, that the committee already has adopted Senator Glenn's understanding which makes it clear as a category II matter that our interpretation of how to calculate cruise missile range, as just set forth by the staff, is acceptable.

Senator BAKER. Thank you.

600 KM RANGE AND STRATEGIC-THEATER DISTINCTION

As a matter of curiosity, is there any dispute that the cruise missile is a theater-type weapon, this cruise missile?

Ambassador EARLE. I'm sorry, Senator Baker, but I could not hear you and missed the question.

Senator BAKER. Is there any dispute but that this is, in fact, a theater-type weapon?

It is a theater weapon, isn't it?

Ambassador EARLE. A cruise missile not capable of a range in excess of 600 kilometers is a theater-type weapon.

The CHAIRMAN. This would prohibit for the 3-year period the deployment of cruise missiles with a range in excess of 600 kilometers from sea-based or land-based launches.

Can we go on to paragraph 2 of article II?

Mr. SAUERWEIN. The second paragraph reads:

> Each Party undertakes not to flight-test cruise missiles capable of a range in excess of 600 kilometers which are equipped with multiple independently targetable warheads from sea-based launchers or from land-based launchers.

Mr. Chairman, the agreed statement that accompanies this paragraph is identical to the first agreed statement to paragraph 2 of article IX of the treaty and defines what is meant by a MIRVed cruise missile.

The CHAIRMAN. I think it should be pointed out that paragraph 2 relates to the flight-test. The first paragraph relates to deployment; the second paragraph relates to flight test of a cruise missile with a range in excess of 600 kilometers, but one which is equipped with a multiple warhead.

Mr. SAUERWEIN. That's correct.

The CHAIRMAN. If there is no further discussion of this paragraph, may we proceed with paragraph 3, please.

Mr. SAUERWEIN. Paragraph 3 reads:

> For the purposes of this Protocol, cruise missiles are unmanned, self-propelled, guided, weapon-delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on sea-based or land-based launchers, that is, sea-launched cruise missiles and ground-launched cruise missiles, respectively.

Again, associated with this paragraph, which defines sea-launched and ground-launched cruise missiles in a manner similar to the cruise missile definition of the treaty, there are three agreed statements and five common understandings.

The CHAIRMAN. Do they track with those in the treaty?

Mr. SAUERWEIN. Exactly. I think all but the last are exactly the same. The last is just worded slightly differently to apply to sea-launched and ground-launched cruise missiles, rather than air-launched cruise missiles.

The CHAIRMAN. Are there any questions or suggestions?

Ambassador EARLE. Mr. Chairman, may I make a comment?

The CHAIRMAN. Yes; Ambassador Earle.

Ambassador EARLE. These provisions were very carefully drafted in order that there be no possibility of a precedent being set with respect to the protocol for the period after the protocol ceases to be in force.

The provisions in the treaty itself specifically and explicitly deal with only air-launched cruise missiles. Those in the protocol deal only with ground-launched and sea-launched cruise missiles.

The CHAIRMAN. Very well.

May we have a reading of article III, please.

Mr. SAUERWEIN. Article III reads:

Each Party undertakes not to flight-test or deploy ASBM's.

The CHAIRMAN. That is clear.

May we have article IV of the protocol.

Mr. SAUERWEIN. Article IV reads:

This Protocol shall be considered an integral part of the treaty. It shall enter into force on the day of the entry into force of the treaty and shall remain in force through December 31, 1981, unless replaced earlier by an agreement on further measures limiting strategic offensive arms.

Done at Vienna on June 18, 1979, in two copies, each in the English and Russian languages, both texts being equally authentic.

The CHAIRMAN. Very well.

Let me say that when the committee resumes its work on the SALT II Treaty, it will take up the proposal that Senator Javits and I have made having to do with the need for Senate approval of any extension of the protocol, together with the amendment that Senator Percy wishes to offer to that proposal.

We will proceed from there.

The reading of the treaty and the protocol now has been completed. This means that next week the committee can take up the agreements relating to the Backfire and the Joint Statement of Principles, setting down guidelines for SALT III. That will bring us to the final aspect of the markup, when Senators having other proposals to make may then offer them.

Tomorrow the committee will meet for the purpose of taking testimony on the reform of the United Nations. Mr. Maynes, of the Department of State, and other witnesses will testify. Senator Pell will conduct the hearing.

On Monday, October 29, the committee will conduct hearings on a number of nominations that have been backed up which need the committee attention. The hearings will begin at 2 o'clock in the afternoon. Senator Pell will chair those hearings.

Senator HAYAKAWA. What time is the meeting tomorrow, Mr. Chairman?

The CHAIRMAN. Tomorrow we meet at 10:30 in the morning and on Monday the committee will begin at 2 in the afternoon.

Further proceedings of the committee relating to the SALT Treaty will be announced by the Chair at an appropriate time.

This meeting is adjourned.

[Whereupon, at 1:58 p.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, October 31, 1979.]

THE SALT II TREATY MARKUP

WEDNESDAY, OCTOBER 31, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:24 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, McGovern, Biden, Glenn, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

The CHAIRMAN. The committee will please come to order.

This morning, the committee takes up again its consideration of the SALT II Treaty. The next item on our agenda is a proposal by Senator Baker of Tennessee, relating to the M–X missile.

I recognize Senator Baker at this time.

Senator BAKER. Mr. Chairman, I thank you very much.

I would like first to express my gratitude to you and to Senator Javits for accommodating to my schedule on this point.

PERMISSIBILITY OF PROPOSED M–X BASING MODE UNDER SALT II

I am sure the committee will remember that on what I believe was the first day of consideration of this treaty I indicated my concern for the permissibility of the basing mode for the M–X missile, as the administration has published it, and with which I agree, under the terms of SALT II.

That was prompted, Mr. Chairman, by certain statements made in the press, or attributed in the press, to the Soviet Union and high spokesmen of that country, about whether the so-called race track system or multiple aim point system was permissible under the prohibitions of SALT II and the protocol attached to it.

I am concerned about this as a significant ambiguity in the treaty, and particularly about whether the various basing schemes for the M–X missile are consistent with the treaty's provisions.

The reservation that I have proposed for inclusion in section 3 of the resolution of ratification, which requires the formal concurrence of the Soviet Union, is an attempt to solve that ambiguity.

The reservation would first provide that should either party deploy a mobile ICBM system, the number of launchers contained in that system shall be susceptible to counting by national technical means, whether during assembly, as mentioned in the reservation, or during production or deployment.

I am aware that this requirement is implicit in the treaty itself, but because of the special dangers posed to verification by mobile systems, I believe it should be explicit in the provisions of the treaty, and hence my proposal that it be included in section 3.

The second and third provisions of the proposal are definitional, providing that mobile systems and fixed launcher systems shall be clearly distinguishable. These provisions preclude the charge that the M–X system protection structures should be considered as fixed launchers.

Mr. Chairman, the final provision provides that these protective structures that may be used in conjunction with M–X will not be considered storage facilities within the meaning of paragraph 5(b) of article IV of the treaty.

Mr. Chairman, in my view a treaty is nothing more than a contract. If there is any abiding principle of contract law, it is that there must be a meeting of the minds between the parties as to what that contract means and how it is to be construed by the contracting parties. In this instance, we have explicitly contradictory statements from the two Governments as to whether the various proposals for the deployment of M–X are consistent with the treaty itself. The parties clearly have not had a meeting of the minds on this issue. The question really is are we buying a lawsuit, so to speak, under the treaty because of the choice of basing modes that we have published and declared heretofore.

I believe, Mr. Chairman, that it is infinitely preferable to clarify the point in advance of the conflict, instead of buying ourselves a lawsuit on whether M–X complies with the provisions of the SALT Treaty or the protocol.

I would add also, Mr. Chairman, that I am not wedded to the words of this resolution. While I believe them satisfactory and I commend the staff for its drafting, I am prepared to admit, Mr. Chairman, that there may be other formulations of language that might better serve the purpose. I am willing to consider such proposals, if indeed they are made.

The CHAIRMAN. Thank you very much, Senator Baker.

Mr. Cutler, may we hear from the administration on this proposal?

Mr. CUTLER. Yes, Mr. Chairman.

We have carefully studied this proposal, and we would submit that this presents a case of leaving well enough alone. There is not the slightest question under the wording of the treaty and the protocol that mobile ICBM's are permitted to be deployed after the expiration of the protocol.

Article II, paragraph 1, in the second agreed statement to that provision of the treaty, on page 3 of your committee print, states explicitly that after the date on which the protocol ceases to be in force, mobile ICBM launchers shall be subject to the relevant limitations provided for in the treaty which are applicable to ICBM launchers, unless the parties agree that mobile ICBM launchers shall not be deployed after that date.

That is an explicit recognition, we submit, that under the treaty mobile ICBM launchers are permitted. Of course, we have said explicitly, in public and to the Soviet Union at the highest level, that we intend to go ahead with the development and, after the protocol, the deployment of the M–X in a mobile form.

EXPRESSED SOVIET CONCERNS ABOUT VERTICAL MPS BASING MODE

The only Soviet questions that were raised about the legality of the mobile M–X system under the treaty related, first, to the alternative of putting the mobile M–X system in what were called a series of fixed vertical shelters among which the missile would move, which the Soviets thought might create a legal question under the treaty; and, of course, the question of whether the system, when and as actually deployed, would be verifiable by national technical means.

The first point has really become moot, so long as the United States intends to go ahead in the presently announced form which does not involve the use of a number of fixed vertical shelters. The only remaining question, then, is the verification question. As we have said before, the proof of the verification issue, the proof of the pudding, is in the eating. There is no way to resolve by prior agreement whether a particular deployment of a mobile missile will or will not be verifiable by national technical means.

One of the best indications that the Soviets do not now question the legality of a mobile missile in a mode of the type presently announced is that in the recent speech of General Ustinov, which has been widely reported and which I believe was made on the 25th of October 1979, Marshal Ustinov referred to the American decision to go ahead with creating a system of M–X mobile missile complexes. He used a Russian adaptation and called it "mobilnik" or some such thing. He recognizes it to be a mobile system. He complains about it, just as he complains about the deployment of Trident missiles in our submarines and efforts to strengthen the NATO nuclear forces as "destabilizing actions." He does not complain about them as "illegal actions." At the same time, he says, toward the end of this speech, that the Soviet Union is prepared to go ahead and ratify SALT II.

It seems to us that it would be a mistake of judgment on our part, we would respectfully submit that while, of course, the point of being sure we can build the M–X is a valid point that deserves consideration, to attempt, as a category III proposition, requiring the consent of the Soviet Union, having already established the right to deploy a mobile missile in a verifiable mode, to go forward now and attempt to define by agreement with the Soviet Union just what a mobile missile is and just what you have to do with it to make it verifiable, it seems to us, this is a losing proposition for our side.

IMPLICATIONS OF PROVIDING SOVIETS DETAILED DATA ON DESIGN PHASE

We say this for two reasons. Any more detailed definition—and this is true, we believe, of the definition offered in the proposed amendment—probably limits us more than the present definition of a mobile missile. It might rule out, for example, the possibility that we might someday return to the fixed vertical shelter system which we maintain would also be lawful under the treaty, although it is a rather academic point right now. Beyond that, one can just foresee what would happen if we tried to negotiate with the Soviet Union on what form of deployment of the M–X mobile missile would be verifiable. One can see the questions about how are these horizontal shelters going to be built; how

many will there be; how hardened will they be; will they have any indispensable element of the ability to launch inside them; when will they be open; how will they be opened; how many times a day, a week, or a month will they be opened.

All of this will have to be put into contract form with the Soviet Union while we are still in the blueprint stage.

Certainly it has been true of every complex delivery system we have developed to date that, having started out on it, design changes of one kind or another get made for perfectly good military reasons, and it then might be necessary, having frozen the form of how the M–X would be deployed and how these shelters would be built, in a contract with the Soviet Union, to go back and renegotiate that contract.

Might I quote to you what General Jones, the Chairman of the Joint Chiefs, said on this very subject on pages 384 and 385 of the printed version. He said,

> I want to build the M–X in a mode that will be verifiable and survivable, but not get their permission as to which way to go. I think that we have the right to do it. We just wanted to be sure that both the executive and the legislative branches of the Government, our Government, support that.

In a recent exchange between the President and Senator Byrd, if there were any possible doubt on the subject, the President has made very clear the firm intention of this administration to go forward with the development and, after the expiration of the protocol, the deployment of the M–X missile in the form presently announced. It would seem to us, Mr. Chairman, if anything is to be done in the resolution of ratification with respect to the deployment of the M–X missile, it should be some form of category I understand, setting forth as clearly as possible the support of the Senate for the decision to go ahead and deploy the M–X missile in a verifiable mode.

The CHAIRMAN. Mr. Cutler, the letter to which you referred, the Presidential letter, contains a statement, "It is my firm intention to proceed with the testing, development, and deployment of the recently approved sheltered ground mobile M–X missile basing system." The alternative language you have suggested would put the Senate on record in support of proceeding promptly with the plans to develop the M–X missile and, upon expiration of the protocol, to flight-test and deploy the missile in a manner consistent with the verification provisions of the treaty, subject to the terms of future acts of Congress and future treaties ratified with the advice and consent of the Senate.

I am in sympathy with what Senator Baker seeks to do here, but I think your argument against striking a deal with the Soviet Union or attempting to reach an agreement with them through a category III reservation might very well turn out to be a mistake. It might backfire against our own interests.

Senator Baker, I am wondering if you would consider approaching this objective in the way suggested in the alternative proposal, making it a category I, rather than a category III, proposition?

Senator BAKER. Mr. Chairman, may I respond at this point?

The CHAIRMAN. Please do.

Senator BAKER. Before I address the question you put, Mr. Chairman, I would like to reiterate in a little different language what I said earlier.

ISSUE OF WHETHER DISAGREEMENT ON PERMISSIBILITY ALREADY EXISTS

The question here in my view is not whether or not we are asking the Soviet Union to approve of our basing mode for M–X, but whether we are buying a lawsuit. That is, is there already a disagreement on the subject and are we going into a treaty that will produce a public conflict at the very outset?

Frankly, this was prompted, at least in part, by a part of the record to which I will refer, part 4 of the printed record on page 447. There was a question by Senator Stone to Dr. Perry. He asked:

> Dr. Perry, has Defense Minister Ustinov of the Soviet Union objected to the legality of the M–X missile or has he not?

You, Mr. Chairman, addressing Ambassador Earle, I believe, suggested that he might want to answer the question, and his answer was as follows, and is also on page 447:

> Senator Stone, I would infer that the question in part arises from a recent alleged quotation which appeared, I believe, in the Wall Street Journal about a discussion Secretary Brown and General Jones had with Minister Ustinov. I was not present at that meeting, but my understanding is that he made comments similar to the ones I described in my statement and that their concern was expressed that a multiple basing mode could violate either or both the provision regarding construction of additional ICBM launchers and the provision prohibiting deliberate concealment measures.

Ambassador Earle is here and may want to elaborate on that testimony. But first, I would refer to page 437 of the same volume of the printed record and read from it a portion of the statement of Ambassador Earle. This matter refers to MPS and M–X. He said,

> This matter was raised by the Soviet Delegation in Geneva in the summer of 1978. When referring to newspaper reports regarding a vertical MPS basing mode, they stated to us that it appeared that such a deployment would violate both the ban on construction on new fixed ICBM silo launchers provided for in Article IV, and the ban on deliberate concealment measures, to which I have already referred.

Ambassador Earle goes on in that testimony to say, of course, that we do not accept the Soviet argument. But the whole issue here is that a Soviet argument exists and that we are on notice, and that there is already a dispute and a controversy.

To answer your question, Mr. Chairman, I frankly will say that I am not wedded to the notion that we must obtain their concurrence, but I am wedded to the idea that this apparent disagreement between the United States and the Soviet Union must be resolved on a basis that is favorable to our position. This is why I offered it as a category III proposal.

Category III, of course, requires that we formally submit this understanding, this interpretation of treaty provisions and corollary facts to the Soviet Union and that they must concur in it as a condition precedent to the acceptance of the documents that attend the ratification of the treaty.

I am sympathetic to the idea that maybe we don't want to stir up a hornet's nest and get an adverse reply from the Soviet Union. But I must also say that I do not believe, at least at the moment, that I would be satisfied with simple category I understanding.

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Senator JAVITS. Would you yield to me, Howard?

Senator BAKER. Yes, I will yield.

Senator JAVITS. I would like to ask you two questions.

First, is the formulation of the administration fulfilling enough of your views and desires that you are proposing in this understanding that it could be accepted in substance, though it may have to be modified?

Second, would a compromise on making this a category II understanding be acceptable to you on the grounds that you want the U.S.S.R. notified but you do not want to encourage a controversy by seeking their okay, but if they are going to say anything we want to hear it now rather than later.

Senator BAKER. Mr. Chairman, I was offered a copy of the alternative language this morning before the meeting began by Ambassador Earle and Mr. Cutler, which I appreciate. I now have been handed a copy. I don't want to delay answering Senator Javits' question for very long. But if I could have just a moment to think that through and confer with staff. I will be prepared to answer it.

The CHAIRMAN. Surely.

Senator BAKER. I would like to answer the second part, however, and that is the question of a category II understanding instead of category III. I guess implicitly, at least, I have already answered that. I recognize the validity of your argument that if I do persist in making it a category III understanding, I may create uncertainties or conflicts. There is an old adage that I remember from practicing law, and it goes like this: "On cross examination, never ask a question to which you do not know the answer." In this case the corollary of that theorem may apply. We may be asking a question to which we do know the answer.

In any event, the answer to the other part of your question, Senator Javits, is yes, I would consider a category II classification instead of category III.

Now, Mr. Chairman, perhaps somebody else on the committee has a remark to make on this subject. If I could have just a moment, I will confer with my staff on this language and will try to answer Senator Javits' question, then.

Senator PERCY. I would like to ask the administration a question, Mr. Chairman.

The CHAIRMAN. Senator Percy.

LANGUAGE TIES UNITED STATES TO PRESENT BASING MODE PROPOSAL

Senator PERCY. I would like to raise a question about the administration's suggestion. When you tie it to the M–X mobile intercontinental ballistic missile announced by the President on September 7, 1979, does that lock us in to a particular system which may or may not be the one that we actually proceed with? That was the best with which we could come up at that time, but does it lock us in too much? Does it remove our flexibility?

Mr. CUTLER. We have thought of that problem, Senator Percy. We don't think it locks us in because whatever changes the administration

decides to make in the deployment mode or you decide to make, as the Congress, in reviewing the requests for appropriations, authorizations, and expenditures, will be taken care of in future acts of Congress. Should the Defense Department and the President decide that the mode outlined on September 7, 1979, should be modified for some environmental or other reasons, for technical reasons, that will have to be presented to the Congress and reflected in some future act of Congress approving the then-current authorization or appropriation. But we think it is taken care of.

We thought you would want to nail down—and certainly if the Soviet Union is to be notified, you would want to nail down—just what it is we presently plan to do by reference to what the President and Secretary Brown said on September 7, subject to how the Congress or the President later modifies it.

Senator PERCY. My concern is that we be actually buying the lawsuit that Senator Baker mentions by being that specific about a particular system. Isn't it possible to describe it in more general terms which could embrace modifications and changes that Congress or the executive branch might determine by the time we decide to deploy?

Senator GLENN. Would the Senator yield?

Senator PERCY. Yes; I would be happy to yield.

Senator GLENN. I agree completely. I could never buy that section 1 alternative which the administration has proposed when it says that we are going to develop the M–X announced by the President on September 7, 1979.

I happen to be one who does not agree with our proposal on that at all. I am for an M–X, but I think our racetrack is definitely the wrong way to go. I could not support that and probably will not if that is the only option we have open. I would support a lighter, more mobile system, one which I think really gets away from tying us to specific chunks of real estate, which this ties us down to. If that is the way we are going on this, if we are going with the system announced by the President on September 7, 1979, which this says, I would have to oppose it strongly.

I agree with Senator Percy.

The CHAIRMAN. We do have another option, I think, which has not yet entered into the discussion, and that is a category I option prepared by the staff of this committee. I think we should hear executive branch comment on that proposal.

Mr. CUTLER. Mr. Chairman, I am not clear at this point whether the category II suggestion is to move Senator Baker's proposed language from category III to category II or to move ours from category I to category II.

The CHAIRMAN. It is neither. There is a separate text. If it has not been supplied to you, it should have been.

[Pause.]

The CHAIRMAN. I believe you now have a copy.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Mr. Cutler, let me tell you what I had in mind. I had in mind a section two understanding which would be in language

agreed upon between, hopefully, Senator Baker, and the administration. My thought is—and I am rather inclined to agree with Senators Percy and Glenn—that we should substantively describe what we have in mind rather than call it the M–X. You might even use the term "M–X". I think John used it himself. You might say "an M–X" missile, and then give the specifications.

The CHAIRMAN. That is what this language undertakes to do.

Let me read the language to the committee and then let us have Mr. Cutler's comment. In section 2 of the resolution of ratification, include the following understanding:

That concerning the new type mobile ICBM system being developed by the U.S.A. called M–X, (1) the number of mobile ICBM launchers subject to limitation under the SALT II Treaty will be able to be determined with national technical means, e.g., during assembly of the launchers; (2) the launcher will be made up of components necessary to launch the missiles all of which are mobile, i.e., not permanently fixed in place (ICBM launchers not considered mobile will be considered fixed); and (3) the shelters for the system will not be storage facilities for ICBM's in excess of normal deployment requirements at launch sites because they will not be used to store excess ICBM's, i.e., ICBM's not on a mobile launcher.

What is your reaction to that language?

Mr. CUTLER. We continue to have problems with that language, Mr. Chairman, which I will describe in just a moment. Let me say that we would consider the possibility of a category II alternative, but it seems to us that it ought to be more along the lines of our suggested language, bearing in mind Senator Percy's point and Senator Glenn's point, rather than this technical language, which attempts to nail down in more detail than the present treaty how you determine what a mobile launcher is, and also how you define storage facilities. We may regret some of these more precise definitions. In fact, we believe they are less favorable, even though more detailed, than the present language of the treaty.

Senator SARBANES. Mr. Chairman, may I ask a question at this point?

The CHAIRMAN. Certainly.

Senator Sarbanes.

Senator SARBANES. Would the committee alternative which the chairman has just read permit us to develop a mobile ICBM system different from the one announced by the President on September 7, different in its technical consideration?

Mr. CUTLER. It might permit some, Senator Sarbanes, but not others. For example, paragraph 2 could raise a question about returning to the alternative plan of a number of fixed vertical shelters, which we might wish to do someday.

Senator SARBANES. Well, your proposal would permit only the President's plan. Is that correct?

Mr. CUTLER. We didn't think so. But we can solve that problem simply by deleting the words "announced by the President on September 7, 1979."

Senator SARBANES. Well, before we start changing it, I want to understand what it means, as written, since this goes to the heart of the difference.

Mr. CUTLER. What it meant, as written, is that the Senate, as General Jones requested in the testimony I read earlier, puts itself on

record as going ahead with the development and deployment of the M–X mobile system initially as announced by the President on September 7, with such further modifications in that system, or the number to be deployed, or something else, as would be worked out and authorized in future acts of Congress. For the President to go forward either with the present system, once he runs out of his existing appropriations and authorizations, or any change in that system requires a future act of Congress.

So, you have full control and we would have the flexibility, both within the administration and within the Congress, by joint action, to change the configuration, the number, or whatever else we thought was desirable. We do not lose any flexibility by this.

Mr. Chairman, I think we could work out some language that takes care of the problem and possibly elevates the matter to a section 2 level of official notice, which is better than trying to define more precisely what is a mobile missile.

The CHAIRMAN. Senator Baker, would you be amenable to an attempt to work out some language in a category II proposal or understanding?

Senator BAKER. This is the closest I have ever gotten to victory. [General laughter.]

The CHAIRMAN. I am trying to deliver you a victory. [General laughter.]

Senator BAKER. Mr. Chairman, yes, I would be willing to consider that. I was about to say a moment ago that I think the staff alternative is not significantly different from mine, except in minor respects, and with the deletion of my paragraph (4). I am willing to settle for that. If we want to go ahead with the staff alternative in section 2, as far as I am concerned, I have only one remaining question.

Mr. Cutler, did I understand you to say that the staff alternative would tie us down to the present basing mode for M–X? If you did, I don't quite understand why.

DEFINITION OF MOBILE

Mr. CUTLER. Well, Senator Baker, once again we have our friends, our antagonists, in the room. But if you look at your definition No. 2, there is at least a question as to whether the mobile missile, if deployed, moved from one to another of vertical fixed shelters, would fit your definition. It may be the vertical shelter is necessary to hold up the missile and launch it. That is the very argument the Soviets were pressing.

Senator Baker, are you talking about paragraph 2 of the staff alternative?

Senator BAKER. Yes.

The same thing would apply to your own proposal.

This is why we think it is inadvisable, since we are the ones who are going to move forward and build that mobile missile, to define more precisely than the treaty already does exactly what is a mobile missile and exactly what is a permissible storage facility.

We simply narrow our own options.

Senator JAVITS. Would the Senator yield at this point?

Senator BAKER. I yield.

Senator JAVITS. It seems to me that there is no reason for exposing these positions and their details here and now. I would strongly urge this.

Senator Baker, in my judgment, has most of us with him on a section 2 category for this and on the substance of what he wants. He is a reasonable man and certainly is as patriotic as any of us in what we tell and what we don't tell. If he finds it difficult or impossible to get together with the administration, we will decide. But I think, in the first instance, Senator, that I would strongly urge, if you can, to give a few minutes to try to work out an agreed-upon formulation.

I will express myself as being for a substantive, rather than an M–X designation, formula.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, first I want to say that I am delighted to have the chance to say that in this case I think Senator Baker is right on target. I support him here. I think a category II is adequate in this case.

I would like to suggest that in the consideration of wording, we take into account that the staff suggestion is an awfully lengthy one. I would be satisfied if we end it as follows: "the number of mobile ICBM launchers subject to limitation under the SALT II Treaty will be able to be determined with national technical means" and then put a period. I am not quite sure why all of the rest is necessary. After all, the United States plans to have the M–X verifiable during assembly as well as after it is deployed. If the Soviet Union goes ahead with a mobile missile, we would want it verifiable at two stages, and not just at the assembly stage. That really is inadequate.

Sections 2 and 3 might require extensive technical discussions with the Soviets. It could really lead to a time-consuming thing. The major issue is that a mobile system must be verifiable, which is the language we have in that first section.

Mr. Cutler, would you respond to that, please.

WHETHER SENATE SHOULD RECORD SUPPORT FOR M–X

Mr. CUTLER. We think, at least initially, that this is a good suggestion, Senator Percy. We would also urge you to consider General Jones' point while you are at it. Rather than simply defining more precisely what the legal rights of the United States are in the judgment of the United States, it would be useful to make clear that we intend to go ahead, that the Senate in this resolution, insofar as it can do it in the form of the resolution of ratification, is confirming the President's decision to go ahead with the deployment of that missile in some form, some verifiable form.

Senator PERCY. I am with Senator Baker in that aspect of his objective. I am thoroughly with him. We don't want any ambiguity about it.

Now by mutual agreement we can both agree not at some point to go ahead with a mobile under SALT III, if we want to. But now we ought clearly to indicate our intention to go ahead and have no equivocation about it.

Thank you very much.

Mr. CUTLER. That would be our view.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I am all for clarifying that we are going ahead. But I don't want to see the Foreign Relations Committee get locked into determining exactly what we are going ahead with.

I would propose that if we are going to a section 2 alternative, perhaps the first couple of lines of it could read in this way. I think this would take care of both Senator Percy's and my concerns. It could read, "That concerning any new type mobile ICBM system to be developed by the United States" and then strike "called M–X" so that there cannot be any misunderstanding about it, and then just go ahead with the rest of the proposal.

Senator BAKER. And include paragraphs 2 and 3 as well?

Senator GLENN. Perhaps.

Maybe Senator Percy has a good point. If we are going to reword this, maybe we would want to consider the last part. But I think if we started off with the statement the way I read it, there could be no doubt that we are going ahead, that it was our intent to go ahead, but that we certainly are not sitting here today defining it as race-track or whatever. We would still be open to go with a true mobile missile, which I think is the route we should follow.

Senator BAKER. If the Senator would yield to me, I think that is a good suggestion for the language change, and I would certainly concur.

On the other two, Mr. Chairman, I would like to consider, however, the inclusion of some language in paragraphs 2 and 3, because the treaty also has a prohibition against additional fixed launchers and language dealing with storage facilities.

So, it seems to me that there is a requirement in paragraphs 2 and 3, as the staff has decided them. It may be that we want to conform the language to the general scope which Senator Glenn has mentioned.

The CHAIRMAN. This is a rather difficult drafting task. I think, given the willingness of Senator Baker to let the administration, the committee staff, and his own staff people see if they can work out a new formulation, we should give them an opportunity to do that.

Senator BAKER. I am anxious to do that.

The CHAIRMAN. Since everybody seems to agree on that, why don't we temporarily set this aside. Let people work on a new draft and then bring it back for the consideration of the committee.

Senator MCGOVERN. Mr. Chairman.

The CHAIRMAN. Senator McGovern.

Senator MCGOVERN. Just so that there is no misunderstanding about my own part in this, let me make these remarks.

I am against the M–X system. I will vote against any kind of language, no matter what it is, that even hints at giving this system any kind of credibility or respectability because I don't think it deserves either one.

I don't think the system is needed. In my judgment, it does not add one iota to the security or safety of the United States.

The only reason I am not more aroused about it is because I do not think the system ever will be built. I think it will self-destruct because of the folly involved in the whole concept. I am counting, eventually,

on the horsesense of the Western Governors and the people who live out in the West, where this thing is supposed to be deployed, to try to bring it to a halt. For that reason, I have not tried to lead any big fight against it here in the committee.

But I do want to make clear for the record that, insofar as one member of the committee can influence the outcome of this, I not only do not endorse it, I want to oppose it in every way I can. I will continue to oppose it with or without the SALT Treaty.

The CHAIRMAN. It is quite possible, Senator McGovern, that the rebellion will take on a new direction.

Senator MCGOVERN. I hope it does.

The ABM went that way eventually and, on the surface, I think this system is even less promising and more impractical than the ABM. I see no merit in it at all. I don't see how it ever can be deployed in a way that adds to our security. It is an enormously expensive thing. Maybe budgetary considerations will eventually bring it down if commonsense does not.

The CHAIRMAN. Thank you, Senator McGovern.

I wonder if we can move ahead while the drafting effort is underway.

Senator HELMS. Mr. Chairman.

ADMINISTRATION AND TREATY OPPONENTS' REPRESENTATION AT MARKUP

The CHAIRMAN. Yes, Senator Helms.

Senator HELMS. I have not consumed a great deal of time. I have offered no amendments and have chosen to defer that until this matter reaches the floor, if it does.

But if the committee would indulge me for just a few minutes, I would like to pay my respects to Mr. Cutler.

Mr. CUTLER. Yes, Senator Helms.

Senator HELMS. He and I have opposing interests in this matter.

But I want to say to you, sir, that you are a very impressive man. I have been very much interested in watching you work.

What is your official capacity with the President of the United States?

Mr. CUTLER. I am presently the Counsel to the President, Senator Helms.

Senator HELMS. You succeeded Mr. Lipshutz, is that right?

Mr. CUTLER. Yes, sir.

Senator HELMS. Your duties in that capacity are specifically what?

Mr. CUTLER. Well, sir, let me say to explain my presence here that before I took on that appointment, while still in private life, I agreed to serve as Special Counsel to assist in the presentation of the administration case on behalf of advice and consent of the SALT II Treaty.

Senator HELMS. Would you pull your microphone a little closer, please. I'm sorry, but I don't understand all you are saying.

Mr. CUTLER. Certainly.

What I am saying, sir, is before I took on this post, which I took on October 1, at the end of June while still in private life, I agreed to serve as Special Counsel to the President to assist in presenting the executive branch's case on behalf of ratification of the SALT II Treaty to the Senate. I have been involved in that since the end of

June. When I agreed to take on this additional post of Counsel to the President, which is full time, I was asked to continue those activities on behalf of SALT II. That is what I am doing here today.

Senator HELMS. So you are the President's representative on behalf of SALT II, not only with this committee, but with the entire Senate?

Mr. CUTLER. Yes, sir.

Senator HELMS. In effect, then, you are—and I use this word in its most acceptable sense—lobbying both this committee and the entire Senate.

Mr. CUTLER. In the most acceptable sense; yes. [General laughter.]

Senator HELMS. You were appointed to this position on August 17, is that correct?

Mr. CUTLER. Are you talking about the position of Counsel to the President?

Senator HELMS. Yes.

Mr. CUTLER. I am not certain of the exact date, but it is within a day or two.

Senator HELMS. Prior to that time, did you occupy any SALT-related position?

Mr. CUTLER. Yes, sir, as I have just explained.

Senator HELMS. Besides that.

Mr. CUTLER. I'm not sure I understand you, Senator Helms. Since June, I have been serving as Special Counsel to the President in relation to the presentation of the SALT II Treaty to the Senate. Before that time, before June, I had no connection whatsoever with the SALT II negotiations.

Senator HELMS. Right.

Now you are a very prominent attorney in Washington. I looked in Martindale-Hubbell and I counted 106 attorneys. That is some law firm that you have.

Mr. CUTLER. I had. I am forcing myself to put it into the past tense, Senator Helms. I had. I was a member of.

Senator HELMS. You have just answered another question that I had proposed to ask. You never served on the SALT II delegation as a negotiator or in any other position?

Mr. CUTLER. No, sir.

Senator HELMS. Have you ever engaged in negotiations with the Soviet Union concerning arms control?

Mr. CUTLER. No, sir.

Senator HELMS. So, it is fair to say that you have come by your considerable knowledge of this treaty by talking with the advocates of the treaty, is that so?

Mr. CUTLER. I have come by it as a lawyer dealing with my client, sir, just as you would.

Senator HELMS. Exactly.

You have spent no time with those who have doubts about the treaty?

Mr. CUTLER. Oh, I have spent a great deal of time with those who have doubts about the treaty.

Senator HELMS. How much time have you spent with Ed Rowny, for example?

Mr. CUTLER. I have spent no time with General Rowny. I have spent a good deal of time with Paul Nitze; I have spent time with Admiral Zumwalt; I have spent time with Eugene Rostow; I think I have spent a good deal of time with opponents of the treaty in and out of the Senate.

Senator HELMS. Yes.

I believe I am correct in this—and you can correct me if I am not entirely correct. I believe General Rowny has served longer as a SALT negotiator than probably anybody else. Is that not correct?

Ambassador EARLE. No; it is not entirely correct, Senator Helms.

Senator HELMS. It is either correct or it isn't.

Ambassador EARLE. I first was on the delegation as a consultant in November 1972. General Rowny came in February 1973.

It is true that he has served longer as a full-time member. I did not become a full-time member until October 1973.

Senator HELMS. All right, then, I will stand corrected. General Rowny served as a full-time member of the delegation longer than anyone else.

Ambassador EARLE. Yes.

Mr. CUTLER. Senator Helms, I am not sure where this is leading, but if you think it would be useful for me to speak with General Rowny, I would be——

Senator HELMS. It may be that you are apprehensive about where I am leading, sir.

The point, Mr. Cutler, is I paid my respects to you at the outset. I was genuine in doing so. This is not your fault. You are doing your job. But it has occurred to me day after day that here we sit, as a committee, arrayed with proponents of the treaty. There is no one at that table who will say well, look here, I don't agree with Mr. Cutler about this.

You know, I would like to raise the question of what happened to Paul Warnke on this thing. He negotiated the treaty and he is a pretty good lawyer himself.

Mr. CUTLER. He is a very good lawyer.

Senator HELMS. The administration was fearful of bringing Mr. Warnke up and it brought your own good self, and that is fine. It is a good strategy on their part.

The point I am making, and where I am leading, Mr. Cutler, is that here we are, in these public hearings, and not a soul at that table is willing or in a position to say wait a minute, I don't agree with Mr. Cutler on this. Moreover, when Senators deign to raise a question of some significance, inevitably we hear oh, we must go into executive session on that.

Mr. Chairman, as we finish the markup of this exceedingly important matter, I don't see why we can't have both sides represented at that table so that we can have a free and open discussion. We have not even been willing in executive session to have the disagreeing members of the Senate Intelligence Committee appear before us. I wrote the chairman requesting that they be allowed to appear, and that was denied in the most courteous way.

I am saying as gently as I can that we have a one-way street going here in terms of presentation of this treaty. That is the reason I am no part of it.

Now I am going to have some amendments when we get to the floor.

I say this with the utmost of friendliness for my colleagues, but it is just like a fellow said the other day, who is very knowledgeable about the Senate and this committee. He said that it was nine to six going in and it is going to be nine to six coming out. So you are working with the kind of figures that are satisfactory to you.

Mr. Cutler, I mean nothing personal. I admire the way you work, and you are doing the job you are being paid to do.

But I just felt obliged, Mr. Chairman, to make these observations. I thank you very much.

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. I have no desire to get into whatever it is that is prompting Senator Helms with respect to Mr. Cutler. I see that as his problem. But I do want to make two comments.

First of all, I think with some perhaps minor exceptions this committee has not, on any occasion, gone into executive session in which it was not proven out that that was a wise thing for the committee to do with respect to safeguarding and protecting important national secrets.

Second, I do not recall us having any agreeing or disagreeing members of the Senate Intelligence Committee sit in with us. The only people who sat in were the chairman and the ranking member of that committee who, as I understand it, take differing positions with respect to the substance of the treaty. So, in a sense, if you want to press the point, you had an agreeing and a disagreeing member, if that is how you choose to characterize it. But no other member of the Senate Intelligence Committee, not a member of this committee, has come into those closed sessions, whether he agreed or disagreed.

I think in those two respects I simply want to put on the record that I think the procedures of this committee have been proper and appropriate.

Senator HELMS. If the Senator would yield, I have not suggested that they were improper.

Senator SARBANES. Well, why bring it up?

Senator HELMS. All I am saying, Senator, if you will let me respond to you, is that I think we ought to understand and the public ought to understand that this is a one-way street that we have here.

Senator SARBANES. If you thought when we went into executive session that it was proper, why bring it up and pose a question about it? Second, if it is correct, as I have asserted, that you made the point that no disagreeing member of the Senate Intelligence Committee could sit in, I make the point that no agreeing member could sit in, and therefore it has been treated in a fair and evenhanded way, so why bring up that issue?

I am not into this thing between you and Mr. Cutler. I don't know what is behind that and why you have chosen to launch that attack. But I do——

Senator HELMS. I have not attacked Mr. Cutler.

Senator SARBANES. Let me just finish what I was saying.

Senator HELMS. Well, you are misstating the facts.

Senator SARBANES. On these two matters that are within the control of this committee, on the use of the executive session and on who appeared before us representing the Intelligence Committee, I think the procedures of this committee have been proper and appropriate.

That is the only point I am making.

Senator HELMS. Sure you do. They are going your way.

The CHAIRMAN. Gentlemen, we are not going to get into a prolonged debate, I hope, on the procedures of this committee, which follow the procedures of the past. The markup is in line with every markup of every bill of consequence of which I am aware.

The staff that is here is available to all members of the committee for whatever position they take. It consists of Republican minority staff members and Democratic majority staff members, who are available to support any position that any member of this committee wishes to take. I think if it turns out that a majority on this committee on 9, or 8, or 10 favors the treaty, it does not mean that the procedures of the committee have been a stacked deck. It simply means that is how the Senators on this committee have decided the case, based upon all of the evidence.

No one could suggest that during the hearings we did not hear from all of the opponents over and over again. The best known and best accredited opponents of the treaty appeared in public session and in executive session.

I think Senator Helms would agree that I tried to accommodate the requests of the members of this committee who opposed the treaty to secure for them and for the committee, as a whole, the testimony of the opponents of this treaty both in open and in closed, or executive session.

Senator HELMS. Would the chairman be willing to consider having someone like General Rowny sit with us for the conclusion of the markup, just so we can be sure that everything is dandy about this treaty?

The CHAIRMAN. We heard from General Rowny. We heard from all other opponents of the treaty and proponents of the treaty. It would be neither appropriate for the chief proponents of the treaty or the opponents to sit here in the markup session. We have passed the hearing stage. We have our own staff before us. The only reason the executive branch is here is to accommodate the needs of the committee because we want to know the executive response to various proposals before we decide on them.

Never in connection with any treaty have we brought in witnesses who have testified for or against and made them participants in the markup. Such would be an unprecedented procedure.

Senator HELMS. Mr. Chairman, if you would yield once more, this is a friendly discussion. General Rowny is not just another opposition witness. He is the man who has served longer fulltime as a SALT negotiator than anybody else. I feel the need for somebody else. I don't even have the authority to bring a staff member into the executive sessions.

Senator JAVITS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Is there any rule of the committee which would prevent General Rowny from being present as a member of the staff or as a person whom Senator Helms wishes to advise him? That is my first question.

Second, is there any rule of the committee which would prevent Senator Helms from making any point or asking any question which he

may be advised to make or which may be suggested to him by General Rowny, assuming my first parliamentary inquiry is answered affirmatively?

The CHAIRMAN. As to your first inqury, the answer is yes. As to your second inquiry, the answer is no.

Senator BAKER. I'm sorry, but I didn't get that. Would somebody remind me what the first and second were? [General laughter.]

Senator JAVITS. The first was, is there any inhibition in the rules of the committee regarding Senator Helms having General Rowny at his side as a member of his staff or as an adviser while these proceedings of markup are going on.

Senator BAKER. The answer is yes; there is such a prohibition?

Senator JAVITS. No, no. Yes, there is not.

Senator BAKER. There is no such prohibition.

Senator PERCY. Mr. Chairman, may I comment?

The CHAIRMAN. Senator Percy.

Senator PERCY. I think, first of all, that Senator Helms underestimates the fact that there are knowledgeable, articulate, and forceful voices against this treaty on this side of the table at all times, and they have been extraordinarily effective. They have drawn upon all of the testimony. They seem to have it committed to memory. They can reference pages and quotes from General Rowny and others.

Second, I think this is an excellent suggestion. In other committees we have constantly drawn upon advisers for help. The whole purpose of our committee deliberation is to get as much help as we can get and get the best articulation of every argument that we are going to hear on the floor. On the floor, we will have the time to get still further information. I would hope that we accommodate Senator Helms and have General Rowny available as a staff consultant who can be called upon to speak up and say what happened at a particular time in the negotiations. I think that would add to this deliberation and help us proceed in a way that would be more representative of what is going to happen actually on the floor.

Senator HELMS. If the Senator would yield, that is the point I was trying to make, and I appreciate it. I would feel comfortable, and I think the American people would be less suspicious, if there were an Ed Rowny sitting down there saying, now look here, I don't agree with Mr. Cutler; Mr. Cutler has never negotiated a SALT II Treaty 1 minute in his life.

Mr. CUTLER. Ambassador Earle negotiated this treaty.

Senator HELMS. But you have been doing the talking—and very eloquently, I might say.

Mr. CUTLER. It may be my voice, but it is not necessarily all my thoughts.

Senator HELMS. Mr. Cutler, I don't think you ever agreed to be a puppet.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Gentlemen, I would hope that we could move ahead with our business here. We have another proposal pending.

Senator Lugar.

Senator LUGAR. May I take just a moment.

I am intrigued by the problem that Senator Helms has raised. It comes very late in the hearing and markup procedure and, as a prac-

tical matter, the markup is almost concluded, as Senator Helms mentioned.

But it seems to me that, as a matter of procedure, the committee really needs to think through what has occurred here because I admire, as does Senator Helms, Mr. Cutler's work. I think it has been magnificent. He is better prepared to debate the treaty than many members of this committee. I will not specify which ones are better prepared than Mr. Cutler and which ones are not, but he has, in effect, been a major debater.

The problem that I think Senator Helms brings to the forefront and to which the chairman alluded, is this. We hear back and forth the debate, but Mr. Cutler has not been countered by someone of counsel who is equally gifted on the other side. So, members of the committee, the public, or the press, who are listening to this debate, may not have gotten the full show that they needed on an issue of this importance.

It may be too late in the game for General Rowny or anyone else of comparable stature to be secured and to be afforded equal opportunity. But I think, before we get into another treaty or something of this significance, that the committee, as a matter of procedure, really does need to think through what should be the role of Counsel to the President or counsellors for the administration. Whereas there may be proponents and opponents of this particular treaty, times change. The shoe may be on the other foot at another time and on other suggestions.

As a matter of governmental procedure, if the debate is to be a good one, I suspect probably the sides need to be better balanced.

I have no particular brief for General Rowny or anybody else. I think he would be an appropriate person. The problem would be interjecting him into this debate in a way in which there was a counterforce.

Senator BIDEN. Mr. Chairman, may I make one brief point?

The CHAIRMAN. Yes, Senator Biden.

Senator BIDEN. After we hear these types of discussions that have gone on this morning, it always occurs to me that it solves a problem for me. When I hear these discussions, I am no longer surprised about why the public has the view of the Senate that it does. We constantly denigrate ourselves.

The implication of the last two speakers is that Mr. Cutler, a gifted lawyer, who has not had a background in SALT, is more capable of arguing and understanding SALT than me or anyone else up here who has equal or greater background.

Quite frankly, I resent that. I resent the fact that it was suggested that Mr. Cutler or anyone else, fine lawyer or not, has greater capabilities by definition of being Counsel to the President than 15 Members of the U.S. Senate who have spent probably as much, or more, time on this treaty than Mr. Cutler.

The second point I want to make is this. Senator Helms, a gifted debater and a gifted Senator has a gifted way of making implications about the conduct of our business in a way that throws disfavor on the Senate, the implication being that we go into executive session to hide things from the public that should not be hidden, when he

and others raise the executive session requirement themselves. I don't know how many times I have heard the Senator from North Carolina say, "If I could only say in public what I have here in this document." You know, that is a favored technique.

In conclusion, let me address the point about the Intelligence Committee. It has been suggested that there has been no articulate spokesperson from the committee against the treaty. If I were Senator Lugar, I would be highly offended. Senator Lugar and I serve on that committee. We know as much about what takes place in this treaty as any other member of that committee. We both sat through those briefings. Senator Lugar is a Rhodes scholar and one of the most gifted men and minds in the Senate. He sat through those hearings, and Senator Helms suggests there is no intelligence rebuttal.

I would be offended if I were you, Senator Lugar. [General laughter.]

Senator BIDEN. The point is I really wish we would stop doing this to ourselves. It is a terrible thing to do to the Senate as an institution; it really is.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Senator Helms.

Senator HELMS. I am sure the Senator from Delaware is just as worthy as he says he is.

Senator BIDEN. It depends on who I am debating.

Senator HELMS. The fact remains that the chairman will confirm that I did write to him about the matter of two additional Senators on the Intelligence Committee appearing before us in executive session.

Senator BIDEN. Yes, and I recall Senator Goldwater's response to you on that.

Senator HELMS. Yes. He was personally offended by it. But that does not alter the point that these two Senators desired to appear, and it is a matter of record, Senator Biden, that I made a formal request of the chairman.

Now, if you want to get personal about this thing, we can do it either here or go outside in the hall and discuss it. [General laughter.]

The CHAIRMAN. I think we should move on to a consideration of the proposal that Senator Percy and Senator Javits and I are offering relating to the protocol. It is before the members.

Senator BAKER. Mr. Chairman, before you do that, and I do this with great timidity because I am afraid I am about to step into troubled waters. [General laughter.]

I do not think we ought to dismiss the request out of hand. I would counsel that at least we have an opportunity to think about this a little before we proceed to the final markup of this treaty.

As I understand the procedure that you outlined at the beginning and as I believe Senator Javits pointed out to us on the Republican side in our initial caucus, we would run through the treaty and make our proposals as they are arrived at in sequence and. when we finish that, we will use the same procedure that is used in the full Senate; that is, we will go back to the beginning and will approve the treaty article by article.

Is that the procedure?

The CHAIRMAN. No; that is not quite the procedure we had agreed upon. We said that any decision taken by the committee during the course of the markup would be tentative in the sense that it would be subject to reconsideration upon motion of any member before the final vote is taken.

Senator BAKER. The point of the matter is the committee will have an opportunity to readdress any part of the treaty.

The CHAIRMAN. Yes.

Senator BAKER. I thank the chairman.

Senator JAVITS. Mr. Chairman, I am sorry to interrupt the proceedings, but I think this matter is serious enough to warrant interruption.

I ask unanimous consent that the following appear in the record, which is the unanimous adoption of procedures for the markup of the SALT II Treaty. Under the heading "Administration Comments," it reads as follows:

> Comments of the administration on each particular proposal will be solicited in writing and included in the markup documents where time allows. The President has designated Lloyd Cutler to speak for the administration at the markup when the position of the administration is unclear or requires elaboration.

Also, Mr. Chairman, I ask unanimous consent to include the following from the rules of the Committee on Foreign Relations of the U.S. Senate. This is found on page 3 of those committee rules and reads as follows:

> Staff attendance at meetings: A member may have one member of his personal staff for whom that member assumes personal responsibility accompany and be seated near him at committee meetings. Attendance of committee staff at meetings shall be limited to those designated by the staff director or the minority staff director. Each member of the committee may designate members of his personal staff who hold a top secret security clearance for the purpose of their eligibility to attend executive sessions of the committee. The committee, by majority vote, or the chairman, with the concurrence of the ranking minority member, may limit staff attendance at specified meetings.

This is our practice now. Senator Helms, quite properly, is entirely within his rights in suggesting a change.

I will convene a meeting of the minority and will consult with the minority as to whether or not a change should be proposed. If the minority so decides, I will propose one to the chairman.

Senator BAKER. Mr. Chairman, if the Senator would yield——

Senator JAVITS. I yield.

Senator BAKER. I think that is an outstanding suggestion. I think that is a way to approach this in an orderly way. I don't think we are likely to resolve this today or at this meeting. So I applaud Senator Javits' decision to do that. I will be there and will participate in the deliberations. We can approach the issue again at another time.

The CHAIRMAN. Very well.

With the permission of the committee we will now take up the protocol understanding that has been jointly proposed by Senator Percy, Senator Javits, and me.

Members have this before them and I would ask Senator Javits and Senator Percy to explain the propositions. Then I will recognize other members.

Senator Javits.

Senator JAVITS. I yield to Senator Baker.

Senator BAKER. I thank Senator Javits for yielding.

I wanted to explain that I have been notified that there are no minority members present at the Rules Commitee, of which I am a member. We are considering today the proposed codification of the new Senate rules. I wanted to explain why I would not be here for the next few moments during the consideration of this measure. I announce that it is my intention to support the proposal being made by Senators Javits and Percy.

The CHAIRMAN. Thank you, Mr. Baker.

Senator Javits.

CATEGORY I UNDERSTANDING ON PROTOCOL EXTENSION OR PRECEDENT

Senator JAVITS. We are proposing a section 1 understanding, which will endeavor to do two things. First, it will endeavor to provide that nothing which we have done in the protocol or in the treaty obligates us to continue any such restraint, restriction, definition, or whatever else is contained—words used are "prohibition or restriction"—or to establish any precedent for any limitation beyond the time the protocol remains in effect, to wit, December 31, 1981. Part 2 provides that either by silence or agreement, oral or written, or simply by sufferance, the protocol to the treaty, expiring by its terms on December 31, 1981, dealing with mobile missiles and with cruise missiles, will not be extended, formally or informally, in whole or in part, except with the advice and consent of the Senate, two-thirds of the Senators present concurring.

That is the purpose of this particular understanding.

I yield to Senator Percy.

Senator PERCY. I simply would like to reiterate the importance we do attach to both paragraphs. There is the possible implication in the statement of principles for SALT II that the protocol would be extended or that the protocol establishes a basis for a precedent for future negotiations to be carried on.

Now it is acceptable that anything can be negotiated by the two parties. We hope drastic reductions are going to be negotiated. But we do not want any implications that we have concurred in advance as to what form those should be. We start from scratch.

We want to assure our allies and to assure everyone else who has objected to the treaty that the protocol cannot end, except with Senate concurrence, and cannot be accepted as the basis to establish any precedent. We wish to introduce this understanding in the section 1 category. I think it will clarify many of the objections that have been raised by those who oppose the treaty, in particular in this area.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. On this amendment, I would like to applaud the three sponsors. I think it is a very good understanding.

I should point out, though, that I firmly believe we already have done this. The administration has made it clear to our allies and a number of us have made it clear to the Soviet leadership. It has been made clear and I think it warrants being placed into the instruments so that there is absolutely no mistake because this is critical to NATO.

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I would like to applaud you gentlemen not only for bringing it up now, but for focusing on this at the very outset of our hearings and the very outset of the Senate study of this matter. I think it makes a big difference.

The CHAIRMAN. Thank you, Senator Biden.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

ISSUE OF INDEPENDENT EXECUTIVE ABROGATION OF TREATY

Senator GLENN. I would like to ask Senator Javits about a corollary matter.

We are saying that it cannot be extended. This brings up whether any future President could cut short the treaty as was done in the case of Taiwan. Would that alter the language here? That is, would this mean that we would put this protocol concern into another section if we addressed that in this treaty, that the treaty cannot be cut short by a President without coming to the Senate for a two-thirds vote? Are we addressing that in any other fashion or is it already covered?

Senator JAVITS. We did not address it and for this reason, Senator Glenn.

We considered it very carefully. In view of the fact that the court decision is pending on appeal, the question probably will be decided very early. In view of the fact also that it is not quite as simple a question as it would seem on a debate, because a President may terminate for very high reasons of state, defense, or security, or because the other side had violated a treaty and we might not wish to hang him up with the possibility of 34 Senators blocking termination—because it is not merely a majority that is involved, but two-thirds—we thought we had better, if we could, do it in a more orderly way. I think we will have this matter still before us on the floor when the courts have finally decided. Then Senator Church and I felt we had better fashion what to suggest to the Senate.

I beg you to recall—and then I want to yield to Senator Church—that we ourselves, in answer to Senator Byrd of Virginia, who moved this matter, proposed that the Senate write in, when it wishes, provisions limiting the power of the President or eliminating the power of the President to terminate. But we believe that ought to be done in a thoughtful way, hopefully when the legal decision, which will be undoubtedly of the U.S. Supreme Court, is made.

I yield to the chairman.

The CHAIRMAN. I think Senator Javits has supplied the full answer and I rest on his response.

Senator GLENN. I, too, have assumed that the court was going to rule. I would be somewhat concerned if we were to have our final vote on the Senate floor today and the court had not ruled. I would think we would be well advised to perhaps hold up on this if the court has not ruled by that time. I think it is that important. This is one of the most important treaties probably we ever have had brought before the Senate. So I think we ought to clarify absolutely what the President's powers are to terminate a treaty before this is put into effect.

Senator JAVITS. Senator, permit me to make just one observation.

I hope you will not have a mind set on that. Let us see. Undoubtedly, another court will have passed upon it by then.

Senator GLENN. I hope we have our final answer, too, by then.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN Senator Lugar.

Senator LUGAR. Mr. Chairman, I think the protocol extension precedent which you have introduced is a good one. The only question which I would raise—and I don't really want to argue the point, but simply to raise it for consideration—is this.

WHETHER CATEGORY II MORE APPROPRIATE

Clearly, we are identifying again a message to ourselves, that is, administration and legislature, with regard to a section 1 situation, and the Soviets obviously are aware of our intent.

Is there any good purpose to be served by elevating this to a section 2 category and thus raising it in a more formal setting?

Clearly, this is something of considerable moment and importance and I am not certain what the answer to that question is. But since apparently all of us are going to be in agreement that this is a good idea to do in section 1, alternatively our only other course of action seems to be to elevate it to a different section, and I would like your judgment or opinion on that.

Senator JAVITS. My judgment, sir, is this.

As this is a matter entirely within the province of the President and the executive power it doesn't concern the Russians at all, not even for notice, though of course they would know of it. It concerns us and the President, what is his power and what is our power. Therefore, as I believe in drawing spare legal documents, I think this an evidence of that fact. There is nothing which requires that as a matter of policy it be a section 2. It is between us and the President and the President will be bound. We have already stated that in the resolution of ratification.

So I think it properly should be a section 1.

Senator LUGAR. In a technical sense I think that is absolutely right. The only reason I raised the question is that the ending of the protocol is, in fact, likely to lead to considerable conversation if not formal negotiation between ourselves and the Soviet Union. At least it has been brought to the attention of many that the Soviet Union may not see this issue in the same way that we do, that the protocol wrapped up a number of issues that were unresolved and they may anticipate, perhaps, that there would be further negotiation and that that might well press beyond this date.

In essence, maybe they don't believe us. We are saying that this is it and it is very formal, and we have notified ourselves that we are going to do this, but maybe they are not so certain that this really is our intent or that we feel this strongly about it.

It may be still that logic will dictate, whether they feel that way or not, that this is a way of showing our firm resolve that that is it. But that is the point of my raising the question at all, as to their interpretation of what we are doing here.

Senator JAVITS. Senator, you said it the first time when you said this is our resolve and no matter what they think about it, those are our

instructions to the President and when the President takes this, he accepts our instructions. He doesn't have to; he can fight with us. If he is going to take our resolution of ratification, though, he is going to take this.

The second point which I think also is important is this. It is a distinction between what we were discussing with Senator Baker and this. There we do want to hear what they have to say now; here we don't care what they have to say now, so why stir it up? This is our instruction to our President and that is it.

The only reason I see for putting something like this into section 2 is where it is to our interest to get a reaction if there is one. We may not pay attention to it, and I think that is true in the M–X system. But it is not true here.

The CHAIRMAN. If there is no further discussion, the clerk will call the roll.

Mr. BADER. Senator Pell.
The CHAIRMAN. Aye, by proxy.
Mr. BADER. Senator McGovern.
Senator MCGOVERN. Aye.
Mr. BADER. Senator Biden.
Senator BIDEN. Aye.
Mr. BADER. Senator Glenn.
Senator GLENN. Aye.
Mr. BADER. Senator Stone.
[No response.]
Mr. BADER. Senator Sarbanes.
Senator SARBANES. Aye.
Mr. BADER. Senator Muskie.
The CHAIRMAN. Aye, by proxy.
Mr. BADER. Senator Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Senator Javits.
Senator JAVITS. Aye.
Mr. BADER. Senator Percy.
Senator PERCY. Aye.
Mr. BADER. Senator Baker.
Senator JAVITS. Aye, by proxy.
Mr. BADER. Senator Helms.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Senator Hayakawa.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Senator Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.

On this vote, the ayes are 14 and the nays are zero. The understanding is agreed to. Senator Stone was later polled in the affirmative.

CATEGORY I UNDERSTANDING REQUIRING UNITED STATES TO SEEK ADDITIONAL TELEMETRY AND OTHER VERIFICATION DATA

We will move next to Senator Glenn's proposed section 1 understanding on telemetry encryption.

For that purpose, the chairman recognizes Senator Glenn.

Senator GLENN. Thank you, Mr. Chairman. I don't know what level of discussion on this we may want to get into. We had an administration proposal on this and then I proposed some word changes this morning which were just received by them a short time ago.

Has the administration gone through those, Mr. Cutler?

The CHAIRMAN. Mr. Cutler, would you respond to Senator Glenn's question.

Mr. CUTLER. Senator Glenn, I am just looking at the paper you intend to table. I believe we could state no objection to this proposal in category I without any need to go into executive session.

Senator GLENN. Mr. Chairman, I originally was going to propose a telemetry encryption understanding which would have been a section 3 proposal. We discussed this at great length privately.

The problem here has been that, as I see it, we have not been willing to push the Soviets far enough in trying to get their help in cooperative measures that would enable us to better monitor and better verify certain provisions of the treaty. Apparently we were not willing to even push them on this. I wrote a letter to the President, as I indicated the other day in the hearings. This was before the signing. I felt that if we at least had approached the Soviets on the things I had asked for in that letter, then we would know for sure what their attitude was. As it is now, we don't really know how far we could push in the area of getting them to cooperate in additional monitoring matters since we no longer have the Iranian stations, and are still developing some of our intelligence gathering capability to compensate for that.

I think what we do in this, at least by passing this, if we do put it in section 1, we would require our own administration to propose and to try to get better cooperation with the Soviets in any future agreement. I think we will need every bit of that cooperative effort in the future because if we think SALT II is complicated, we have not seen anything yet. SALT III probably is going to be twice as complicated.

The understanding would read as follows:

In section 1 of the resolution of ratification include the following: "That in order to assure the effectiveness of verification by national technical means of compliance with agreements on a strategic arms limitation, the United States should seek in future negotiations an agreement on increased access to information concerning strategic weapon development and deployment on both sides, such as, but not limited to, an agreement on the transmission in unencrypted and accessible form of all telemetric information during flight testing of strategic arms."

I added the phrase "but not limited to" because I think in some future negotiation we might even be able to negotiate out overflights or emplaced monitoring devices, recording devices, that would get the information we now have to get from outside the Soviet Union. Discussions with the Soviets regarding comprehensive test ban matters have indicated their willingness to go that route for some forms of recording devices. We might be able to work out something like this in the future with regard to strategic arms limitations in SALT III or whenever. I think this serves to direct our own administration in those directions in future negotiations.

I would urge its acceptance, Mr. Chairman.

The CHAIRMAN. I strongly support this understanding. I think, without question, broadened cooperative practices will be needed in the future, and we should undertake to negotiate for them in connection with SALT III. I understand that the administration also is agreeable to this as a section 1 understanding. I would hope that the committee would approve it.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, as another example of the expertise of the members of this committee, again, we all pay tribute to Senator Glenn for the really masterful job that he has done in having command of this entire field and introducing some good proposals, all aspects of which I profess freely and openly I have not the slightest understanding of. [General laughter.]

Senator PERCY. In this case I can understand the language of the proposal. I think it would be highly desirable and I commend Senator Glenn on the understanding.

I will support it.

Senator GLENN. Thank you, Senator Percy.

The CHAIRMAN. Senator Glenn has made a tremendous contribution in this very technical field. The committee is indebted to him.

If there is no further discussion, could we proceed with a vote?

Would the clerk call the roll, please.

Mr. BADER. Mr. Pell.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. McGovern.

Senator MCGOVERN. Aye.

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

[No response.]

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator PERCY. Aye, by proxy.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

[No response.]

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote, the ayes are 13 and the nays are zero. The understanding has been agreed to. Senators Stone and Baker were later polled in the affirmative.

CATEGORY I UNDERSTANDING PROHIBITING TREATY EXTENSION WITHOUT SENATE CONCURRENCE

Do the members of the staff have the draft of the proposal which Senator Javits and I are making with reference to the treaty, the expiration of the treaty? If so, I ask that it be distributed to members.

This is a section 1 understanding and it does precisely the same thing as the understanding that we have already adopted with reference to the protocol. It would prohibit any unilateral action that would extend the treaty beyond its expiration date, the treaty itself and not just the protocol. We already have addressed ourselves to the issue of the protocol. This would prevent any extension of the treaty by unilateral action on the part of the two governments after its expiration date of December 31, 1985.

The reason we think this should be done is based upon the experience we had with SALT I, when both Governments, the Government of the United States and the Government of the Soviet Union, by Executive action, in effect extended SALT I beyond its expiration by making identical unilateral statements that each Government would continue to observe the provisions of SALT I, even though it had expired.

Given the fact that SALT III will be negotiated during the period that SALT II is in effect, if it is ratified by the Senate, this proposal would have a binding effect upon our own Government. It would mean that SALT III would have to be approved by two-thirds of the Senate to follow on after SALT II and that the Executive, by its own unilateral decision, could not extend the terms of SALT II beyond its expiration date of December 31, 1985.

Mr. Cutler, do you have any comments about this?

Mr. CUTLER. Mr. Chairman, as in the case of the protocol proposal, this proposal corresponds to our understanding of the constitutional prerogatives of the President and the Senate and we have no objection to it.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Cutler, is that correct? Is it constitutional prerogatives of the President? Does the President now have the constitutional prerogative to extend the treaty?

Mr. CUTLER. Sir, what I meant by that was he does not have the prerogative to extend a treaty ratified by two-thirds of the Senate without the consent of two-thirds of the Senate to the extension.

Senator GLENN. Well, I would raise the same question I raised a while ago because I question whether we really should be doing this without also addressing the reduction in term of the treaty. You are saying that he does not have the authority legally to extend the treaty; neither should he have the authority to reduce the treaty. I don't know what sort of hawkish President we may have some time in the future

who would decide SALT is not for him or her and would cut it out. While I don't think that is likely to occur, nevertheless, that is what we ran into regarding the Taiwan treaty. I would not want to see us repeat getting into a situation that even enables us to have that possibility in the future. I think we have seen the red flag go up on that one and we should correct it before we make another mistake on another treaty.

The CHAIRMAN. Senator, let me just say that we may very well address ourselves to that aspect of the question in a timely way before we come to a final vote on this treaty. But whatever merit there is to including such a provision that would, in effect, prevent the President from acting alone and prematurely terminating the treaty, this proposal still has merit on its own terms. I think we should prevent an extension beyond the expiration because we have had experience with that, too. We had it with SALT I and we don't want to go through that again.

Senator GLENN. I will not carry this to the point of voting against this. I am for what you are trying to do. But I think we have half a loaf here. I think we should be addressing the whole problem and settling it once and for all, and not just take it on in bits and pieces. But I will vote for it.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

RELATIONSHIP OF PRESIDENT'S COMMANDER IN CHIEF PREROGATIVES

Senator BIDEN. May I ask a question of our staff?

Would the staff tell me this. Although it seems agreed that the President cannot, in a formal way, extend a treaty, can a President of the United States make a de facto extension of a treaty? As Commander in Chief, all of the provisions of a treaty relating to the military hardware are under his control and the Commander in Chief can just refuse to up the numbers or lower the numbers unless directed by Congress to do so. Isn't that so?

I don't want it left stated in this record the implication that a Commander in Chief cannot, even by his silence, continue a treaty unless the Senate or the Congress as a whole forces him, by some legislative process, to build more missiles, for example, or build more Minuteman III, or to increase the number of MIRVed warheads. He can make a de facto extension, can't he?

Mr. TIPSON. Senator Biden, there is a certain amount of confusion about what happened the first time around.

Senator BIDEN. Well, quite frankly I don't want to get into that. I would like to ask the question which I think can be answered absent a comparison to what happened before. I would appreciate your not answering by example, but answering the question directly, if possible.

Mr. TIPSON. I would have to agree with you that there are certain things that the President has the power to do independently of the Congress. To a certain degree it is very fuzzy as to where you would draw the line. Of course, we would get into the whole impoundment controversy about whether the Congress can force the President to spend appropriated funds.

The CHAIRMAN. May I suggest an answer to Senator Biden's question?

Quite apart from what the President might do in the absence of this understanding, this understanding would be binding within the Government because the Senate's consent to the treaty would be conditioned on this understanding.

In the case of SALT I, there was no such understanding and I think the President acted within his right by making a unilateral declaration of Presidential policy. The two identical unilateral statements did not constitute a binding agreement between the two countries. They simply constituted two unilateral statements of the respective national policies that would be followed by the two countries.

But if we adopt this language, it is binding on our Government, and our consent to this treaty would be based upon the condition that the treaty would not be extended beyond December 31, 1985, in any form, absent the consent of the Senate.

Senator BIDEN. I understand that, Mr. Chairman, I think. But let me give a specific example.

We have limits and sublimits within the treaty, from 2,250 working on down through various sublimits. If the President of the United States, whomever she or he may be in 1986, would decide that it was not in the national interest for us to have more than 2,200 nuclear warheads, more than 820, or 300, whatever the configuration within the treaty is, and just does nothing, makes no move to get the Congress to appropriate the money to build more missiles or whatever, and the numbers stay constant, absent the Congress passing legislation which would either require the President to veto or, if he does not veto and the veto is not overridden and he must move forward, then we get into the impoundment question. But absent that, cannot the President of the United States just stand pat on what the terms of the treaty are without ever saying that he is continuing the treaty and is formally or informally doing that?

That's the point. In other words, I would hate to see us argue in 1986 that because we have not increased our nuclear arsenal beyond what the terms of the treaty provide for and there is no SALT III, somehow that President is violating a directive given to him or her at the time this treaty is passed. That is the point to which I am speaking.

Mr. LAKELAND. Mr. Chairman, may I just add a supplementary observation?

The CHAIRMAN. Yes.

Mr. LAKELAND. I think the answer to Senator Biden is in two parts. There are certain things the President can do with respect to the defense establishment which would be related to the normal congressional-executive interplay and the impoundment act and decisions as the Supreme Court has made them. But, insofar as a treaty is the supreme law of the land and insofar as it imposes international obligations and duties upon the United States, those things the President could not unilaterally extend.

Senator BIDEN. Thank you. I appreciate that.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Point of clarification, Mr. Chairman.

Let's say, for instance, that the treaty was not approved before the end of the year and went over to some time in the middle of next year

before it was approved. Was there any discussion of or is there anything provided in the treaty or understandings thereto that set back the end effective date?

Mr. CUTLER. No.

This treaty expires at the end of 1985, no matter when it is ratified.

Senator GLENN. Thank you.

Mr. CUTLER. Mr. Chairman, may I amplify for just one moment on this last discussion?

The CHAIRMAN. Yes, Mr. Cutler.

Mr. CUTLER. The President is always free in his proposal, whether the treaty says 2,250 is the ceiling on launchers or not, to propose 2,250, or 1,950, or whatever he thinks is appropriate in his discretion as President. The important thing is that Congress is free to legislate whatever number of launchers, up to the limit of the treaty, that it wishes.

The CHAIRMAN. I think we all understand that, Mr. Cutler. Thank you.

If there is no further discussion on this proposition, the clerk will call the roll.

Mr. BADER. Mr. Pell.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

[No response.]

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

[No response.]

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote the ayes are 13 and the nays are zero. The understanding has been agreed to. Senator Stone was later polled in the affirmative.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Senator Helms.

NATO ALLIES' VIEWS OF SALT II RATIFICATION

Senator HELMS. On several occasions before this committee and in television appearances by the President of the United States and on other occasions, such as representatives of the State Department traveling around the country promoting this treaty, the suggestion has been made that NATO will crumble if this treaty is not ratified.

This is contrary to every conversation I have had with high-ranking officials of the members of NATO.

I want the record to include, if the chairman and members of the committee do not object, the questions put in the House of Commons yesterday and the answers thereto when Mr. Francis Pym, Secretary of State for Defense appeared and then Prime Minister Thatcher.

Sir Julian Amery put this question to the Secretary of State for Defense, Mr. Francis Pym, and I quote Mr. Amery:

I accept that the Government has made it clear that they would endorse the SALT II agreement, but will my right honorable friend assure the House that our loyalties in NATO will remain unshakable, whether or not the SALT II agreement goes through Congress?

Mr. Pym responded:

I can give my right honorable friend that assurance. On the work that is of most immediate concern to NATO, we believe that what we have in mind is necessary whether or not the SALT II agreement is signed.

Then this question was put to the Prime Minister, Mrs. Thatcher, by Viscount Cranborne, and I quote:

Will my right honorable friend take time today to consider whether she agrees with the Carter administration that failure to ratify the SALT agreement will lead to the disintegration of NATO?

The Prime Minister responded:

I do not believe that that would lead to the disintegration of NATO. NATO is a very much stronger alliance than that, and will continue to be this country's shield into the future.

I thank the chairman.

[The information referred to follows:]

QUESTIONS PUT IN THE HOUSE OF COMMONS, OCTOBER 30, 1979 TO THE SECRETARY OF STATE FOR DEFENSE, MR. FRANCIS PYM

Mr. AMERY. I accept that the government has made it clear that they would endorse the SALT II Agreement, but will my right honorable friend assure the house that our loyalties in NATO will remain unshakeable, whether or not the SALT II agreement goes through Congress?

Mr. PYM. I can give my right honorable friend that assurance. On the work that is of most immediate concern to NATO, we believe that what we have in mind is necessary whether or not the SALT II agreement is signed.

TO THE PRIME MINISTER, MRS. MARGARET THATCHER

Viscount CRANBORNE. Will my right honorable friend take time today to consider whether she agrees with the Carter Administration that failure to ratify the SALT agreement will lead to the disintegration of NATO?

The PRIME MINISTER. I do not believe that that would lead to the disintegration of NATO. NATO is a very much stronger alliance than that, and will continue to be this country's shield into the future.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, I would like to insert in the record at this point statements that have been made by the Secretaries of State and Defense, by the Joint Chiefs of Staff, by the Supreme Allied Commander for NATO, General Rogers, and a statement by Chancellor Schmidt as to the effect defeat of this treaty would have on NATO. Confidence in America's leadership would be shaken if the Senate would fail to find a way to ratify this treaty. I am not saying we should ratify the treaty exactly as submitted by the administration.

I could not have voted to ratify that treaty. But I think the process of adopting changes and understandings has strengthened the treaty, has removed some of the ambiguity, and has left it a more valuable document. I think we should have the record complete as to what actually has been said.

I ask unanimous consent that those insertions that I have mentioned be incorporated into the record at this point.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to follows:]

GEN. DAVID C. JONES

In response to a question by Senator Javits on the concerns of NATO military leaders, he said, "They do have concerns, but the concerns are broader than the treaty and they are the same concerns we have. They have been very comfortable with the fact that the United States has had strategic superiority and they could rely upon that. They are uncomfortable that we lost strategic superiority. They are uncomfortable with the trends, and they are worried about where we are going and where the alliance is going. So it is that broader issue. A disappointment they have, that is shared by us, is that the SALT process did not solve the problem—we did not expect it to solve it—but would like to have made even a greater contribution to its solution." July 11, 1979

SECRETARY VANCE

"Our NATO allies want to prevent the Soivet Union from achieving superiority; they would be the first to feel the pressure. They know this treaty helps preserve a stable and equal strategic balance.

"Our allies want to maintain a stable strategic situation so that together we can continue our cooperative efforts to improve the conventional balance in Europe. They know this treaty makes a major contribution in this respect.

"And they want to avoid the political tensions and pressures that would accompany rejection of the treaty." July 9, 1979

In response to Senator Zorinsky who asked whether NATO would survive without SALT II, Secretary Vance said, "I don't know." July 10, 1979

SECRETARY BROWN

"The Europeans do believe that if SALT fails approval, it greatly increases the probability of an all-out arms race between the United States and the Soviet Union. Under those circumstances, they will feel greatly endangered because some of them do have a concern that a nuclear war would start in Europe, and they would be the first to be devastated.

"I think, myself, that that particular fear is probably overdone, but they nevertheless experience it. They have it. What that would cause them to do, and how strongly it would cause them to do it, is not something on which I really want to speculate. But they certainly would examine various alternatives to the alliance—their own nuclear capability, a separate alliance, neutrality. I am sure all of those would be raised as possibilities." July 11, 1979

SUPREME ALLIED COMMANDER EUROPE, SHAPE,
Belgium, October 11, 1979.

Senator CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Many thanks for your recent letter in which you asked my views on certain issues related to SALT II. I appreciate your providing

copies of the testimony of the European parliamentarians who appeared before the Senate Foreign Relations Committee.

I am pleased to provide you my observations which are based on my having been the Supreme Allied Commander, Europe, since 29 June 1979. As you are aware, prior to that time I was the Chief of Staff, U.S. Army, and, as a member of the Joint Chiefs of Staff, was intimately involved with the SALT II Treaty as it mvoed through its negotiating process the last thirty months.

It is my opinion that the ratification of SALT II is considered crucial by our NATO Allies for the following reasons:

a. The adverse impact which non-ratification would have on the credibility of the leadership of the United States in the Alliance, upon the credibility of the Office of the President, and thus on our future relations with our Allies.

b. The adverse impact which non-ratification would have on the Alliance decision to modernize NATO's Theater Nuclear Forces in order to deter the growing threat from the East. This decision, vital for the Alliance, is coupled with the Alliance's desire for arms control negotiations to reduce and balance the NATO and Warsaw Pact Theater Nuclear Forces. Our Allies perceive the SALT III negotiating process as affording that opportunity, but they acknowledge the need to pass through SALT II to get to SALT III.

c. Non-ratification would cause our allied nations considerable concern about future U.S.-Soviet relations, and the impact such relations would have upon them individually and the Alliance collectively.

I am also aware of the comments by some persons that many influential non-U.S., NATO political and military leaders are opposed to the treaty. I do not believe this is the case. There may be some who are opposed. Perhaps there are some provisions about which other European leaders are concerned, but I believe these leaders do support the treaty's ratification.

As the SACEUR, charged with guaranteeing the military security of Allied Command Europe, I hope that the SALT II Treaty will be ratified in the very near future.

With best wishes,

Sincerely,

BERNARD W. ROGERS,
General, U.S. Army, Supreme Allied Commander, Europe.

COMMENCEMENT ADDRESS BY CHANCELLOR HELMUT SCHMIDT, HARVARD UNIVERSITY, JUNE 7, 1979

SALT II is, of course, not only a domestic matter for the Americans. For that reason the United States Government informed its allies on the progress of the talks and also consulted with them. This treaty is a piece of world history. It is also a piece of world security and a piece of my own country's security. For the present it is a climax of co-operative limitation. The Federal Republic of Germany supports the SALT II Treaty and hopes that it will soon be ratified by Washington and Moscow.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. I think the statement referred to by Senator Helms is very important. Not only does Great Britain, but the United States feel that the alliance supersedes anything that is in this treaty and if the treaty were to fail, the alliance is not only still important but is made even more important, and theater nuclear force modernization is essential, whether or not this treaty goes forward.

I don't have the President's statement before me, but I don't believe he said that it would be the "disintegration" of NATO if, in fact, SALT were not passed.

I would also ask unanimous consent that the resolution passed by the North Atlantic Assembly, which Senator Javits and I attended, relating to the passage of SALT, be put into the record at this time. I would like to read three operative portions of that resolution, which are very short.

On page 2 of the resolution, it says:

Reminded that the twin precepts of the Alliance are defense and détente.

Another clause reads:

Concerned, with regard to defense, that failure to ratify the SALT II Treaty would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance.

A third reads:

Concerned, with regard to détente, that failure to ratify SALT II would result in a deterioration in East-West relations, potentially negating many of such positive aspects of détente as expanded trade, cultural contacts, and reunification of families.

Finally, it says:

Urges the United States Government: to proceed to early ratification of the SALT II Treaty, with due respect to all requirements for credible deterrence, stable nuclear balance, and future arms control negotiations.

I would also point out for the record that there was not a single dissenting vote at the North Atlantic Assembly. Of 110 votes cast, there were 38 abstentions, 12 of those being U.S. abstentions.

So, the point Senator Helms raised is a very important point, but I do not think the administration has suggested that NATO would crumble. But the North Atlantic Assembly feels, without a dissenting vote, that failure to ratify SALT would have a seriously disruptive effect. All would hope it would not, but they fear it would.

I think it is appropriate to put that document into the record at this time.

[The information referred to follows:]

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 30, 1979.

Dear COLLEAGUE: Last week in Ottawa, we attended the 25th annual session of the North Atlantic Assembly. The Assembly, as you will remember, is the parliamentary adjunct of NATO and serves as a forum for 172 parliamentary delegates designated for this purpose by the legislative bodies of the 15 member-states. Participants represent both governing and opposition parties, and all are free to express such views on policy as they see fit.

This year, among many subjects discussed by the Assembly, the topic of primary interest was SALT, and after two days of committee meetings the Assembly debated at length and voted on a significant resolution favoring early ratification of SALT II. Because of differences on SALT within the American Delegation, the U.S. participants decided to abstain on this vote, as did the French Delegation in accord with its custom on such matters. With some delegations not at full strength, the vote was 71 in favor, none against, and 38 abstentions (of which 23 were the U.S. and French Delegations).

We are enclosing a copy of the resolution for your information.

Sincerely,

JACOB K. JAVITS,
U.S. Senator,
JOSEPH R. BIDEN, Jr.,
U.S. Senator.

Enclosure.

RESOLUTION ON THE SALT II TREATY PRESENTED BY THE POLITICAL COMMITTEE
(JOINTLY WITH THE MILITARY COMMITTEE)

The Assembly,

Noting that the SALT II Treaty is the culmination of seven years of rigorous and complex negotiation by three U.S. Administrations, and represents adherence to the obligations of the two super-Powers under the Non-Proliferation Treaty;

Recognising that the Treaty places numerical restraints on Soviet strategic capabilities, in terms of both launchers and warheads, and enhances Western capabilities to predict and monitor the development and deployment of Soviet strategic forces;

Recognising further that the Treaty permits the United States to pursue all measures necessary to sustain the strength and credibility of the U.S. strategic deterrent;

Assured that neither the Treaty nor the Protocol will inhibit necessary military and technological cooperation within the Alliance;

Convinced therefore that, in providing the framework for a secure and stable strategic balance between the United States and the Soviet Union, the Treaty reduces the possibility of nuclear war, contributes to international stability, and thereby promotes the security interests of the member nations of the North Atlantic Alliance;

Recognising the SALT II Treaty as an essential step toward the goal of achieving more substantial reductions in the nuclear arsenals of both sides during a future SALT III negotiation;

Convinced that a SALT III negotiation provides the most promising forum for nuclear reductions in the European theatre and that progress in such a negotiation would facilitate collateral progress in related negotiations within the MBFR and CSCE frameworks;

Reminded that the twin precepts of the Alliance are defence and détente;

Recognising that the unanimous endorsement of the SALT II Treaty by the leaders of all member states of the Alliance reflects broad-based public support of the SALT process as a central element in the effort to stabilise the East-West military balance and simultaneously to improve East-West relations;

Concerned, with regard to defence, that failure to ratify the SALT II Treaty would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance;

Concerned, with regard to détente, that failure to ratify SALT II would result in a deterioration in East-West relations, potentially negating many of such positive aspects of détente as expanded trade, cultural contacts, and reunification of families;

Respecting as an Assembly of Parliamentarians the sovereign right and the responsibilities of the U.S. Senate to decide on the ratification of SALT II;

URGES the United States Government:

To proceed to early ratification of the SALT II Treaty, with due respect to all requirements for credible deterrence, stable nuclear balance and future arms control negotiations;

To undertake SALT III negotiations aimed at accomplishing significant reductions in each side's nuclear forces;

To consult fully and regularly with the Allies on all aspects of the negotiation, in particular on those pertaining to theatre nuclear forces.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. I would like to say a word on this matter with the greatest seriousness.

One would not expect Mrs. Thatcher or Mr. Pim to say anything other than what they said. I have little doubt that if asked in any other parliament of the other 14 NATO countries there would be the same statement. This is their life. This is their security. This is what they have depended on now for over 30 years.

They certainly are not going to offer a statement which says it will fall apart.

But, Mr. Chairman, I would be less than honest with my colleagues and with my country if I did not think that if SALT were rejected, there would be an emergency meeting of the NATO Council to regroup and to dedicate ourselves to each other, as we would then be in considerable concern about where we would be standing for the next few years. Second, there would be a lot of second thoughts in NATO chanceries as

to how this thing is going and whether the Soviet Union really has not gotten on top, though its means are most reprehensible to increased momentum in the arms race.

I would be less than honest if I did not say that it is my deep conviction that that is exactly what will be the case, and I will argue it on the floor as one of the great reasons why, if we can, we must ratify SALT. If we cannot, because enough of my colleagues do not think we should or because we are ourselves persuaded, including me, that it is not desirable and in the security interest of our country, I will vote no. But I will certainly take this into account as a very important fact. I am not the least bit touted off by what Margaret Thatcher or Mr. Pim had to say.

The CHAIRMAN. Very well.

ACTION ON REVISED M–X BASING UNDERSTANDING

It is my understanding that a new draft of Senator Baker's proposal with which we commenced this morning's discussion has been agreed upon and that Senator Baker is on his way to present it to the committee for a committee vote.

While we wait for him to arrive, I would like to ask all members of the committee to table any proposals they may have regarding the Backfire or the guidelines to our Government on the SALT III negotiations so that other members may have an opportunity to read those proposals, and so that staff may also review them. It would be my intention to take up such proposals tomorrow and Friday. Therefore, I think they should be made available today.

Senator Lugar, would you like to present the alternative language for Senator Baker so that we may be considering it while we wait for him to arrive.

Senator LUGAR. Yes; I would be happy to do that.

I was not a part of the negotiations with the administration and any who have come to this conclusion, but as I read it, it appears to be a fair statement of the discussion as I recall it.

In fact, let me defer to Senator Javits in this matter and ask him to present the understanding.

Senator JAVITS. Mr. Chairman, I propose the following as an understanding under section 2 to be included in the resolution of ratification:

That the U.S.A. plans to proceed with the development of a mobile ICBM system. Such a mobile ICBM system will be developed so that (1) the number of mobile ICBM launchers will be able to be determined with national technical means of verification; (2) the mobile launcher, consisting essentially of all of the equipment required to launch the missile, will be moved from place to place and (3) the shelters for the system will not be used as storage facilities for excess ICBM's.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, I think the language has been simplified greatly. It is a straightforward statement and I fully support it. I commend those who redrafted it for the fine job of redrafting.

The CHAIRMAN. I think the redrafting accomplishes all of the objectives we have discussed and eliminates the pitfalls.

Mr. Cutler, may we hear from you?

Mr. CUTLER. Mr. Chairman, the draft that Senator Javits read I think is just one before the final exchange back and forth. The only changes I would recommend I believe are purely grammatical and formal. I believe you can vote on this one and we can work out the grammatical changes at a staff level.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I think it is great that we finally have a proposal we can understand. The earlier ones had so many "therefores," "whereases" and other clauses that I think this is a great step forward.

I would be happy to support this one.

Senator JAVITS. I want you to know, John, that I did not draft the earlier one. [General laughter.]

Mr. CUTLER. Mr. Chairman, while we are waiting for Senator Baker, may I read what I understand was the next latest draft after the one Senator Javits read? I think it says the same thing, in essence.

The CHAIRMAN. For what purpose is that?

Senator PERCY. So that we can vote on the final one, I assume.

The CHAIRMAN. Is the one before us not the final one?

Senator PERCY. No.

Mr. CUTLER. Perhaps I could hand up to the table the copy I will read from.

The CHAIRMAN. Then this is a later draft.

Mr. CUTLER. Well, sir, drafts have been floating back and forth, but I think these are purely technical changes. It would read:

That the U.S.A. plans to proceed with the development of a mobile ICBM system with the following characteristics: (1) the number of mobile ICBM launchers will be able to be determined with national technical means of verification; (2) the mobile launcher to be moved from place to place will consist of essentially all the equipment required to launch the missile; and (3) shelters for the system will not be used as storage facilities for excess ICBM's.

The CHAIRMAN. I wonder if you could read that again. I am not sure I followed all of your changes. I think I did, but please read it again for me.

Mr. CUTLER. Certainly, and I will describe the changes.

It reads:

That the U.S.A. plans to proceed with the development of a mobile ICBM system with the following characteristics——

The CHAIRMAN. Why the "U.S.A."? Shouldn't it be the "United States"?

Mr. CUTLER. Yes; you are correct.

Let me continue:

That the United States plans to proceed with the development of a mobile ICBM system with the following characteristics—

and that would avoid the need to have a separate sentence and replace the phrase—

such a mobile ICBM system will be developed so that.

Put a colon after the word "characteristics" and that is followed by number (1), which is unchanged and reads:

The number of mobile ICBM launchers will be ale to be determined with national technical means of verification; (2) the mobile launcher to be moved from

place to place will consist of essentially all the equipment required to launch the missile; and (3) shelters for the system will not be used as storage facilities for excess ICBM's.

I have just been handed a typed version of that, Mr. Chairman, so I gather it is before you.

Senator JAVITS. Mr. Chairman, while we are waiting, I ask unanimous consent that the resolution may be considered as proposed by Senator Baker.

The CHAIRMAN. Yes; without objection, this is the Baker proposal.

Senator BAKER. Thank you, Mr. Chairman.

I want to put this one forward.

The CHAIRMAN. Senator Baker, I want to commend you and the members of your staff, the committee staff, and the executive staff for this new formulation. I think it accomplishes all of the purposes that we have heretofore agreed were desirable and in a form that is even clearer than the earlier versions.

Senator BAKER. Mr. Chairman, I think that the section 2 alternative which is before the committee now and which I believe has been given to Mr. Cutler and to Ambassador Earle is indeed an improvement over the formulation that I had originally submitted.

I have reluctantly concluded, but, Mr. Chairman, I have concluded, that we are better served by including this in section 2 than in section 3. I am satisfied with this language. Inevitably I suppose it raises other questions, such as does this have a constraining effect on the Soviets as well. But that is not the issue I have addressed in the beginning. The issue I have addressed is whether we bought a lawsuit. I think we have gone a long way now in avoiding that concern, that criticism of the treaty.

I would not now try to address the second question, that is, whether we are or intend to try to impose the same constraints on the Soviet Union with this language. We may do that later, but for the purposes of the moment and within the framework of the concern that I expressed earlier, I find this satisfactory, Mr. Chairman, and I support it.

The CHAIRMAN. I would suggest two very technical changes. I suggest that "U.S.A." be changed to "United States," and that after the word "characteristics" there be a colon.

Senator BAKER. Yes.

The CHAIRMAN. Without objection, those two modifications are agreed to. If there is no further discussion, the clerk will call the roll.

Mr. BADER. Mr. Pell.

[No response.]

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Mr. McGovern votes no, by proxy.

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

[No response.]

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.
[No response.]
Mr. BADER. Mr. Zorinsky.
The CHAIRMAN. Mr. Zorinsky votes aye, by proxy.
Mr. BADER. Mr. Javits.
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Baker.
Senator BAKER. Aye.
Mr. BADER. Mr. Helms.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Hayakawa.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.

On this vote the ayes are 11 and the nays are 1. The Baker understanding has been agreed to. Senator Stone was later polled in the affirmative.

Senator BAKER. Thank you, Mr. Chairman.

The CHAIRMAN. The committee will continue with its markup of the SALT II Treaty at 10 o'clock tomorrow morning.

[Whereupon, at 12:27 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, November 1, 1979.]

THE SALT II TREATY MARKUP

THURSDAY, NOVEMBER 1, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:16 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee), presiding.

Present: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Zorinsky, Javits, Percy, and Helms.

The CHAIRMAN. The committee will please come to order.

OPENING STATEMENT

This morning the committee resumes its consideration of the SALT II Treaty. We have now reached that stage in the markup where Senator McGovern's proposal relative to the guidelines which he believes should govern our negotiators on SALT III is ready for the committee's consideration.

JOINT STATEMENT OF PRINCIPLES AND GUIDELINES FOR SUBSEQUENT SALT NEGOTIATIONS

In this connection, I think, Mr. Sauerwein, that we should read the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms.

This is a signed agreement, but has not been submitted to the Senate for ratification. Nevertheless, it is before the committee for the committee's consideration.

Before I ask Senator McGovern to proceed with his proposed understanding, I think we should have the text of the joint statement read.

Mr. SAUERWEIN. Yes, Mr. Chairman.

The preamble reads:

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties, having concluded the Treaty on the Limitation of Strategic Offensive Arms, reaffirming that the strengthening of strategic stability meets the interests of the Parties and the interests of international security, convinced that early agreement on the further limitation and further reduction of strategic arms would serve to strengthen international peace and security and to reduce the risk of outbreak of nuclear war, have agreed as follows.

The first section reads:

The Parties will continue to pursue negotiations in accordance with the principle of equality and equal security, on measures for the further limitation

and reduction in the numbers of strategic arms, as well as for their further qualitative limitation.

In furtherance of existing agreements between the Parties on the limitation and reduction of strategic arms, the Parties will continue for the purposes of reducing and averting the risk of outbreak of nuclear war, to seek measures to strengthen strategic stability by, among other things, limitations on strategic offensive arms most destabilizing to the strategic balance and by measures to reduce and to avert the risk of surprise attack.

The second section reads:

Further limitations and reductions of strategic arms must be subject to adequate verification by national technical means, using additionally, as appropriate, cooperative measures contributing to the effectiveness of verification by national technical means. The Parties will seek to strengthen verification and to perfect the operation of the Standing Consultative Commission in order to promote assurance of compliance with the obligations assumed by the Parties.

The third section reads:

The Parties shall pursue in the course of these negotiations, taking into consideration factors that determine the strategic situation, the following objectives:

(1) significant and substantial reductions in the numbers of strategic offensive arms;

(2) qualitative limitations on strategic offensive arms, including restrictions on the development, testing, and deployment of new types of strategic offensive arms and on the modernization of existing strategic offensive arms;

(3) resolution of the issues included in the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms in the context of the negotiations relating to the implementation of the principles and objectives set out herein.

The fourth section reads:

The Parties will consider other steps to ensure and enhance strategic stability, to ensure the equality and equal security of the Parties, and to implement the above principles and objectives. Each Party will be free to raise any issue relative to the further limitation of strategic arms. The Parties will also consider further joint measures, as appropriate to strengthen international peace and security and to reduce the risk of outbreak of nuclear war.

The CHAIRMAN. Thank you very much.

Now I will recognize Senator McGovern.

CATEGORY I DECLARATION ON STRATEGY FOR ACHIEVING CUTS ON SALT III

Senator MCGOVERN. Thank you very much, Mr. Chairman. I appreciate your willingness to put this at the top of the agenda today.

Mr. Chairman, I think that most of us on this committee, and perhaps most members of the Senate, whether they are inclined to support SALT II or are skeptical about it, would agree that thus far the SALT process for various reasons has failed to produce genuine reductions in strategic arms. The most important outcome of the committee's deliberations may well be the emergence of a new bipartisan consensus of treaty supporters and opponents of all persuasions in favor of security through genuine arms reductions.

The purpose of the declaration that I am offering this morning both for myself and for Senator Pell, who is a cosponsor, is to translate this new consensus into a concrete strategy for achieving deep cuts in SALT III.

Mr. Chairman, reflecting the bipartisan base of this declaration yesterday, Senator Chaffee, a former Secretary of the Navy, joined me in

introducing the measure to the Senate. I think the Senate must make its views known to avoid what could otherwise be another round of business as usual in SALT III. We can, and I think we must, insist on substantial reductions as the centerpiece of the SALT III proposal.

This declaration, which Senator Chafee, Senator Pell, and I have cosponsored, is a category I declaration. It urges the President in SALT III negotiations to pursue continuous year-by-year reductions in the SALT II Treaty ceilings and subceilings which will enable us to take advantage of the treaty already negotiated, while setting into motion an effective and sustainable process of strategic arms reductions.

I think Senators may recall Mr. Warnke making the point that there is no logic in reinventing the wheel, that we ought to begin with the limits that were set in SALT II and work down from that in the SALT III process.

NEGOTIATED YEARLY REDUCTIONS FROM SALT II LEVELS

In effect, this approach builds on 7 years of negotiations by using the SALT II limits as the baseline for new and significant reductions. The SALT II limits, including the 2,250 aggregate, the 1,320, 1,200, and 820 sublimits and the 308 heavy ICBM sublimit, would be reduced by a negotiated figure, preferably a percentage figure, year by year.

Mr. Chairman, in a recent letter commenting on an earlier draft of this declaration, General David Jones, the Chairman of the Joint Chiefs of Staff wrote to me, and I quote:

> I welcome the broader thrust of your proposal. I believe the idea of annual reductions, including necessary dimantlement on the order of 5 percent of agreed mutual limits, would be reasonable and would help preserve the necessary balance.

I would like to make clear that General Jones has not endorsed this declaration. But the purpose of his letter was to make clear that he considers the proposal for annual reductions to be a reasonable approach for SALT III.

Of course, any reductions must begin at the SALT II levels. But Senator Pell, Senator Chafee, and I envision balanced and proportional reductions of the SALT II framework, not merely a helter-skelter approach of cuts here and there in an ad hoc fashion. What we are after is to shrink the SALT II structure while leaving the negotiators enough flexibility to decide the exact proportions and percentages.

The declaration does not require either any minimum amount of reductions or any minimum term of years for achieving them. In my own mind, a 30-percent cumulative reduction for the duration of a SALT III Treaty, perhaps at 5 percent per year for 8 years, would be the minimum acceptable reductions to aim for.

Mr. Chairman, in addition, the declaration urges that exceptional efforts should be made to reduce the number of MIRVed ICBM launchers. It emphasizes the importance of qualitative constraints. It urges that a new agreement providing for reductions should take effect well in advance of the expiration of SALT II in 1985. It emphasizes that any measures leading to quantitative reductions or qualitative restraints must be adequately verifiable. It requests the President to report to the Senate by December 31, 1981, on the progress achieved in SALT III negotiations.

Finally, the declaration expresses the sense of the Senate that further SALT agreements should not be ratified unless they comply substantially with the reductions and constraints advocated in the declaration.

Mr. Chairman, I think the administration finds this language acceptable and I welcome its acceptance as an indication of its good faith and intent to give life to these principles in subsequent negotiations.

I think the declaration puts forward a realistic strategy which is both workable and far reaching. It respects the President's constitutional plenary powers in negotiating, while stating firmly the Senate's advice that substantial reductions must be achieved in SALT III, as a condition of support for SALT II.

Mr. Chairman, I want to stress that if the general language in this declaration is adopted by the Senate, I would find it possible to vote for SALT II. If this declaration were to be rejected, I would not be able to support SALT II.

The CHAIRMAN. Senator McGovern, may I ask you a few questions about this declaration.

DECLARATION MEANT AS GUIDE OR MANDATE

First of all, with respect to the status of the declaration, do you mean it to be a guide to our negotiators or do you mean it as a mandate for objectives which must be achieved in any treaty that might be agreed upon and sent to the Senate at a later date?

Senator MCGOVERN. Mr. Chairman, obviously there has to be some flexibility in a process like this. That is why the final line of the declaration reads as follows. The last paragraph says that the Senate "expresses its intention not to advise and consent to the ratification of any SALT III Treaty which does not comply substantially with this declaration."

As I said earlier, there is no rigid percentage formula written in here. There is nothing that says if the negotiators do not achieve a 30-percent or 35-percent reduction there will be no deal on SALT III, although I would hope they would achieve a reduction in that range.

I think the language is carefully crafted to the point where negotiators will understand the sense of the Senate, where this Senate is in terms of its attitudes on future negotiations, and where they will make a good faith effort to carry it out. In the absence of that, the declaration serves notice that this Senate, at least, would not be prepared to ratify a future SALT agreement.

The CHAIRMAN. May I ask about the standard that you use? I think the term you use is "significant and substantial."

Senator MCGOVERN. That is correct, Mr. Chairman.

That language, as you will recognize, is taken out of the Joint Statement of Principles upon which the two sides already have agreed. What the declaration does is to say that the Senate means business about that to the point where it would not be willing to ratify a third SALT Treaty if those principles are not carried out.

The CHAIRMAN. What is the relationship between the reductions that we would hope for and essential equivalence?

Senator MCGOVERN. The agreement also calls for mutual reductions. In other words, it would take the limits that are set in SALT II,

which are presumed to be based on essential equivalency, and work down on a mutual reduction from those levels. So, to whatever extent SALT II holds out the prospect of equivalency, and I think it does—no matter what other faults SALT II has, I think a convincing case can be made that the negotiators did follow the spirit in which the Senate was interested at the time we ratified SALT I and they did achieve a formula that provides for equivalency—that same spirit is preserved in this declaration as a guideline for SALT III, calling on the negotiators to work down the limits set in SALT II, but to do it on a mutual basis so that each side reduces the same percentage.

You would have equivalency at a lower level instead of equivalency with escalation, with mutual escalation. You would have equivalency, instead, with mutual reduction.

The CHAIRMAN. Thank you.

BINDING FUTURE SENATES

The Senator knows the problem of attempting to bind some future Senate, and I see that in the last paragraph of the declaration, paragraph number 10 on page 3, it reads:

> Expresses its intention to advise and consent to the ratification of any SALT III Treaty which does not comply substantially with this declaration.

Since it is impossible to express an intention that is not ours to make, that is to say, an intention which relates to the future and would be the province of some future Senate to make, does the Senator regard this paragraph as essential to the declaration?

It really is an expression in futility because we cannot bind some future Senate.

Senator MCGOVERN. I recognize the constitutional problem there, Mr. Chairman. I am not trying to bind a future Senate. What I am trying to state is the present intention of this Senate about a possible future event. That, it seems to me, is perfectly within our prerogatives, to state how we feel at this point in time about the SALT process.

Now, as a matter of fact, this language, or something roughly equivalent to it, was suggested by the distinguished Senator from New York, Senator Javits, when we were considering amending the earlier action of the committee and stating the procedures that we were going to follow. Senator Javits made the point that the understanding needed more teeth. It needed something concrete, it needed to say, in effect, don't come back with SALT III unless you have substantial reductions, or that is the end of the line as far as the Senate is concerned.

I agree with that enthusiastically, and I fully recognize there is nothing absolutely binding about it. But it does seem to be perfectly proper for the Senate to say:

> This is our conviction at this time in history. We are going ahead on SALT II, but we want to make clear that we support it with the clear understanding that this has to produce substantial, significant reductions in SALT III.

The CHAIRMAN. I am satisfied with all of the answers which the Senator has furnished in response to my questions, and I thank him for his answers.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Senator McGovern, first let me say that I think you are rendering a great service to the country and to the world in now implementing your position. I believe Senator Church and I have taken a considered decision where members of our committee have offered ideas that we should encourage and assist and work with them in their implementation. I think we have tried to follow that, and if anybody catches us doing anything else, I think we would be pleased if they called it to our attention.

Second, there are three elements in the resolution which I would like to call to your attention. Two of them may suggest modest amendments, but nothing that goes to their fundamental thrust.

MUTUALITY: RUSSIAN RECEPTIVITY TO SIGNAL

First, I think reciprocity, or "mutuality," which I think is the word the Senator used, is a highly desirable proposition here and for this reason. I revert again to the feeling I have that the Russians did not take our last signal and they may not take this one. We are not going in for unilateral disarmament. Therefore, I believe that somewhere, and I have a suggestion for you as to where to put it, the word "reciprocity" or "mutuality" ought to appear. I was going to suggest that it appear on page 2, in line 5. Paragraph (3) reads "urges and requests the President, at the earliest possible moment during the SALT III negotiations, on the basis of"—and then use whatever words you wish, "reciprocity," "mutuality" or any other word—"to pursue continuous year-by-year reductions" and so on.

Senator MCGOVERN. I think that is a good suggestion, Senator Javits. It actually nails down what the declaration is trying to accomplish. I am sure that would meet with the approval of the other cosponsors, although I would yield to Senator Pell to see if he has any reservations about it.

Senator PELL. No, none.

Senator MCGOVERN. How would the Senator suggest that this be done?

Senator JAVITS. Which word do you like—"reciprocity" or "mutuality?"

Senator MCGOVERN. I think "mutuality" is better.

Senator JAVITS. All right.

On page 2, line 5, after the comma, add "on the basis of mutuality."

Senator MCGOVERN. I think that is fine. I would so modify the declaration.

Senator JAVITS. Now, let's go to page 3, paragraph 10.

You are quite right that this is what I had in mind when I expressed the hope that you would work out what you have now done in this declaration, to wit, a declaration by the Congress of its purpose.

I think Senator Church is right about the fact that our intention is probably meaningless and that therefore we should use the word that you used, "conviction." That is what we are passing on to posterity.

Second, I would suggest that you include in this same paragraph a continuation of paragraph 9, which says that the President is going to give us a report on progress. Well, I think we have to keep after that and monitor it. So, if you would like to consider my suggestion, it would read as follows, and this is paragraph 10: "expresses its inten-

tion to keep the progress achieved during the negotiations for a SALT II Treaty under continuing review and its conviction that Congress"—or the Senate——

The CHAIRMAN. The Senate.

Senator JAVITS [continuing]. "That the Senate should not advise and consent to the ratification"—and so on.

Senator MCGOVERN. I have no problem with that, Senator Javits.

I would like to ask whether Mr. Cutler or Ambassador Earle have any problem with that language?

Mr. CUTLER. Mr. Chairman and Senator McGovern, I think the wording of paragraph 10 is essentially a matter for the Senate to resolve.

The CHAIRMAN. Mr. Cutler, that is the first time you have made such a statement. [General laughter.]

Mr. CUTLER. Well, perhaps I learned something yesterday, Mr. Chairman. [General laughter.]

But, if asked for an opinion, we would favor Senator Javits' language to that of Senator McGovern, our point being primarily that it is very hard to see, apart from the question of binding a future Senate, into the future concerning what the circumstances will be. The purpose is to convey a warning that unless the SALT III packages that come back substantially meet the criteria of the resolution, they may not be ratified. Whatever language you select for that purpose it seems to us is adequate.

The CHAIRMAN. It actually goes further than that. It expresses the conviction of this Senate that they ought not to be ratified.

Senator MCGOVERN. I don't find any problem with Senator Javits' language.

Senator JAVITS. Thank you.

PROPOSAL WOULD PERMIT U.S. FORCE MODERNIZATION

The last point I would like to make, George, is this. This is the matter of legislative history, realizing that other eyes than yours, mine, and Senator Pell's will be looking. It does not deal with the issue of security. In short, as it is believed by the opponents of the treaty that the Soviet Union is ahead now or will be in 1981–82 and that we will be very vulnerable, when you pile reductions on our alleged position of lagging behind the Soviet Union, some may say why are you talking about reductions because first we have to catch up before you can talk about reductions. We must get a bit ahead. Then we can talk about reductions.

Therefore, I believe that the legislative history—and I don't think you want to mess this up with these other considerations because that is not your thrust—should show that of course this declaration is designed on the concept that we will go ahead, as we are planning, if we do approve SALT II or ratify SALT II, that we do not expect in the SALT III negotiations to be in a position of lagging behind, and that we will be negotiating as we intend from a position of equality.

I think the legislative history has to show that. Otherwise if you talk about reductions and there is this argument—well, we are in trouble now.

Senator McGovern. Senator Javits, there is nothing in this declaration that would prevent us from going ahead with the modernization of our forces to the extent that is necessary. It does not really beg the question of who is ahead or who is behind. For example, it does not even enter into the issue of theater nuclear forces at all, which obviously will be part of the SALT III discussions. But it does set these principles, calling for reductions on aggregates and subceilings I think, within that framework, there still would be enough flexibility to carry out the modernization of our weapon systems that some Senators think is important.

Senator Javits. My last point is this.

After all, we live in a very surprising world. Some "genius" may come up with some totally new scheme for reducing armaments and getting rid of the horrible incubant that we are carrying. So, again, the legislative history—and the contribution of the word "substantially" in paragraph 10 is very useful—should say that we are not closing our eyes to any new development or methods of reciprocal arms control or to what may occur in the world, but this is the way we feel now on a given state of things. In the future we may make new types of tradeoffs or alter substantially our mutual approach to arms control in some new effective and meaningful manner. We do not want to foreclose that option.

Senator McGovern. I thank the Senator for his observations. I think they have been very helpful.

The Chairman. Is there further discussion on this proposal?

Senator Percy. I would like to ask one question of Senator McGovern.

The Chairman. Senator Percy.

Senator Percy. George, I would like to indicate that I think you have performed a very fine service in this discussion and in the matter before us.

Probably the most eloquent testimony we had on this subject from a noncommittee member was from Senator Hatfield. He is away because of the death of his mother. I have not been able to chat with him about this.

Has he had a chance to look at this resolution? Does he feel that it answers his questions?

But first, let me say ahead of time that concerns that I had originally on this subject area have been met and are addressed and fully covered in the present text that we now have.

Senator McGovern. I am a little hesitant to speak for Senator Hatfield other than to tell you that he told me he doesn't think it goes far enough in the direction he would like to proceed.

Senator Percy. That is doesn't go far enough?

Senator McGovern. Yes, that it does not go far enough.

He would like language calling for an immediate moratorium on any further nuclear advances. He would also like to put it in the form of an amendment that would have to be accepted as the price of voting for SALT II. I don't fault his position other than to say I think it probably would be the end of the SALT II Treaty.

Senator Percy. Thank you very much. I wanted to put that on the record.

I will support your proposal as it now stands.

The CHAIRMAN. Is there further discussion?
Senator GLENN. Mr. Chairman.
The CHAIRMAN. Senator Glenn.

DESIRABILITY OF CONSTRAINTS OTHER THAN BY WEAPON LAUNCHERS

Senator GLENN. I wonder if Senator McGovern had given consideration to getting off the emphasis on launchers, which we continue in SALT II?

With the advantage of the 20–20 hindsight we now have with regard to all of the negotiations, I am sure we all wish that we had started centering on deliverable nuclear vehicles, reentry vehicles, right from the start as our bargaining basis. But no one could have foreseen, of course, all of the MIRVing capability and the multiple warhead capability that developed, even in the years while this treaty was being negotiated.

I have thought that in any future negotiation we should be basing our numbers not on launchers, which do not kill people, but on the number of deliverable nuclear warheads, and that a SALT III, or SALT IV, or V or whatever negotiation, should be based on deliverable nuclear warheads. Those are the real threat to populations on both sides.

I note here that we do continue defining things in terms of launchers, by trying to restrict those and cut back. I fully realize that we have placed limitations of the number of deliverable nuclear warheads that can be on each one of those launchers, so indirectly we are perhaps accomplishing the same thing. But I think probably it would be more straightforward if we could put future negotiations, that is, SALT III, IV, and whatever comes after those, in terms of deliverable nuclear warheads. Those are the things we are trying to restrict. We do it in SALT II rather indirectly, and I would like to get into a very direct consideration of that in SALT III and beyond.

Senator MCGOVERN. Senator Glenn, the declaration, as a matter of fact, does take note of that concern. I think it is an important one.

If you look on page 3, paragraph (c), where the various initiatives that are urged on the negotiators in SALT III are outlined, reference is made to

> restrictions on and reductions in the number of reentry vehicles with which ICBM's, submarine-launched ballistic missiles, and air-to-surface ballistic missiles may be flight-tested or deployed.

What I have tried to do is to build on the general principle that we have SALT II before us, we have 7 years of negotiations behind us, to arrive at the limitations that are in that agreement. I fully concede that those limitations are not adequate; they do not bring about the kind of genuine cuts I would like to see. But it seems to me, rather than reopening the whole process, we ought to accept the general equivalency that has been achieved on these limitations on launchers, and work down from that level. This does not rule out at all the possibility and, indeed, the desirability of our negotiators also working for a limitation on the number and kinds of reentry vehicles.

The CHAIRMAN. May I say for the committee that a strange fever has broken out on the Republican side of the aisle. Two Senators are already victims of it. Some of us at this table also have suffered from it

in times past. But another victim is to declare himself at 11 o'clock. It is known as "Presidential fever."

The Republican members, as a matter of courtesy, wish to be there. So, I would hope that now, since there seems to be no opposition to this proposal and since we do have the requisite eight members present, we might proceed to a vote on the McGovern proposal.

Senator GLENN. Is there any way we can limit the number of launches in that area, too, running for President? [General laughter.]

Senator SARBANES. Mr. Chairman, may I ask one quick question of Senator McGovern?

The CHAIRMAN. Yes, Senator Sarbanes.

Senator SARBANES. On page 2, paragraph (3), it says,

urges and requests the President, at the earliest possible moment during the SALT III negotiations, to pursue continuous year-by-year

and so on. I assume that this means to pursue as an objective in those negotiations.

Senator MCGOVERN. That is correct.

Senator SARBANES. It is not pursuing it on a unilateral basis, is it?

Senator MCGOVERN. No, no. It is a mutual process.

Senator SARBANES. It is an objective in the negotiations?

Senator MCGOVERN. Yes.

Before you came in, Senator Sarbanes, Senator Javits wanted to make that clear, and so we added the phrase "on the basis of mutuality."

Mr. CUTLER. Mr. Chairman, may I raise one brief point of clarification?

The CHAIRMAN. Yes; if it is brief because we are just about out of time.

Mr. CUTLER. Yes, sir.

I notice in paragraph (8), it envisions the possibility of step-by-step future agreements as part of the SALT III process, which I think is a very healthy thing. I take it, then, that the standard expressed in paragraph (10), if step-by-step agreements are presented one at a time, would be whether those agreements are on the main track of achieving these objectives, not whether each step achieves it all at once.

Senator MCGOVERN. That is correct.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Yes, Senator Glenn.

Senator GLENN. Mr. Chairman, on paragraph (10), I wonder if Senator McGovern could explain this to me a bit further. That paragraph says "expresses its intention not to advise and consent to the ratification" and so on.

The CHAIRMAN. That paragraph has been revised.

Senator GLENN. Oh, I did not get that revision. May I have it, please?

Senator JAVITS. Here it is [indicating].

I was concerned that unless these step-by-step procedures and all of the things outlined above were missed, then we would be saying we would not ratify SALT III. I would not want to go that far.

Senator MCGOVERN. It also has the word "substantially" in there which modifies the paragraph.

Senator JAVITS. Let me read it for you, John.
It reads:

Expresses its intention to keep the progress achieve during the negotiations for a SALT III Treaty under continuing review and its conviction that the Senate should not advise and consent to the ratification of any SALT III Treaty which does not comply substantially with this declaration.

Senator GLENN. This would not lock us in, would it? If we went some years without a phased reduction or something like that, it would not lock us in, would it, into saying we would not approve something like that?

Senator MCGOVERN. No; it would not.

The CHAIRMAN. In any case, we could not bind a future Senate in that respect.

If there is no further discussion, the clerk will call the roll on the McGovern proposal.

Mr. BADER. Mr. Pell.
Senator PELL. Aye.
Mr. BADER. Mr. McGovern.
Senator MCGOVERN. Aye.
Mr. BADER. Mr. Biden.
Senator BIDEN. Aye.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
[No response.]
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. Aye.
Mr. BADER. Mr. Muskie.
Senator MUSKIE. Aye.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy.
[No response.]
Mr. BADER. Mr. Baker.
[No response.]
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator JAVITS. Aye, by proxy.
Mr. BADER. Mr. Lugar.
Senator JAVITS. Aye, by proxy.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.

On this vote, the ayes are 13 and the nays are zero. The proposal has been agreed to. Senators Stone and Baker were later polled in the affirmative.

I would like to express my compliments to Senator McGovern for a job well done.

Senator McGovern. Thank you very much, Mr. Chairman and members of the committee.

Senator Biden. Mr. Chairman, I know there is not time now, but I would like to put the committee on notice of my intention. I have a section 1 resolution which, in a sense, follows on to this. It reads:

Any limitations in SALT III on United States systems principally designed for theater missions must be accompanied by appropriate limitations on Soviet theater systems.

At the appropriate time I will put this forward and will be happy to discuss it. But it does fit in with the general thrust of our discussion of SALT III.

The Chairman. I might suggest that the administration take a look at the proposal which we will take up tomorrow.

It is a golden opportunity that we now have, with the minority absent, to get this treaty ratified. [General laughter.]

The Chairman. But I don't think I want to press it, of course.

We will take this proposal up tomorrow. I think Senator Glenn has a proposal he would like to raise with the committee at this time, again for consideration tomorrow.

Senator Glenn. That's right, Mr. Chairman.

When we discussed the Backfire understanding earlier in our markup, we decided to put it off until we reached the Backfire letter at the end of the treaty. We discussed this yesterday with the administration as a category II proposal, but I have decided to submit it to the committee as a category III instead. I did not want to short-circuit anyone so far as time goes. In discussing it with them a few moments ago, we decided to put it over until tomorrow so that they would have more time to review it as a category III proposal.

We may want to go into executive session or whatever is deemed advisable tomorrow. I am happy to put this off until then as I did not want to cut the administration short of time, as we had discussed it yesterday in a different category.

Thank you, Mr. Chairman.

The Chairman. We have managed to complete the markup book through page 44. Tomorrow we will go to the last page of the markup, which deals with the Backfire. We will consider Senator Biden's proposal and Senator Glenn's proposal.

Senator Zorinsky. Mr. Chairman.

The Chairman. Senator Zorinsky.

Senator Zorinsky. Mr. Chairman, I want to place before the committee a declaration that I will offer for future consideration. I want to disseminate it so that members of the committee and the administration will have an opportunity to review it before tomorrow.

The Chairman. Very well. I thank the Senator.

I want to say that I appreciate the cooperation of all members for voluntarily adhering to a rule that could not have been enforced. It greatly expedited the work of the committee. I am referring to the rule of giving advance notice. It has been extremely helpful for everybody concerned and I appreciate it.

Senator Zorinsky, if you would table your proposal and circulate it to members and staff and executive branch officials, that would be appreciated.

Senator Zorinsky. Thank you, Mr. Chairman.

PROCEDURES FOR PREPARING DRAFT RESOLUTION OF RATIFICATION

The CHAIRMAN. Following our consideration of the Backfire proposal, we will move into the final category, which has to do with other proposals. When we complete a consideration of such other proposals as may be offered, I would hope that we could then ask the committee staff to prepare the resolution of ratification, as it has been tentatively fashioned by the committee, including all those category I, category II, and category III understandings, declarations, and reservations that the committee has approved. So, when the committee meets on Tuesday, it will be in a position to review the document on which it will be asked to vote. At that time, any member who wishes to ask for a reconsideration of some understanding or declaration that the committee tentatively has approved may do so.

Then, as quickly as we can complete that final phase of the committee's business, I would hope we could proceed to a vote on the treaty, and on the resolution of ratification and thus complete our work.

If everything goes well, we should be able to complete our work on Tuesday.

Members of the staff are asked to prepare the resolution of ratification in its tentative form so that members may have it before Tuesday to review.

Are there any questions?

Senator GLENN. I have one. On these things that are objectives for SALT III and subsequent negotiations, I am not clear on how we are handling those. Are we going to weave those in through this, through the whole writeup, or are they going to be taken out and put into a separate category that goes with the joint statement of principles and basic guidelines? How are those to be handled?

The CHAIRMAN. The McGovern declaration should form part of the resolution of ratification. I believe it would come in section 1, because it is applicable to our own Government. Even though we have not been asked to ratify the joint statement, it is appropriate for these guidelines to be included among the instructions given by the Senate to our own Government relative to future negotiations. So, it would be included, like the other, in the resolution of ratification.

Senator GLENN. Such matters as cooperative measures that we are asking them to negotiate, that would be an instruction to our own Government, wouldn't it? But in category II proposals, the Soviets are to be notified officially. How do those go as part of this? Are they in the resolution?

The CHAIRMAN. They are also in the resolution of ratification, but under category II.

Senator GLENN. Not separately as an objective for negotiation in SALT III specifically?

The CHAIRMAN. No. But I think the committee may wish to discuss the method by which formal notice will be given to the Soviet Union. It is entirely possible, and perhaps preferable, for all category II items to be formally communicated to the Soviet Union by diplomatic note, rather to be incorporated in the instruments of ratification that have to be exchanged.

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Senator GLENN. Ambassador Earle, do you have any opinion as to the best method of doing that?

Ambassador EARLE. Senator Glenn, I think we would prefer the regular diplomatic form of the diplomatic note, which would be given to the Soviets in a formal fashion.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Senator Pell.

Senator PELL. Is there any reason why both should not be done?

Senator GLENN. I'd send them a message in six ways if it were left up to me. I'd do it by diplomatic channels, by copy of what we have approved here, that it will be sent as part of the ratification documents. I think it probably would be appropriate to go both ways on this and would agree with Senator Pell.

The CHAIRMAN. Well, we have asked for comments from the State Department in a letter that I sent to Secretary Vance, because we are dealing here with something that is heavily affected by precedent. I think we ought to review carefully the letter that Secretary Vance writes in response.

In any case, that is another matter that the committee can decide upon and perhaps include in the committee report.

Are there any other questions with respect to our business?

Senator SARBANES. Yes.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. Mr. Chairman, those documents in the initial consideration here that were elevated by the committee to the legal status of the treaty—does that make them a section 3 item in the resolution of ratification?

The CHAIRMAN. That is correct.

All section 3 items, since they require the consent of the Soviet Union, must necessarily be included in the instrument of ratification that we offer, and the acceptance of that resolution containing those conditions constitutes, under international law, the acceptance by the Soviet Government of the provisions of those particular reservations. At least, that is my understanding.

We will also have that confirmed before the committee makes its final report.

That is your understanding, Mr. Cutler, is it not?

Mr. CUTLER. That is correct, Mr. Chairman.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I might just make a comment. We might ask the administration to comment briefly on this tomorrow. This is a whole new level of complexity that I know we do not want to throw into the pot right now.

But I have been concerned that somewhere down the line in one of these SALT negotiations, we have to start considering other people, other countries, than just the United States and the Soviet Union. There are other nuclear powers in the world and other powers that do have a delivery capability.

Let me just give a little background on this. When we were in China in January of this year with the top officials of the People's Republic of China military and with Vice Premier Deng Xiaoping, I asked about their view of SALT II. Well, their view was not all that great.

They didn't feel that SALT II did that much, but maybe that some subsequent SALT negotiations would result in meaningful reductions. I said, well, China is also a nuclear power. What do you think of in the future regarding making bilateral or multilateral agreements of a similar nature? They replied that they certainly did not rule that out in the future if these negotiations became more meaningful in the future.

I thought a lot about that ever since then. Obviously I don't think we want to write in a requirement for our own Government to broaden this out to other nations. There is enough complexity to go around just in negotiating with the Soviet Union.

So, I am not going to propose an understanding that will direct our own Government to get into the area of third nations or other nations being considered as part of subsequent SALT negotiations. But I would appreciate any comments or any thoughts that the administration might have after thinking about this overnight as to how we do approach this in the future. It seems to me that sometime in the future we do truly have to get into considering all of the nuclear delivery capability there is in the world and somehow start to tie that in to some agreement.

I realize that this introduces a whole new level of complexity and I do not want to start tying this to categories and what we are doing here in trying to approve SALT II. But I did think it appropriate to at least bring up today because at some time we are going to have to address this in the future if we are to see genuine scaling down of nuclear weapons.

We look at this now as a nuclear weapons capability between the Soviet Union and the United States. There is going to be a level below which the Soviet Union probably will not be willing to go in scaling down nuclear weapons just because they have some other considerations that have nothing to do with the United States.

Somewhere, even if we were preeminently successful in SALT II, III, IV, V, and VI, and we are getting things scaled down, there is going to be a level that will involve other nations besides the United States and the Soviet Union if we are to really get control of the whole nuclear program.

I bring this matter up today not with the idea that we need another understanding, though if there were an understanding to which everyone could agree and which would be to some advantage, I would be happy to propose it. But I don't think we necessarily want to get this into SALT II. However, I raise it as a problem for subsequent SALT negotiations because I think it is something that will become important in the negotiations as we go ahead.

Thank you, Mr. Chairman.

The CHAIRMAN. Since there are no Republicans present, I think we should adjourn, with the understanding that the record of our discussions be made available to them, no business having transpired in their absence.

The committee will meet again in this room tomorrow morning at 10 o'clock. This meeting is adjourned.

[Whereupon, at 11:12 a.m., the committee adjourned, to reconvene at 10 a.m., Friday, November 2, 1979.]

THE SALT II TREATY MARKUP

FRIDAY, NOVEMBER 2, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:25 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Helms, and Lugar.

OPENING STATEMENT

The CHAIRMAN. The hearing will please come to order.

This morning the Senate Foreign Relations Committee continues its consideration of the SALT II Treaty.

The Chair recognizes Senator Zorinsky who has a proposal to make.

Senator ZORINSKY. Thank you, Mr. Chairman.

DECLARATION OF SENATE SUPPORT FOR STRATEGIC PROGRAMS TO MAINTAIN ESSENTIAL EQUIVALENCE

A common thread of concern is woven through the fabric of the many hours of briefings, hearings, and meetings on the Strategic Arms Limitation Treaty II, and that concern is for the maintenance of the strategic nuclear balance between the United States and the Soviet Union.

Citizens, military professionals, Government officials, and former officials all have spoken to the need to assure ourselves of strategic parity with the Soviet Union. What the situation today requires is a program of action and a commitment to pursue that program. That is the essence of the proposal I am presenting today. My proposal does not change the SALT Treaty. Each of the items mentioned is possible within the parameters of SALT.

What my proposal does is to place the Senate firmly on record in support of maintaining essential equivalence and in pursuing specific steps to that end.

This proposal cannot bind a future Senate or a future House of Representatives or a future administration. It also cannot lock into a fluid situation a solid assurance that in 2 years, 5 years, or 10 years, the requirements of national security will be identical. But it can provide our best judgment of the plans we must make now to address the question of nuclear parity. It can provide a benchmark by which to measure our future judgments and actions as well as a statement of our commitment to assure continued strategic equivalence.

Mr. Chairman, I would like to read my proposed declaration, which is a category I declaration, and which is a commitment of this Government to its own people.

In section 1 of the resolution of ratification, include the following declaration:

That it is the sense of the Senate that it will, with the concurrence of the House of Representatives, authorize appropriations and appropriate funds for such strategic nuclear arms and programs as may be necessary to assure essential equivalence between the United States and the Soviet Union, including, but not limited to, the following:

(1) the M–X intercontinental ballistic missile, deployed in a survivable basing mode;

(2) the long-range air-launched cruise missile for initial deployment on B–52G's, with consideration of additional launching platforms;

(3) the FB–111B, FB–111C, or suitable alternative, to be deployed as a strategic manned bomber in the early 1980's;

(4) study of an advanced, manned, penetrating, heavy bomber for deployment in the 1990's;

(5) the TRIDENT submarine, as a more survivable adjunct to the POSEIDON submarine force;

(6) the TRIDENT I submarine-launched ballistic missile, to be deployed on TRIDENT and POSEIDON submarine; and

(7) study of a TRIDENT II submarine-launched ballistic missile, with greater capabilities than the TRIDENT I for deployment on TRIDENT submarine.

I met with a representative of the administration yesterday. I was informed that the administration could support all but item number 3 in my declaration, which indicates a commitment to deploy an FB–111B, FB–111C, or suitable alternative, as a strategic manned bomber in the early 1980's.

Mr. Chairman, I am concerned and I do not feel I can recede to the position requested by the administration.

I quote from General Ellis' testimony, General Ellis is the SAC commander. He says:

I would now like to turn to the period before these new systems are available in the necessary quantity, 1980–85, a timeframe when the United States is very likely to lose strategic equivalence with the Soviet Union. Several agencies have looked at various alternatives to offset the serious threat in this period of uncertainty. SAC believes that the most promising solution is the early modification of 155 FB–111's and F–111's into FB–111B's and C's with new engines and large weapon capacity and sharply increased range capabilities. This option would not only help in the early 1980's, but also replace the B–52's as they are phased out of the penetration role in the post-1985 period.

Mr. Chairman, I am open for any questions which my colleagues may have.

The CHAIRMAN. Do members have copies of the Zorinsky proposal? The staff will please see to it that all members have copies.

Senator MCGOVERN. Mr. Chairman.

The CHAIRMAN. Yes; Senator McGovern.

WHETHER A LIST OF SPECIFIC PROGRAMS IS APPROPRIATE

Senator MCGOVERN. I would like to raise a question with the Senator from Nebraska for his consideration, and also for the consideration of the committee.

I have no problem at all with committing the United States to the maintenance of essential equivalence between the United States and the Soviet Union. But I do think it is inappropriate for this com-

mittee to decide the whole range of weapons mix that is going to be required to maintain that equivalence. Actually, this committee really does not have jurisdiction over authorizing and appropriating money for weapon systems. That is more appropriately a function of the Armed Services Committee.

Our role is to evaluate the foreign policy implications of the strategic balance and of weapon systems, but not to set ourselves up as the real experts in the Congress on what the specific weapon systems ought to be in order to achieve that equivalence.

What I would like to propose as a modification of your amendment, Senator Zorinsky, is that you just put a period in the first paragraph, right after "the Soviet Union," and leave out the shopping list of weapons of various kinds. Then it would just commit us to maintaining essential equivalence, but will not presume to instruct the Department of Defense and the Armed Services Committee as to what would be the most appropriate weapons to maintain our security and to maintain that equivalence.

Senator ZORINSKY. Senator, I agree wholeheartedly with you that we should not set ourselves up as experts, and therefore I have used the list given to us by the experts, who are not charged to go before the electorate to secure votes for their perpetuation in either the Senate or the House of Representatives. These are the recommendations made by those individuals who will be putting their lives on the line in order to defend this Nation. That is why I do look to professionals to give us advice, and that advice has been given to us in numerous instances through all of the voluminous hearings that we have had.

I don't think any of us on this committee, as you so aptly point out, are qualified in the area of the strategic defense of this Nation. This is why I deferred to experts. As late as yesterday afternoon, I found General Ellis in Colorado Springs and conferred with him on this list. He wholeheartedly concurred with the necessity of spelling out this list.

Senator MCGOVERN. If the Senator would yield at that point, I don't doubt what he says, that there is considerable agreement among the military experts on this particular list of items. Still, though, it puts this committee in a peculiar position as a committee whose primary jurisdiction is to deal with foreign policy matters, to ask us to go on record either for or against a long list of specific weapons of that kind.

I realize that my position on the M–X is somewhat different from that of most members of this committee. But I think if you went down your list of seven systems, you would find that there is considerable room for debate as to the desirability of each of those systems, whether there may be some other investment that would contribute more to our security. It is not clear to me, either, just how a specific list of weapons of that kind to which we would commit ourselves squares with what this committee did, by unanimous vote yesterday, in calling for substantial reductions of the overall weapons on both sides.

Obviously, what we did yesterday does not prevent the modernization of our weapon systems. It may not prevent any of these weapon systems that you have on the list from being built.

Mr. Chairman, I would like to propose an amendment which would strike everything in Senator Zorinsky's amendment after the words "the Soviet Union," and would ask for a separate vote on that.

Senator PELL. I would like to support Senator McGovern. I think the proposal makes sense. I don't think we should get into the specifics of describing what weapons we think should be built in the future. I think our job is to get across the idea of essential equivalence and the broad picture, rather than the specifics.

Senator ZORINSKY. If I may answer Senator Pell concerning this committee's setting a precedent for getting into specifics, I have sat through numerous hours of hearings where we voted to give F–15's and F–16's to Egypt and Israel. I think more armament specifically has been voted on by this committee than by any other committee in the history of the U.S. Government. So I don't think we are embarking on a strange, dark path by taking that step forward of enumerating individual weaponry.

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. I would like to ask Ambassador Earle a couple of questions.

If a weapon system is defined as a strategic nuclear arms system, does that bring it within or at least constitute an arguable basis for bringing it within the counting requirements of the SALT Treaty?

Ambassador EARLE. Senator Sarbanes, I think it would constitute an arguable basis. Actually, the arms limited by the treaty are set forth specifically in article II of the treaty.

But if a resolution such as this categorized an arm as a strategic arm, it seems to me that it would be arguable that it should be included in the aggregates.

Senator SARBANES. Mr. Chairman, I don't particularly want to develop that argument much further. That is a sufficient basis for me to support the notion of stopping this amendment in the first paragraph, before we get into the listing.

Senator MUSKIE. Mr. Chairman.

The CHAIRMAN. Yes, Mr. Muskie.

NATURE OF COMMITMENT

Senator MUSKIE. I would like to ask Senator Zorinsky a question.

In your prefatory remarks, Senator, you say "that it is the sense of the Senate." I will focus on those words, "the sense of the Senate." Second, you say, "authorize appropriations and appropriate funds for such strategic nuclear arms and programs as may be necessary." I would expect that by "sense of the Senate" you intend to suggest that this is simply the usual way that we use that phrase. Or, do you regard this category I declaration as somehow binding in all respects upon at least this Congress or this Senate if the Senate should ratify the treaty with this language in it?

Senator ZORINSKY. The latter.

I feel that this is a serious treaty, I feel that this is a serious declaration, and I think it unequivocally should bind this Senate. As I point out in my opening remarks, it cannot bind future Senates, a future Congress, or future administrations.

Yes; its intent is to make a very serious commitment.

Senator MUSKIE. With respect to the weapon systems listed, not all

of them are in a state of development where they could be deployed during the life of this Senate.

For instance, with respect to the FB–111B and FB–111C, by your own language you suggest a weapon system which is in the development phase and that it may not emerge as a specific weapon system in its final phase until after the life of this Senate. So, with respect to this list, insofar as it involves future appropriations beyond the life of this Senate, I take it that you leave it for future Senates and Congresses to decide.

Senator ZORINSKY. You are correct.

Senator MUSKIE. Now, with respect to the phrase "as may be necessary," it may be conceivable that future Congresses might decide that what may be necessary or what may be perceived as necessary 3 years from now might be so far different from our present perception that this list might be contracted or it might be expanded.

Senator ZORINSKY. That is correct.

Senator MUSKIE. So, to that extent, this list is illustrative, rather than binding in the sense that a specific authorization bill involving any of these weapon systems would be.

Senator ZORINSKY. I think if you will go back into the history of the last 2 to 3 years, the administration has gone on record as supporting every item in here with the exception of the FB–111 modern update. I am pretty sure that dollars already have been pumped into the pipeline for the implementation of many of these items.

The fact remains, according to General Ellis yesterday, that a study has been made on the FB–111 conversion, and this proposed weapons system is intended to fill that gap in the early 1980's time frame when the United States of America is going to have a shortfall in its capability to carry out the mission of the Strategic Air Command. Therefore I think it would be incumbent upon this Congress to do what it can, if this should pass as a declaration to the treaty, to assure that a future Congress is in a position to implement the FB–111. Of course, again, I would defer to your original statement saying that we cannot legally bind the 97th Congress.

Senator MUSKIE. Well, it is true that all of these weapons systems have some momentum behind them now in actions already taken by the Congress and commitments already made by the President. But, nevertheless, that could change. The B–1, after all, had considerable momentum behind it and considerable investment behind it, until the decision was made that it was not cost effective and that it was not relevant or as relevant to our future needs as perhaps something else might be.

So it is within that context, I would think, that a future Senate would regard this list and this declaration.

There is no doubt in my mind about the commitment that you want this to represent. What I am simply trying to focus on is the flexibility that I think is inherent in some of the language that you have incorporated in this proposal.

Senator ZORINSKY. Yes.

Senator PERCY. Would you yield for a question, Senator Zorinsky?

Senator ZORINSKY. Yes.

Senator PERCY. I wonder if you would want to make it a matter of record here that your list is not all inclusive.

Senator ZORINSKY. The declaration itself says "including, but not limited to."

Senator PERCY. Yes; it does.

Would you comment on why there is not mention of ground-launched and sea-launched cruise missiles, which we may well want to go ahead with, as weapons for NATO theater nuclear force modernization. Should they be included, or was there some reason they were not included?

Senator ZORINSKY. There was no intentional, specific reason to exclude them. In fact, in my opinion, they are included under the latitude given by the phrase "but not limited to."

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Thank you, Mr. Chairman.

I would like to ask this question. The M–X intercontinental ballistic missile, deployed in a survivable basing mode, as you have stated it, does not necessarily mean the racetrack, does it?

Senator ZORINSKY. Some of us are not sold on the racetrack.

Senator GLENN. OK; that is fine. This does not then indicate that we are going with the racetrack mode.

Senator ZORINSKY. Right.

Senator GLENN. It is just that if we go with the M–X, it should be survivable, whatever the mode?

Senator ZORINSKY. You are correct, Senator.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Senator Helms.

Senator HELMS. I want to ask Senator Zorinsky if he would have any objection to adding GLCM's and SLCM's to his list. This is with reference to Senator Percy's previous question.

Would you object to adding those two to your shopping list?

Of course, I don't want to do anything to adversely affect the Senator's amendment. I just wonder if he has any objection to adding those two weapons?

Senator ZORINSKY. Well, inasmuch as they are not excluded from the declaration as stated, and they are not considered strategic in nature, and we have no NATO decision to deploy them, I would rather leave it within the flexible wording of the declaration without specifically spelling them out, Senator.

Senator HELMS. All right. Let's see how Senator McGovern's modification comes out. Then perhaps we can discuss this further.

Senator MUSKIE. Mr. Chairman, may I ask another question?

The CHAIRMAN. Of course, Senator Muskie.

RELATIONSHIP TO SALT III LARGE REDUCTIONS INSTRUCTIONS

Senator MUSKIE. Senator McGovern appropriately made reference to his language which we adopted yesterday. Is it conceivable, in your judgment, Senator, that if we were to adopt this language, and if developments in the future hopefully would make possible a reduction in arms, that kind of development in the future might well limit the extent to which we deployed weapons on your list?

Senator ZORINSKY. Senator Muskie, I was one of the supporters of Senator McGovern's amendment yesterday and did so with the full

realization that the recommendations of this declaration are intended to give us parity and equity with the Soviet Union capabilities.

Now, Senator McGovern's amendment, in my estimation when I supported it, meant that at such time as we have equity any reduction in weapons would be bilateral by both parties. In answer to your question, yes; it would indicate a reduction in these weapons in addition to the reduction of the weapons of the Soviet Union. But I feel this enables us to fill that gap in parity, until we can reduce in a balanced way with the Soviet Union.

Senator McGovern. If the Senator would yield, I think it is possible for a Senator to have voted for the declaration that I proposed yesterday and still vote for Senator Zorinsky's proposal put forward today. The only question I would raise is whether making the list of weapons for the future so specific at this time does not make it more difficult and inflexible for our negotiators and our military planners to comply with serious efforts to reduce arms if we are committed to a whole range of weapons here that may not appear so necessary in the future if reductions can be negotiated.

Senator Zorinsky is right; there is nothing about what we did yesterday that would necessarily prevent the construction of any one of these weapons.

Senator Zorinsky. You mentioned the word "necessary" in the first paragraph of the declaration. It refers to such nuclear arms and programs as may be necessary to assure essential equivalence between the United States and the Soviet Union.

Senator McGovern. That's correct.

Senator Muskie. So that large reductions can contribute to the achievement of essential equivalence—that is another way of doing it, isn't it, in addition to the way suggested by Senator Zorinsky?

The Chairman. I think that the formulation here is meant to be flexible. Certainly the weapon systems that have been listed here all fall within the recommendation of the military chiefs of staffs and others who have said that such weapons during the period of the treaty will be required in order to maintain equivalence.

Now, that is always subject to review, and it may be that next year we will take a different view with respect to one or another of these particular systems. But there is nothing in this wordage that binds us to build all of them if, in fact, essential equivalency can be maintained. Isn't that correct, Senator Zorinsky?

Senator Zorinsky. That is correct.

The Chairman. On that basis, I will support the Senator's declaration.

Senator Javits. Mr. Chairman.

The Chairman. Senator Javits.

IMPLICATIONS OF INCLUDING STRATEGIC PROGRAMS NOT SALT LIMITED

Senator Javits. Mr. Chairman, I believe that the words and the interpretation of the words that Senator Zorinsky has given us here lock us into too tight a straitjacket.

I appreciate that without the list, the amendment does not mean much. That is why Senator Zorinsky properly opposes the idea of cutting it off after the words "the Soviet Union."

I would be able to support the amendment, Senator, and I hope you might think about this, with the following two changes.

Instead of, at the end, the words "including, but not limited to," insert, "and proposes, but without limitation, consideration of the following."

Secondly, I would propose that item (3) be worded as follows: "a strategic manned bomber, based on the concept of the FB–111B and the FB–111C, to be deployed in the early 1980's."

Let me give you my reasoning for those suggestions.

Senator Zorinsky already has defined his declaration as calling for the list of weaponry by the use of the words "including, but not limited to," in short, carrying out the thought that these items are required to assure essential equivalence. I think the objection properly is made that this is not our pigeon. This is the business of the Armed Services Committee. But there is no reason why we can't propose, even if we don't fix it definitively, by saying that and this is what we want in order to assure essential equivalence.

Therefore, I believe the formulation "and proposes, but without limitation, consideration of the following" does everything that the amendment really seeks, without in any way intruding upon the jurisdiction of the Armed Services Committee.

I notice with interest that even the author of the amendment in item (7) has spoken of a study, and so this carries that concept forward.

Second, I think Senator Sarbanes has made a very proper objection to item (3) on the ground that the FB–111B and the FB–111C are strategic manned bombers, and this, thus, might be interpreted to give the argument away to the Russians as to counting the FB–111 in any configuration.

But it is not necessary to say it in that way. As I understand it, what you really mean is that you want to use the FB–111B and FB–111C concept because that is the model we have under consideration. We can build on that and do not necessarily have to use the same airplane. The amendment itself speaks of "or suitable alternative."

For all of those reasons, Mr. Chairman, I think that what I have suggested, which is not any original idea of mine but simply is an effort to meet certain objections which have been made, and I think quite properly, to the amendment, would get the mover of the amendment everything he wants—to wit, the list, which I think is the guts of the amendment—without, at the same time, either committing us to a form of weaponry which is the business of another committee or committing us to the FB–111B and FB–111C concept, for these are admitted to be strategic manned bombers in the text of the reservation.

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. I want to pursue this point.

I think this declaration, as written, carries with it the seeds of being highly detrimental to our own interests because I think it lays the basis for the contention that the FB–111B or the FB–111C should be counted against the limits contained in the treaty.

My understanding is that they are excluded from those limits under the present understanding.

The leading paragraph of this declaration, as written, in effect defines its scope as "strategic nuclear arms" and then includes a shop-

ping list, every other item of which will be counted against the numbers contained in the treaty.

If the committee is going to move forward with this declaration—and I don't have trouble with most of it—that has to be corrected; if not, we, in effect, will have moved a weapon system from being outside the count to arguably being within the count. That is not to our interest.

The CHAIRMAN. Could we have the record read by the language Senator Javits has suggested or simply strike from the language of Senator Zorinsky the words "to be deployed as a strategic manned bomber"?

In other words, why must we define it as a strategic weapon when the negotiators decided that it was not and thus excluded it from the treaty, just as they decided that the Backfire was not?

Senator ZORINSKY. I would like to point out that we are speaking not of building a new machine, but of modification of 155 FB–111's and F–111's. They are not counted at the present time.

The CHAIRMAN. That's right. But my only point is that being the case, why inject the term "strategic," which is the kind of weapon that is otherwise covered by the treaty?

Senator ZORINSKY. Are you therefore suggesting that we just remove the word "strategic"?

The CHAIRMAN. Yes. You could just strike the word "strategic" or you could strike the phrase "to be deployed as a strategic manned bomber." I don't see what it adds. Leave in the rest.

Senator SARBANES. The other problem you have to address is the inclusion of (3) as a listing under an introductory paragraph which says, "such strategic nuclear arms."

These airplanes are not now counted.

The way this amendment is written has confounded the issue because it does not treat it separate and apart. It brings it in as "such strategic nuclear arms" and then includes it in a listing with every other item which will be counted.

Now we are just laying the base to have this FB–111 counted against the numbers.

The CHAIRMAN. We could deal with the term "strategic" in both places, I think, to correct that particular problem.

Senator ZORINSKY. That does not pose a problem, that is, removing the word "strategic." But we must get the FB–111.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. I share Senator Sarbanes' concerns on this. I think Senator Zorinsky indicated earlier that the administration had looked at this and really did not object to it.

Did the administration consider this particular aspect of number (3)? That bothers me, too.

Senator PELL. Also, let me ask this prior to the reply of the administration. I think one way of meeting Senator Sarbanes' objection and also Senator Zorinsky's objective would be to leave the words "strategic manned bomber" in and have it read, rather than "to be deployed as a strategic manned bomber," as "if deployed as a strategic manned bomber."

Senator SARBANES. No, no, no; these planes now are not counted. We don't want to create a basis by which they will be counted.

Senator GLENN. What would the administration say to this?

Senator ZORINSKY. Senator Sarbanes, first of all, we don't have these planes. Second, yesterday, in my office, the administration agreed to this wording, with the use of the word "study."

Senator SARBANES. Well, the administration is not omniscient, if I may make that observation.

Senator ZORINSKY. Well, you have listened to everything else they have said.

Senator SARBANES. No; that is not quite accurate on this issue or on others, for that matter.

Senator PELL. Mr. Cutler, what do you say to this?

Mr. CUTLER. Senator Pell, as Senator Zorinsky was about to say—and I think there is a misunderstanding—what we agreed to was to include at the beginning of paragraph (3) "study the FB–111B or FB–111C, which could be deployed as a manned bomber in the early 1980's."

Senator ZORINSKY. You did not take the word "strategic" out yesterday in my office. I have a duplicate of the statement.

Mr. CUTLER. Well, sir, I am sorry. It is certainly our overnight view, for the reasons stated by Senator Sarbanes, that "strategic" should come out both there and in line 3 if this is adopted.

STATUS OF FB–111 IMPROVEMENT PROPOSAL

Our further point, though, is while it is quite true that General Ellis and SAC strongly favor developing the FB–111B or the FB–111C, the Air Force and the Joint Chiefs so far have not agreed for valid military reasons, which I think only could be stated in a different session. But they are, and it is part of the administration program, to continue studying the FB–111B or FB–111C alternative.

Perhaps Mr. Slocombe could expand on this.

Mr. SLOCOMBE. I don't know that there is anything further that I could say. It is a proposal which SAC has endorsed and has been studied very carefully, but so far has not been adopted as a part of the defense program. In that sense it is unique.

The CHAIRMAN. I wonder, first of all, if Senator Zorinsky would be amenable to the suggestion that the term "strategic" be dropped from both places and to the other modification in the opening paragraph that was suggested by Senator Javits.

Senator ZORINSKY. No, sir.

Maybe this is not proper to say at a full hearing such as this, but in speaking with General Ellis, he anticipated that this exact wording change would come about. He cautioned me not to accept it.

Senator SARBANES Do you mean regarding the striking of "strategic?"

I cannot believe that General Ellis would agree to an approach which creates the basis for the FB–111 to be counted against the numbers permitted under the treaty. The point that was made to us was that it was outside the treaty.

Senator ZORINSKY. Let me read to you about what General Ellis said about your point. This is on page 139 of volume 3 of our hearing record.

This is the last paragraph on the page. Senator Percy asked this question:

Does the United States have any intention of deploying an aircraft similar to the Backfire during the next decade? If, theoretically, we did deploy a Backfire, how could we use it? Would we consider it a strategic weapon? Perhaps the latter or both questions could go to General Ellis.

General Ellis' answer is this:

Our proposal, as set forth in my statement, Senator Percy, was directed toward a strategic vehicle.

Senator PERCY. I am sorry, I did not hear you.

General ELLIS. It was directed toward a strategic vehicle, I was not thinking of a peripheral bomber in the classic definition of the Backfire.

Senator PERCY. But if, just on a theoretical basis, we did deploy a weapon similar to the Backfire, how would we use it? Would we consider it useful as a strategic weapon?

General ELLIS. Very much so, that is the whole thrust of my argument.

Senator SARBANES. Mr. Chairman, I would ask that a further statement of General Ellis, appearing on page 145 in the record cited, be included in the record. I think it makes clear that he would certainly not want the FB–111 counted under this treaty unless we were going to get some further reciprocal count from the Soviets with respect to some other weapon system.

The CHAIRMAN. Very well.

[The information referred to follows:]

The CHAIRMAN. If I understood General Ellis correctly—and please listen closely to this, General Ellis, because I want to state your position accurately—General Ellis has said that if we could have obtained a deal with the Russians that would have included the Backfire in the aggregate limitation of the treaty, and the FB–111 in the aggregate limitation, that that would not have been a bad deal. But if we could have only agreed upon counting the Backfire in return for which both the FB–111 and our F–111 were both counted in the aggregate limits, that would not have been a good deal.

That is an accurate statement, is it not?

The CHAIRMAN. Well, whatever the vehicle may be in its modified form, whatever the FB–111B or FB–111C may be, whatever the Backfire may be, they have not been included in the treaty as strategic weapons, as intercontinental weapons. I don't understand what is to be gained by defining them as such.

After all, the Senator's purpose is to include in this list of weapons the FB–111B and the FB–111C, and I am supportive of his amendment. But I don't see how the cause is advanced and can only see how problems are created by insisting upon defining those weapons as "strategic." They are what they are, regardless of what adjective we use.

Senator ZORINSKY. All right, Mr. Chairman. I can see your point. I would consent only to the removal of the word "strategic" in both places.

The CHAIRMAN. I thank the Senator and can support the amendment on that basis.

Senator McGOVERN. Mr. Chairman.

The CHAIRMAN. Senator McGovern.

Senator McGOVERN. Senator Zorinsky, in your first paragraph, you use the phrase "as may be necessary to assure essential equivalence" and then you list seven items. Does that mean you assume that these seven items automatically are a part of meeting the requirements that are necessary to assure essential equivalence?

Senator ZORINSKY. I am assuming that the experts who have made these recommendations, in the numerous hearings that have been held and after the expenditure of a large amount of tax dollars for studies, believe this is what is necessary. If those same experts were to change their minds and their opinions of what essential equivalence is tomorrow, I would defer to those experts again.

Senator MCGOVERN. I am only trying to draw out the meaning of the phrase as it is written. I am not sure what the impact of Senator Javits' suggested language would be.

Without arguing the point of whether or not these weapons are desirable, are they included as items which have already been decided we would have to go ahead on in order to meet the requirement for essential equivalence?

In other words, I have no problem in publicly going on record saying that we should maintain essential equivalence with the Soviet Union in strategic systems. I would argue, contrary to some here, that this is the real guts of your amendment, to get that principle endorsed, rather than to try to spell out the exact components of what would comprise essential equivalence.

I am really asking just for clarification.

Is it assumed, if you leave this amendment as it is, without striking the shopping list, that you just automatically go on record as endorsing these seven weapon systems as the minimum that we would have to do to meet the requirement of essential equivalence?

Is there any room for flexibility?

Senator ZORINSKY. Yes, as is the flexibility available for something more fearful than what is listed to replace one of the items that are there.

In essence, the flexibility I intend to propose is the same type of flexibility the administration cites when I ask what is necessary for parity and they respond, "We will do what needs to be done."

Essentially, I feel the American public is entitled to more than the words "we will do what needs to be done," because in some instances people do nothing and feel that that also is parity.

Senator MCGOVERN. Well, then, the flexibility to which you refer does not begin until after we have deployed these seven weapon systems. You are saying that as a bare minimum we have to build these seven, and beyond that we can consider other things that might be necessary to maintain equivalence, but in no case could we knock out any one of these seven.

Senator ZORINSKY. No, not necessarily.

If something came up tomorrow that we were not aware of today concerning a magnanimous act by the Soviet Union of decreasing their efforts in the nuclear race, I think we could reevaluate and reassess what we have programed also.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. Is it correct, Senator Zorinsky, also to say that if at some time our military people determined that one of these seven items was not sufficient and would not enhance the mix, they could replace it with something else?

Senator ZORINSKY. Certainly.

The CHAIRMAN. Very well. I think we have had a good discussion.

If there is no further discussion on the matter, the amendment has been modified by the striking of the word "strategic" in both places.

Senator MCGOVERN. Mr. Chairman, would not a vote on my modification come first?

The CHAIRMAN. Of course, Senator McGovern, excuse me.

Senator McGovern's proposal that the list be stricken and that the declaration end with a period following "the Soviet Union" will now be voted upon.

Is that the correct proposal, Senator?

Senator MCGOVERN. Yes.

The CHAIRMAN. That is the first question to be voted upon.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. George, your amendment did not use the word "strategic" did it?

Senator MCGOVERN. I don't think it would be necessary because you knock out the list of specific weapon systems. So you would not have to eliminate the first use of the word "strategic."

The CHAIRMAN. Very well. If there is no further discussion, everyone understands the McGovern motion. The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Aye.

Mr. BADER. Mr. McGovern.

Senator MCGOVERN. Aye.

Mr. BADER. Mr. Biden.

Senator BIDEN. No.

Mr. BADER. Mr. Glenn.

Senator GLENN. No.

Mr. BADER. Mr. Stone.

Senator STONE. No.

Mr. BADER. Mr. Sarbanes.

[No response.]

Mr. BADER. Mr. Muskie.

Senator MUSKIE. No.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. No.

Mr. BADER. Mr. Javits.

Senator JAVITS. Pass.

Mr. BADER. Mr. Percy.

Senator PERCY. No.

Mr. BADER. Mr. Baker.

Senator LUGAR. No; by proxy.

Mr. BADER. Mr. Helms.

Senator LUGAR. No; by proxy.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. I vote no.

Mr. BADER. Mr. Hayakawa.

Senator LUGAR. No; by proxy.

Mr. BADER. Mr. Lugar.

Senator LUGAR. No.

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Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

Senator PELL. What is the order of business after this amendment, Mr. Chairman.

The CHAIRMAN. I will explain that as soon as I read the vote.

Senator SARBANES. I vote no.

The CHAIRMAN. On this vote the yeas are 2 and the nays are 13. The motion to amend has been rejected.

The question now comes on the declaration as presented by Senator Zorinsky which is changed in its printed form in only two respects. The term "strategic" is stricken in both places: in the first paragraph and in item (3).

Senator JAVITS. Mr. Chairman, I did not move the suggestion I made because here I think we are anxious to let members have a vote on their proposal. If I could suggest a modification to help a motion to be carried, I feel I should. That was the spirit in which I made my proposal.

So, if any other member wishes to propose any modification which I suggested, I will not do so myself.

The CHAIRMAN. Thank you, Senator.

Without further discussion, the committee is prepared to vote. The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. No.

Mr. BADER. Mr. McGovern.

Senator MCGOVERN. No.

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

Senator MUSKIE. Aye.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Helms.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Hayakawa.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote, the yeas are 13 and the nays 2. The Zorinsky proposal has been adopted.

Senator McGovern. Mr. Chairman, I would like to make clear for the record, having voted no on this, I strongly support the principle of essential equivalency. I think that is where we are at now in terms of our relations with the Soviet Union. I want to see it preserved. I just do not want to commit myself at this point to a specific formula as to how to achieve that.

The Chairman. I understand your position perfectly, Senator McGovern, and respect it.

Senator Pell. Mr. Chairman, let the record show that my feeling is the same as that of Senator McGovern.

The Chairman. Certainly, Senator Pell.

I think you made your position equally clear.

CATEGORY I UNDERSTANDING ON SOVIET COMBAT BRIGADE IN CUBA

I would like at this time to propose a category I understanding relative to the question of the provocation to the United States involved in the American discovery that a Russian combat brigade had been deployed in Cuba. We all are familiar with this particular issue.

I have proposed this understanding as a means for dealing with it.

The Soviet Union has refused to acknowledge the presence of any combat brigade or other combat unit in Cuba and has contended that all of its forces there are engaged in training missions and are not or cannot do otherwise. This understanding is written in such a form as to force the Soviet Union to make good on those assurances so that we may be certain, on the basis of objective evidence gathered by our own intelligence, that this assurance is, in fact, accurate, and that the President should affirm to the Senate prior to the time the treaty takes effect that no Russian forces in Cuba are engaged in a combat role.

The second part of the understanding relates to the character of the threat posed by the existence of such forces on Cuba to other countries in the Caribbean which, for various reasons, have become a seedbed for revolution. It tracks the assurance that the President already has given that the military presence of the Soviet Union in Cuba will not be permitted by the United States to become a threat to other governments in the Caribbean or elsewhere in the Western Hemisphere.

I think that this represents a method for dealing with this issue that is responsible, that will require the Soviet Union to make good on its assurances on the basis of objective evidence, and that affirms on the part of the Senate its support for the American commitment that the military presence of the Soviet Union in Cuba will not become a threat, that we will not permit it to become a threat to other countries in the Caribbean.

On that basis, I propose the understanding as a category I understanding, binding on our own Government, but one that does not and should not require any formal acknowledgment or accession by the Soviet Union. This is a matter for us to handle within our own Government. That is why I have placed it in a category I status.

Senator Pell. Mr. Chairman.

The Chairman. Yes, Senator Pell.

Senator PELL. I think the chairman knows the extent of my personal regard and affection for him. I was chairman of his candidacy for the presidency a couple of years ago in Rhode Island.

But I have some problems with this. The first is a procedural one. If this is a category I proposal, how can it be made a part of the instrument of ratification?

The CHAIRMAN. The answer to that is that it will be treated as any other category I proposition. I do not mean that it should be treated otherwise. As any other category I proposition is treated, so should this be treated.

I would ask the experts if that requires any change in wording.

Mr. CUTLER. Senator Church, I think that the present language, which is to be made part of the instrument of ratification, was drafted before the committee had developed the formula of categories I, II, and III, and how each might or might not be included in the instrument. I think it is now surplusage.

The CHAIRMAN. If it is surplusage now, then I would propose that after "understanding" we place a colon and simply strike the words "which is to be made a part of the instrument of ratification." In that way, it would be treated as any other category I understanding.

Senator PELL. Thank you, Mr. Chairman. That meets my procedural question. Now let me ask my substantive question.

As the chairman knows, my own view is that this whole question of the Cuban troops is one that is utterly extraneous to our consideration of the SALT Treaty. I think it was Senator Zorinsky who once said that if a brigade invaded Miami, it would be lost in the traffic in that city.

I believe myself that these troops have been there for quite a while—I believe for 17 years—and whether they are called a training brigade or combat brigade does not make much difference. They are the same unit, though they are not the same individuals who were there in 1962 or they would now have long, gray beards. They are a group of men there, presumably improving weapons, but the group is the same size and has the same basic mission.

It does not matter if today I wear a blue suit and tomorrow I wear a brown suit. I am still the same man. I think the question of whether it is a combat brigade or a training brigade is like doing a pirouette around the head of a pin. It concerns me a good deal.

I recognize that this verbiage may be necessary for the passage of the treaty and from a political viewpoint I see that, and that will guide my own views in this matter. But I do think that this whole subject is extraneous and I would want the record to show the strength of my views in that regard.

The CHAIRMAN. I thank the Senator.

It has never been my view that the Russian brigade is likely to attack Miami. I think that the nature of the provocation is different. It is as though we were to send an American Marine brigade into a country close to the Soviet border and one of great sensitivity to the Soviet Union, such as Finland, and conceal it from the Russians for a period of years. I think the Russians, upon its discovery, would regard that as a serious provocation.

My concern about its existence has more to do with the effect of this kind of combat presence in the Caribbean itself.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Lugar.

ABILITY OF PRESIDENT TO AFFIRM NON-COMBAT ROLE

Senator LUGAR. Would the chairman answer at least the question that I think obviously is raised by the words "the President shall affirm". On what basis can the President make these affirmations?

In other words, if this is just to be an internal communication among us, quite apart from a situation of world consequence, how can the President affirm that the Soviet forces are not engaged in a combat role? That may be the easier of the two problems. Second, how can he assure that it will not become a threat to any country in the Caribbean?

Clearly these are matters of subjective judgments. Granted, if there were only 2 or 3, or 50, or 100 the threat would be different, but I am not certain how the President can do this. As a matter of fact, I am not certain how he would know. This is a philosophical problem.

I think there is something that needs to be said beyond this because on this basis conceivably the President could give his best judgment, but he may not be a good predictor of the future or of the motivation of the people who are involved.

The CHAIRMAN. My answer to that is that we have just one Chief Executive, to whom we must look for declarations of American policy. He is the chief architect of our foreign policy.

It was the President who affirmed in the first place that we had identified a combat unit in Cuba. The intelligence agencies had given him the information upon which he reached that conclusion. It is on the basis of the same process that he would affirm that Soviet military forces in Cuba are not engaged in a combat role.

As the Senator knows, in the intelligence operations, there are various ways to determine whether or not a given unit is a combat unit. It is to those sources that the President must look.

With respect to the President's declaration already made, this understanding would give Senate backing to it, the imprimatur of the Senate that the United States will not permit the Russian military presence in Cuba to become a threat to other nations in the Caribbean. Once again, the President, speaking as our Chief Executive and our Commander in Chief, has given that assurance to these other countries. Clearly he is serious about it and it is meant to be a warning that military forces of the Soviet Union will not be permitted to participate in military activities that would constitute a threat to countries outside of Cuba.

Once again, I think we have to look to the Chief Executive to declare the policy. This understanding backs that policy up formally by an endorsement of the Senate.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. I would like to say that I do think this issue should be addressed by this committee. There has been enough discussion of it publicly.

Certainly it would be done on the floor if we don't do it and it might not be done as carefully on the floor as we can do it right here.

We all have different opinions as to the gravity of this condition. The situation is very different from the crisis we had in 1962, 17 years ago. There were originally 40,000 troops and now there are only several thousand. But it is in the intention of those troops that is of concern. For what reason are they there? The question is, are they combat troops, for any purpose, which could be a threat for this country or any country? After all, we can't imagine that in those numbers they could be a threat to this country, certainly with no nuclear weapons.

But it is the duty of the President directly to determine what the intention of the Soviet Union is with respect to these and to get a commitment. As I understand it, that commitment has been obtained through direct discussions.

I should think the President would be able to affirm whether or not they are, subject to these two provisions, engaged in a combat role and whether they will or will not become a threat to any country in the Caribbean or elsewhere in the Western Hemisphere.

I would be interested to know if Mr. Cutler would care to comment on this. But I would support this understanding and I do think it is essential and necessary that we have it in this treaty.

The CHAIRMAN. I thank the Senator.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Senator Helms.

Senator HELMS. I don't want to stun Mr. Cutler, but I would like to hear his comment on this proposal.

The CHAIRMAN. Mr. Cutler.

Mr. CUTLER. Mr. Chairman, the administration has no objection to this category I understanding as proposed by you, and believes that in the light of the assurances obtained from the Soviet Union, in the light of our own continuing surveillance, which has been intensified, as you know, as to what is going on, and in the light of the countermeasures the United States itself has taken to guard against any use of this brigade against any country in the Caribbean or elsewhere in the Western Hemisphere, the President will be able to give these assurances.

Senator HELMS. Mr. Cutler, have you carefully read the text of this?

Mr. CUTLER. Yes, sir.

Senator HELMS. In the light of previous occurrences of recent vintage, do you feel that the President has the capability to fulfull this, based on the intelligence facilities that we have?

Mr. CUTLER. Based on the intensified intelligence surveillance of Cuba, yes.

Senator HELMS. Are you saying that the intelligence gathering facilities were not intensified at the time the recent episode occurred?

You are not very pleased with the whole scenario of the "discovery" of the troops, are you?

Mr. CUTLER. Our intelligence monitoring activities have been increased materially, Senator Helms, beyond the surveillance that was going on in August when the discovery was made.

Senator HELMS. That almost persuades me that we ought to have a little executive session to find out how this happened and, in fact, and excuse me, sir, if it has happened.

You are saying to me that the President of the United States is in a position to assure that Soviet military forces in Cuba, so forth and so on, now as opposed to a few weeks ago?

Is that what you are saying?

Mr. CUTLER. I am saying that, based on the intensified surveillance that is being and will be carried on, the United States should be in a position to determine whether those Soviet forces are engaged in a combat role.

Senator HELMS. Well, that may or may not be of some relief to Senator Stone.

I thank you, Mr. Chairman.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

ABILITY TO ASSURE NON-THREAT TO WESTERN HEMISPHERE

Senator GLENN. Mr. Chairman, I plan to vote for this proposal. But I think Senator Lugar raises a good point.

I would be interested in the administration's views on how the President "will assure," as you put it—that is a pretty tough statement—"will assure that Soviet military forces" will not become a threat to any country in the Western Hemisphere.

Let me give a little example.

I, at least, do not know that the Soviet equipment which was moved into the independent and now sovereign island of Grenada—that is a country in the Western Hemisphere—may have also included Soviet troops, or Cuban troops. It was not clear in the news reports and in any reports that I saw as to whether it was Soviet or Cuban troops. But there was no doubt about Soviet equipment being moved in.

Would that be a violation? How is the President assuring that that island of Grenada remains with its sovereign independence in this situation?

This is not a thing to be taken lightly.

Mr. CUTLER. It is not a thing to be taken lightly, Senator Glenn. We are getting into questions that might require an executive session. But on October 1, in his speech, the President said that we not only would be monitoring the status of the Soviet forces by increased surveillance of Cuba, but also—and here he was referring to our own countermeasures and the strengthening of our own forces in the Caribbean—that we would assure that no Soviet unit in Cuba can be used as a combat force to threaten the security of the United States or any other nation in this hemisphere.

Senator GLENN. This would say that the President will assure that Soviet military forces "will not become a threat to any country," and so on. Does that mean if any of them move at all outside Cuba? What about the matter of Grenada? Were any Soviet troops involved with Grenada? Do we know?

Mr. CUTLER. I don't think I can answer that here, Senator.

Senator GLENN. I don't know the answer. I am only asking the question.

Mr. CUTLER. I certainly don't know of any Soviet troops, Senator.

Senator GLENN. Mr. Chairman, I would like to ask a question.

I want to ask if the chairman has talked to the President about what happened on the island of Grenada, for instance, and of how he would assure that the Soviet military forces will not become a threat. That is a tough statement. If we really mean that, then I would be interested in knowing which troops went into Grenada with the Soviet equipment that everyone agrees went in. Were the troops Soviet or Cuban? I don't know. How would the President assure that this sovereign and independent island is not going to be taken over?

The CHAIRMAN. May I respond to the Senator's question in this way.

The second part of this understanding tracks the President's own declaration. I understand that declaration to mean exactly what this wordage declares; namely, that Soviet military forces in Cuba, whatever their character, will not become a threat to any country in the Caribbean or elsewhere in the Western Hemisphere.

You will remember in the President's speech to the Nation, he took note of the fact that at present, the combat brigade we had identified in Cuba did not possess sea-borne or air-borne capability of the kind that would be required if it were to be used directly against another Caribbean government or in support of an uprising elsewhere in the Caribbean.

I have tracked the President's own language in the second part of the understanding. I think the President means by this, that the United States simply will not permit this force to be used outside of Cuba, to be employed in an offensive way in support of revolutionary activity or against established governments in the Caribbean. So far I know of nothing that would suggest that the Russians have attempted to use the force in that manner.

Senator GLENN. I thank the chairman.

LARGER ISSUE OF SOVIET GLOBAL EXPANSIONISM

I would like to make a further short statement. But first let me say that I plan to support this proposal. I think it is good.

But I think, in all honesty, that we are nibbling around the edges of a far, far greater problem that we face and with which this committee has not yet dealt.

A couple of weeks ago, or at least before we started our markup, in executive session I proposed that we should be discussing the larger role of Soviet expansionism around the world with conventional arms and the other things we might want to include in SALT, or it might have some effect on whether or not certain members did support the SALT Treaty.

That was not an idle suggestion and I am sorry it was not accepted. It was not passed. We went into markup and I felt there was going to be enough time that we could have done that because we are not going to have the defense budgeting proposals pulled out of the budget and brought to us before sometime in mid- to late November.

Let me give some examples of what I mean.

We have seen a Soviet coup in Afghanistan. We have seen the use of surrogates in Angola, Ethiopia, Somalia, Yemen on the edge of the Saudi oilfields, and in Eritrea. We have seen a doubling of the Soviet naval presence in the Indian Ocean. We have seen a move of some-

where between 5,000 and 10,000 Soviet troops into the disputed islands north of Japan. We are all agonizing over Cambodia. Yet we all know that without Soviet support for Vietnam, there probably would not be 2 million people in Cambodia facing starvation.

The Cuban surrogate problem is one that I mentioned with regard to Grenada and many other places around the world.

This has come onto our doorstep and so we are very rightly and properly concerned about this situation. I share that concern now that it has moved onto our doorstep, and this deals with our doorstep situation, Cuba, and I agree with it and will vote for it.

But at the proper time—not during this markup—I will propose that this committee take whatever time is necessary to go into the problem of how to deal with Soviet expansionism on a much greater level around the world than I think most Americans are aware of.

While we have been talking SALT, the MBFR or mutual and balanced force reduction talks have been stalled. They have been on dead center, and no progress whatsoever has been made for several years.

I think that is unfortunate because while we have been talking SALT and making high level strategic parity agreements, the Soviets have moved, as we know, to a far greater increase in their conventional arms. I think there was a note in the paper this morning saying that it is estimated they will spend 50 percent more this year than we will on conventional arms. I don't think this committee has dealt with this yet. I wish we had gone through some consideration of this before we went to our SALT markup.

Let me say that I will support this proposal, but I do so in the hope that the chairman, at a later and appropriate time, can respond in kind to what I consider to be a much bigger problem than just Cuba. This happens to be on our doorstep now. But all of the other places around the world which I mentioned are also doorsteps to people who have hopes of freedom in their areas. We are seeing the Soviets nickel-and-dime us to death in the conventional area all over the world, and we have not even looked at it.

Senator JAVITS. Would the Senator yield?

Senator GLENN. Certainly.

Senator JAVITS. I am one of those who voted against the Senator's motion to defer any consideration of SALT. I did it then and I would like to affirm my thorough agreement with the Senator now that this committee does have to look at the global situation. We must remember, as a very essential element of it, the situation of ourselves with our allies and whether they are putting their shoulders to the wheel in trade and in aid and in all of the other things that are bedeviling this world, including military preparation.

My own feeling was that it was essential to decide on SALT as a footstool to that consideration, and that is essentially what the Senator feels. I am thoroughly with him on that. I want to assure him of that.

Senator GLENN. Thank you.

The CHAIRMAN. It might be appropriate for me to say that I also favor a thorough review in some form by the committee of the situa-

tion worldwide, just as soon as we can clear our decks for it.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Stone, did I see earlier that you wished recognition?

Senator STONE. Yes; thank you. But I will defer to Senator Percy.

The CHAIRMAN. Very well.

Senator PERCY. Thank you. I will be very brief.

I concur that we have to do that, but I think we have learned through a painful process that the Mideast does not lend itself to an overall settlement. We tried that, and there just is no way to solve every part of that mosaic all at once. We finally had to go step by step.

We have a lot of problems with Mexico and we cannot solve all of them in one session. That is why I felt that if we really want to work on the most horrendous problem we have, the huge buildup of strategic weapons which imperil all of mankind, all of humanity, we had better work on that and try to resolve that one. Obviously, if we can solve this one, we can go hopefully to solve some of the problems that Senator Glenn has mentioned which properly worry us very much indeed, because they will impair our relationship with the Soviet Union. They will impact on our budget and their budget. They are problems to which we ought to face up.

In this one there seems to be a commonality of interest in trying to resolve it. If we can solve this one and get it behind us, I think it is going to make the others, each as we take them, somewhat easier.

Senator Stone, thank you for yielding.

The CHAIRMAN. Senator Stone.

Senator STONE. Mr. Chairman, I am going to support your understanding. Though I think it is insufficient, it is a step in the right direction and it will move this debate to the floor, where I believe it will be thoroughly aired.

I think that an affirmation that the Soviet military forces in Cuba merely are not engaged in a certain role begs the question of whether they exist there.

A year ago, during the Panama Canal Treaty debates, the President stated in writing that it is the policy of the United States to oppose either direct or indirect Soviet efforts to establish military bases in this hemisphere. The letter did not specify large military bases or extensive or numerous military bases. It opposed—and that opposition again was restated by Secretary of State Vance in a letter this year—any direct or indirect efforts to establish military bases.

This particular combat brigade, which has been there most probably for only several years, most probably for about 3 years—not 17 years—constitutes, at least in my view, separately garrisoned, housed, and operating by Russians, a base. By tacitly accepting that it may remain, we tacitly and specifically violate at least the spirit of the Monroe Doctrine, of the Rio Treaty, and of the presidential commitment against Soviet military bases in this hemisphere.

So, I think that the substance of any understanding on the floor will be thoroughly explored with a view toward finding out what our policy is and what it should be. It is all very well to joke that Miami won't be attacked by one brigade, and it won't. It is all very well to joke or make light of the fact that only one additional pier is being con-

structed, along with other buildings, at Cienfuegos, to take care of Soviet, Cuban, or both, submarines.

But it is no joke when the Secretary of State acknowledges, as he did the day before yesterday, that Cubans are involved in the current insurrectional activities in El Salvador. It is no joke when there are reports of additional proxy activities by the Cubans in recent weeks and months elsewhere in the world, and I will not go into specifics at this moment, but we will on the floor, and we will elsewhere. It is no joke to have the Soviets building up their presence militarily in this hemisphere. That is not a joke.

And so, Mr. Chairman, since you have stood up on this issue, you are making an effort to get this issue to the floor, even though I feel that some of this wording is not quite sufficient, I will vote for this. I am satisfied that part of the concerns aired by Senator Glenn about the expansionist probing all over the world, both directly and through proxies by the Soviet Union, specifically the Cuban proxies, will get the kind of discussion that it deserves.

The CHAIRMAN. I thank the Senator very much.

Senator LUGAR. Mr. Chairman.

The CHAIRMAN. Senator Javits had asked to be recognized.

Senator JAVITS. I think I have said what I wanted to say to Senator Glenn, but I would like to say that I, too, will support this understanding as a category I proposal.

Senator STONE. Should we vote?

The CHAIRMAN. First Senator Lugar asks recognition.

Senator Lugar.

CONSISTENCY ON SALT LINKAGE TO OTHER ISSUES

Senator LUGAR. Mr. Chairman, before we vote, I think it simply is important to try to put this into further perspective. Those who are following this debate may be somewhat mystified as to how we came to this point and how the vote occurred.

My own judgment I suppose corresponds to that of Senator Stone and is that probably, on balance, one ought to vote for this. Yet, I am mystified in a way, although I will try to explain how my mystification might be taken away, by the fact that we have talked about no linkage throughout all of the hearings and markups.

Linkage clearly was not in the picture. In other words, the SALT Treaty had to be accepted almost in an antiseptic fashion on its merits. If I have heard that said once, I have heard it said 100 times.

Now some of us thought that probably there ought to be a discussion of general foreign policy. Senator Glenn has gone through a number of aspects of that today. But the administration was consistent in batting all of that aside, and so was the staff of the committee and, so far as I know, a majority of members of the committee. But that is only until this moment.

No one has mentioned the word "linkage" this morning, so I shall. In order to break the mystery of what is occurring here, very clearly this is linkage. Amazingly enough, the administration finds no objection whatsoever to this particular form of linkage. That is an amazing development in itself.

Senator Stone has said that he is going to vote for it because it does sort of open up the avenue, and what is sauce for the goose can be sauce for the gander when you get to the floor. If you want to talk about linkage then, certainly the door is blown right open.

This is linkage. When you are talking about nonengagement in the Caribbean or elsewhere in the Western Hemisphere, that covers quite a bit of territory, important territory, for us.

I think clearly what has occurred has been well covered by the press. No less a person than the majority leader, Senator Byrd, has been engaged in negotiation with the Soviet Ambassador on the so-called "defusing" of the Cuban issue. We are today engaged in a little bit of defusing of the Cuban issue.

I will suggest that it won't be defused, and one reason for making this speech is to make certain that it won't be, that people are not in that frame of mind to think that it is gone.

The administration could have taken a consistent position here and said that the Cuban situation is important, but we are going to stick by our guns, the SALT Treaty is as it stands, on its merits. But the administration has not taken that position at all.

Now I appreciate the administration's predicament. It is an acute one. It is attempting to accommodate our distinguished chairman. The facts of life are that he may need to be accommodated. In fact, we may not even have had these hearings at all if he had not been accommodated.

But let's make it clear what is occurring here. I suppose those of us who have tried to make constructive attempts to amend the treaty and have been told again and again that literally we cannot be accommodated in any frame of mind—well, we appreciate that point. We simply did not have the votes to do the job, I suppose, or it was felt they could get along without us.

I think that is what this boils down to at this particular point.

Let me say that I think the Cuban issue is important. I would stick by my guns that I don't know how the President of the United States is going to make these affirmations. To assume that the President on one occasion could affirm that there were troops there and therefore the logical corrollary on another occasion is he confirmed that there were not is debating the question of the evidence. The intelligence community of this country was beefed up, did make a finding. Mr. Cutler is correct in that it probably was further beefed up.

But I have not heard Secretary Vance in his latest press conference affirm that the role had been changed that much. As I recall, he said it would be not unpleasant.

Senator STONE. There were some factors that were not unpleasant.

Senator LUGAR. Yes.

But then he rushed back to the podium, as I recall, to assure the press that it should not really read all that much into it.

Now this places an impossible predicament on the President with the American public because the President, in order to get SALT implemented, off track, really has to say at some point, as he puts his hand on the Bible, that Soviet military forces are not engaged in a combat role and they are not going to be a threat, therefore we can proceed with SALT. He has dedicated much of his presidency to getting SALT done. That is an impossible burden.

The President and others have affirmed that it may not be within our power physically to remove the troops or make them change their uniforms, or to violate a sovereign state. I am not certain what capacities the President has in this respect. The President could do some other things with regard to leverage and pressure. Maybe they would work. Maybe the Soviets would withdraw. Maybe they would stop building bases and deploying forces.

The President is going to be accused by the American public, if this comes to pass, of simply affirming something he really could not affirm in order to get SALT moving along. Then, as the Soviets, as might be their way, to try to twist the tail a little bit, do something else in Cuba, the American public will wonder. Is there something wrong with our intelligence? Don't we know? Doesn't the President know?

I suppose the President could say that we are looking even harder now and we found more than we thought we had seen before. He could say that I was telling you the truth so far as I knew, but I really could not tell the truth altogether.

It is an impossible predicament.

Mr. Chairman, having said all of that, clearly I think this is a step in the right direction in terms of the SALT debate.

Simply to be a spoiler in the situation would be an uphappy predicament. When we all are proceeding to talk about foreign policy, linkage, the Cuban problem, the Soviet presence, and such matters, this advances that cause and therefore, although it is an unusual change to the procedure, I plan to support it.

The CHAIRMAN. Thank you, Senator.

May I just make one comment. I want to say that I agree with Senator Lugar that this understanding is linkage, and I had hoped originally that it would be possible to avoid linkage. But once the combat brigade was discovered in Cuba, it was obvious that it was going to be linked. It was a political fact of life that no one was able to dispute or deny. I would also suggest that it is not the only form of linkage that has taken place in the course of the hearings and debate on this treaty. There have been other forms of linkage regarded generally as highly fashionable, such as the linkage of this treaty with higher defense budgets. There has been the form of linkage to objectives of substantial reductions of nuclear arms in SALT III.

So, as we have proceeded, various forms of linkage have emerged. I think we all ought to acknowledge that this is a fact of life with which we must deal.

Senator MUSKIE. Mr. Chairman?

The CHAIRMAN. Senator Muskie?

Senator MUSKIE. I simply wanted to suggest to my good friend across the aisle that consistency is a very difficult standard to maintain. In the 21 years that I have been here I have learned that. I have found, as chairman of the Budget Committee, that it is even more difficult to maintain because one must somehow accommodate the priorities of 100 of our very strong-minded colleagues. I would conclude by suggesting that the Senator himself is going to be inconsistent if he votes for this.

Senator LUGAR. In what way, sir?

Senator MUSKIE. I don't know how you can consistently vote for something which you have so thoroughly decimated.

Senator LUGAR. Are you attempting to persuade me to cast a negative vote in this instance? [General laughter.]

The CHAIRMAN. Is there further discussion?

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Chairman, I have a question for the administration.

It took several years to determine the situation in Cuba and we are requiring the President to take certain affirmative action prior to the exchange of instruments of ratification. In other words, this treaty would be completely held up if he does not make such certifications.

I want to ask the administration if it sees this as a "killer understanding" at this point. [General laughter.]

Mr. CUTLER. Senator Glenn, we do not see it as a "killer understanding." Of course, it is conceivable that events could occur between now and the time that the Senate votes and the instruments of ratification are to be exchanged that would make it impossible for the President to deliver these affirmations. True, we don't believe in linkage. We do believe in the SALT Treaty, however, and it is the role of the Senate to decide what understandings it wishes to attach. Those we feel will not destroy the treaty or impose an impossible burden on the President or interfere with other national goals we are constrained to accept.

It is a joint role.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Senator Pell.

Senator PELL. Mr. Chairman, I must say that I agree with Senator Lugar. I think there is the first real element of linkage here, linkage to situations in other parts of the globe. I share the view of all of us that we want to get the Russians out of not only Cuba, but Ethiopia, Afghanistan, and wherever else their presence and heavy hand exists. This is the first time we have had direct linkage of a geographic situation of that sort.

The question about whether they are combat troops or training troops is like saying I am the same Claiborne Pell whether I wear a blue suit or a brown suit. But for the moment let's say they are combat troops. Wouldn't the President prefer to have a small combat unit than he would a training unit that can train a far larger number of Cubans to do the Russians' dirty work?

If I were the President, I would prefer to have a small, antiseptic unit on my shores than what we have now, tens of thousands of Cubans being trained to go to Africa. The number of Russians has remained exactly the same. It is still 2,000 or 3,000 in toto there.

Mr. Cutler, I would like to ask you this. If you were President, or speaking for the administration, do you have any thoughts regarding which is more in the national interest of the United States? Is it to have a vigorous training unit of the same number of men or a vigorous combat unit in Cuba?

Mr. CUTLER. That is the most hypothetical question I have ever heard, Senator Pell. But as best as I can answer it, and I am speaking

individually, the point, of course, has been made, forcefully by some, that they would rather see a combat unit than a training unit. A training unit theoretically or practically could be even more serious to worry about. The fact is, however, that Presidents of the United States have acquiesced in the known presence of Soviet training units in Cuba since 1962, but no President knowingly has acquiesced, without objection, to the presence of a Soviet combat force in Cuba.

Senator PELL. I think the record also should show that the number of troops there has gone down. Originally, there were 20,000 Russians there, engaged in nefarious activities. After the Cuban missile crisis that was reduced to 3,000 or so, and this number has been there ever since, whether they wear blue suits or brown suits.

The analogy which the chairman used about putting American troops in Finland is not quite the same. It is as if we found Russian troops in Canada. That would be very disturbing. But we have American troops on the Russian border now. There are 5,000 of them in Turkey.

Finally, I would like to ask this question. Has any other Caribbean nation—Grenada or any of the other great powers there—made any protest or expressed any concern about the Russian combat brigade, any Caribbean power other than the United States?

Mr. CUTLER. Certainly, at the time of the Cuban missile crisis, the Organization of American States put itself on record against Soviet forces in this hemisphere.

Senator PELL. I mean now, in connection with this new blue suit brigade.

Mr. CUTLER. I am not aware, Senator Pell, of any formal action by any country other than the United States.

Senator PELL. Then we are the only Caribbean nation that is disturbed by it?

Mr. CUTLER. Well, sir, I don't think that necessarily follows.

The CHAIRMAN. Senators, I wonder if we can get to a vote on this matter.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Yes, Senator Glenn.

Senator GLENN. Mr. Chairman, I will keep my comment short.

I do not want to let Senator Pell's remark go by without comment. I don't think Soviet troops in Cuba are the same as our Americans stationed in Turkey. They are stationed there for intelligence purposes, basically because of the closed nature of the Soviet Union, which has given us a lot of fits in trying to work through this SALT Treaty. I just could not let that go by without responding to it very briefly. That is a whole different situation.

If the Soviets would open up and give us a little bit of information and be more cooperative, which would help drastically in SALT, we would not have to have anybody in Turkey. I would be the first to vote to pull our troops out of there.

The CHAIRMAN. Yes. I think, also, that our troops have been deployed pursuant to open, mutual security treaties, and these have been known to the whole world. It has all been public.

I don't want to continue this discussion and would like to get to a vote. I don't know whether they are wearing blue suits or brown

suits, but I do know that they are equipped, commanded, and configured as a combat unit. Our experts know the difference between a combat unit and a training unit. This simply would require the Russians to comform to the assurances they have given us. They have told us that they are only engaged in training and not in combat. I want them to give us positive evidence that these assurances are being carried out. That is what this understanding would do.

I would hope that we could vote.

Senator PELL. Mr. Chairman, I have one final question for the administration.

Are our 3,000 troops in Cuba considered training troops or combat troops?

Mr. CUTLER. I would ask Mr. Slocombe. I think that number is wrong.

Senator PELL. Is it 2,000?

Mr. SLOCOMBE. I think it is in the neighborhood of 2,000. They are not, in the chairman's terms, configured for combat roles, with the exception of a few hundred Marines, who are there to guard the garrison. Most of the people who are there are involved in routine Navy training activities.

Senator HELMS. How do you know that?

Mr. SLOCOMBE. How do I know? Why these are American troops. Our information on the American troops is even better than our information on Soviet troops. [General laughter.]

Senator PELL. Senator, these are our troops in Cuba.

Senator BIDEN. He was talking about Guantanamo.

Senator HELMS. Oh, I'm sorry. I didn't hear that part.

Thank you.

The CHAIRMAN. If there is no further discussion, the clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. Pass.

Mr. BADER. Mr. McGovern.

[No response.]

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

Senator MUSKIE. Aye.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator JAVITS. Aye, by proxy.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.
Senator PELL. Mr. Chairman.
The CHAIRMAN. Yes, Senator Pell.
Senator PELL. I vote no.
The CHAIRMAN. Senator McGovern votes no, by proxy.
On this vote, the ayes are 13 and the nays are 2. The understanding has been agreed to.
The Chair would like to recognize Senator Biden.
Senator BIDEN. Thank you, Mr. Chairman.

CATEGORY I UNDERSTANDING ON EQUIVALENCE IN SALT III THEATER SYSTEM REDUCTIONS

I have a short understanding to propose to the committee. It is a section one understanding and I think my colleagues have it in front of them. If not, I would ask the staff to please hand out copies.
It is self-explanatory and reads as follows:

That any limitations in SALT III on United States systems principally designed for theater missions must be accompanied by appropriate limitations on Soviet theater systems.

I will give a very brief explanation, Mr. Chairman.
In my travels recently around Europe, trying to get squared away on what European attitudes are toward SALT and what NATO Allies' attitudes are toward SALT, in the meetings of the NATO Assembly in Ottawa and in testimony of witnesses appearing before us here and before the subcommittee regarding European attitudes, it has been stressed repeatedly that the principal Allied concern about SALT II has been the effect that this treaty, and any further treaty negotiations, might have on the theater balance in Europe. The administration has made a strenuous, and I think very successful effort, to reassure our allies in this area by emphasizing that the United States will not consider reductions in the European theater except in the context of an agreement which also limits Soviet theater systems, principally the Backfire and the SS–20.
This, in fact, was the import of one of the two major interpretive statements the United States delivered to the North Atlantic Council on June 28, 1979. The other concerned the noncircumvention matter. Both are explained in detail in the subcommittee report which we have issued and to which this committee has spoken.
This category I understanding does no more than reaffirm what the administration stated to our Allies then and has stated on several occasions to the Soviets, which is, that any limitation in SALT III on U.S. systems principally designed for the theater will be accompanied by appropriate limitations on Soviet theater systems.
The long and short of this is that, although we have formally and informally, directly and indirectly, told our allies this position, since

we have included so many other things in the instruments of ratification and/or as section 1, 2, or 3 understandings, I am just modestly concerned that if we fail to do this, and if there be an absence of its inclusion, it may be read as having some meaning later. I don't think it does. I don't think any real doubt exists now. But just to nail it down, I think it is important that we pass this and I don't think it is very controversial, quite frankly.

The CHAIRMAN. Is there discussion concerning the proposal? It is a section 1 proposal.

[No response.]

The CHAIRMAN. Does the administration have a comment?

Mr. CUTLER. Mr. Chairman, as Senator Biden said, this proposal is substantially in the same language as the formal U.S. assurance delivered to the North Atlantic Council, and we have no objection to it, as proposed.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

Senator GLENN. Do you see these things as binding on our negotiators now? We are viewing these, really, as being binding on our negotiators in the future. I know we are passing a lot of things here. Do you think this gives you any trouble if, say, they want to give on something in a different area as opposed to us in a completely separate area? Would this bind us in such a way that we could not do that negotiation without coming back to the U.S. Senate?

Mr. CUTLER. Senator Glenn, I think there is no question that this is an instruction give by the U.S. Senate for the SALT III negotiations. If that instruction should for any conceivable reason be departed from, and I have no reason to think it would be, then you would take that into account when and as any SALT III Treaty is presented to you. It conforms almost exactly to a commitment this administration, at least, has given to the NATO Allies.

Senator GLENN. Ambassador Earle, you have been through the whole mill on this matter. Do you see any situation where this might give you a problem?

Mr. CUTLER. As worded, no, sir.

Ambassador EARLE. In this particular issue, Senator Glenn, I do not think so. It is very difficult, if not impossible, for me to conceive of a situation in which we would accept limitations on U.S. systems primarily for theater use in which similar limitations were not placed on the Soviets.

I appreciate your point. I think that each one of these should be judged in the context of potential for the future.

Senator GLENN. If the Soviets did the same thing on future negotiations to us, would we consider that we would get into trouble on it?

Would you accept the same thing from the Soviets going into future negotiations?

Senator JAVITS. As a section 1, remember that.

Ambassador EARLE. Of course, we are not asking the Soviets to accept this.

Senator GLENN. I know that. But we are really letting them know. Their representative here today is getting the word back to them, we have no doubt about that. So the Soviets are going to know about this. If they send word to us that they are doing the same thing, going into

future negotiations with a Soviet category I in the Politburo, whatever that would mean, would we feel that was unfair and would we accept that going on?

Ambassador EARLE. I think not. I think we would also bear in mind that the Soviets can change their minds.

Mr. CUTLER. In this connection also, Senator Glenn, I think it is a shared objective of the NATO Allies, the United States, and the Soviet Union, if we get to SALT III, to have a trade on theater weapon limitations.

Senator GLENN. I plan to support this. I was just raising this issue to see if it would give you any problem in the future. I know what Senator Biden is trying to do. Some of our allies have some doubts about how constant we may be in the future, and this addresses that and I support that. But I did wonder whether it might give you any trouble in future negotiations.

Mr. CUTLER. In normal course, there would be consultation with the Senate throughout those negotiations anyway.

Senator BIDEN. Mr. Chairman, I know you are anxious for a vote, but may I have 30 seconds?

The CHAIRMAN. Yes, Senator Biden.

Senator BIDEN. Implicit in this, I think we should not fail to state, is that we, this country, this administration, this Congress, this Senate, are on record that an essential part of our security rests in NATO. It is an essential part of that.

Now theoretically we could trade off NATO for something else, but that is what we would be talking about doing.

I do not think there is any practical application of this. But this is implicit.

The CHAIRMAN. If there is no further discussion, the clerk will call the roll.

Mr. BADER. Mr. Pell.

[No response.]

Mr. BADER. Mr. McGovern.

[No response.]

Mr. BADER. Mr. Biden.

Senator BIDEN. Aye.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. Aye.

Mr. BADER. Mr. Muskie.

Senator MUSKIE. Aye.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator JAVITS. Aye.

Mr. BADER. Mr. Percy.

Senator PERCY. Aye.

Mr. BADER. Mr. Baker.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. Aye.
Senator PELL. Mr. Chairman.
The CHAIRMAN. Senator Pell.
Senator PELL. I vote aye.

The CHAIRMAN. On this vote, the ayes are 14 and the nays are zero. The Biden proposal has been agreed to. Senator McGovern was later polled in the affirmative.

We have one further proposal, which is the Glenn proposal relating to the Backfire. It is my understanding that some discussion will be necessary in executive session. For that purpose the committee will go into executive session in the ante-room.

Senator GLENN. Excuse me, Mr. Chairman, but do we have to go into executive session before discussion has even begun on this issue? Can we discuss some of this in open session?

The CHAIRMAN. Well, Senator, normally we have had our executive session first. We can do it the other way around, I suppose. But we only have 15 minutes within which the committee can take action today. I would hope we could complete our action on this since we are so familiar with the issues.

Senator GLENN. I think some of these issues can well be discussed in public, and I would propose to discuss them in public. I can do that separately from the committee, as far as that goes. Of course, I do not want to get into security matters, but I feel a lot of points are not secret and can be discussed in public for the edification of those who are concerned about this treaty.

The CHAIRMAN. I am not proposing that we take our vote in executive session, but that we have some public discussion before we go to a vote.

Mr. Cutler, may we hear from you.

Mr. CUTLER. Mr. Chairman, may I say that if we only have 15 minutes, we had hoped to alert Secretary Brown in time to be present in an executive session. We had understood that you were only going to sit until 12:30 in any event, so we have not yet alerted him.

Would it be better to do it tomorrow morning?

The CHAIRMAN. Well, we cannot sit beyond 12:30 because of the objection that has been lodged in the Senate to the committee meeting in the afternoon.

Senator Glenn, why don't you proceed with your presentation in public session and we will see where we are.

Senator PERCY. Mr. Chairman, before Senator Glenn begins, could we get a procedural question answered?

The antisatellite understanding, which I will present, probably will require 15 or 20 minutes of public discussion. Then, as I understand it, the executive branch would like to go into executive session on that. Will we do that, then, on Monday?

Senator GLENN. Go ahead and be my guest. Maybe we could finish yours up and take mine up on Monday. That would be fine with me. Then we could have everyone here who wants to be here. I know General Jones had an interest in this. I talked with him this morning, and I know the Secretary of Defense has an interest in it as well.

If we want to put this over until our next session, that is fine with me. We could deal with Senator Percy's amendment first today.

The CHAIRMAN. If we could deal with yours, Senator Glenn, today, perhaps we could have a headstart. Then on Tuesday the committee will take up yours, Senator Percy, following which we could then proceed to a final consideration of the treaty and such reconsideration motions as any member might want to make, and then a vote on the treaty itself.

We are just about at the end of our work on the treaty. Senator Glenn is recognized.

Senator GLENN. Thank you, Mr. Chairman.

Before we get into the understanding, the committee, through all of its deliberations and hearings, has tried to present very fairly both sides of any issues that came up with regard to SALT. A couple of days ago, Senator Biden put into the record the resolution passed by the North Atlantic Alliance. I noted yesterday a column by George F. Will, entitled "The Wrong Sell for SALT." I think, in order to present both sides of this fairly, it would be appropriate to include the column into the record.

He raised the question of how valid the NATO considerations are and whether they are being overstated in this country.

As a matter of fact, this was raised directly with the German Government, and their official Government reply was, "There is no reason whatsoever to link the loyalty of members of NATO, and especially the Federal Republic of Germany, to the SALT ratification process."

The discussion of that is in the column and I would ask unanimous consent that the column be included in our committee record.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to follows:]

[From the Washington Post, Nov. 1, 1979]

THE WRONG SELL FOR SALT

(By George F. Will)

Seizing the bull by the horns is something of a family tradition for Franz Ludwig Schenk Graf von Stauffenberg.

His father, who is high on my list of heroes, placed (not quite well enough) the bomb (not quite enough bomb) that almost killed Hitler. He was executed that evening, July 20, 1944.

Recently his son, a 41-year-old member of the German Bundestag, decided to say what many Europeans feel. He said that America's NATO allies are being ill-used by the Carter administration's campaign for ratification of SALT II. The administration's latest, and probably last, argument for ratification is: do it lest NATO collapse and our allies drift apart and toward the East.

This argument surfaced, briefly, in July, in the first week of Senate hearings. Secretary of State Vance was asked if NATO could survive rejection of SALT II. He paused, dramatically, then answered, lugubriously, "I don't know." Recently this has become the central argument for ratification.

A few weeks ago, Stauffenberg became fed up with what he considers an argument that is perilous, and insulting to boot. So he posed a question for his

government to answer formally: does the German government know which European governments the Carter administration has in mind when it issues dire warnings about possible NATO disintegration? The German government answered: "There is no reason whatsoever to link the loyalty of members of NATO, and especially the Federal Republic of Germany, to the SALT ratification process."

During a subsequent visit to Washington, Stauffenberg bluntly charged that the Carter administration's argument undermines U.S. leadership by portraying that leadership as fragile—so fragile as to depend on ratification of an agreement about which many serious people, of many persuasions, have the gravest doubts. "It is difficult to comment on this," he says. "It is grotesque." NATO is said to be so weak that it must have SALT II to save its mere existence; SALT II is so weak that it can't be defended on its merits.

Stauffenberg is not the only person who finds some of the current advocacy of SALT II off-putting. Responding to the threat implicit in the idea that, without ratification, NATO will not proceed with theater force modernization, Sen. Sam Nunn (D-Ga.) says:

"This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points the gun at his own head and shouts, 'If you come any closer, I'll pull the trigger.' . . . To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright, whether SALT II is ratified or rejected."

The administration's fundamental and irremediable problem has deepened during the close, protracted scrutiny of SALT II: it is trying to sell a product for which virtually no senator feels real enthusiasm. So the administration is trying to make much of the fact that there has been a steady stream of statements by European politicians who assert that rejection of SALT II would be a devastating blow to U.S. leadership. This stream might be more impressive were it not so obviously generated and coordinated by Washington.

The administration and Senate Majority Leader Robert Byrd (D-W.Va.) have at last completed their dance. The senator waltzed earnestly around the SALT II agreements, squinting quizzically at them, and then, to the surprise of absolutely no one, said gravely that he likes them just as they are.

The impression that Byrd has wrestled with, and pinned, all reasonable doubts about SALT II is important to the administration because of the decline of Sen. Frank Church (D-Idaho). As chairman of the Foreign Relations Committee, Church was expected to be the leading advocate when SALT II reached the Senate floor. But after his role in the administration's Cuban fiasco, he is damaged goods.

Stauffenberg scoffs at the idea that Europe would be rattled by Senate rejection of SALT II. If, say, on Dec. 20 the Senate were to refuse ratification, Stauffenberg believes that on Dec. 21 "there would be a lot of headlines, then a nervous gathering in Bonn. Then there would be Christmas, and then you would have a hard time remembering what the trouble was supposed to be."

We shall see. The administration still has neither the votes to pass SALT II, nor a plan for getting them.

Senator BIDEN. I would like to point out, if the Senator would yield, and I think it valid that this be put into the record, that this represents the assertion of one German parliamentarian, to whom Mr. Will spoke. He acknowledges that he spoke to him.

What I have put into the record and what Senator Javits has put into the record represents the view of 100 parliamentarians of an official body gathered at a meeting.

Senator GLENN. I think there is a misconception of this, Mr. Chairman, because Mr. Will, unless he has mistated it, said that Mr. Stauffenberg posed the question for his Government to answer formally: Does the German Government know which European governments the Carter administration has in mind when it issues dire warnings about possible NATO disintegration?

The German Government answered, and it is quoted: "There is no reason whatsoever to link the loyalty of members of NATO, and espe-

cially the Federal Republic of Germany, to the SALT ratification process."

So, as I read this, it is not one man's opinion; it was formally proposed to the German Government and it was answered formally. That was their view of it.

I think we don't need to discuss it at great length.

CATEGORY III UNDERSTANDING PROHIBITING RANGE, PAYLOAD OR PRODUCTION RATE INCREASES

Mr. Chairman, all through the long SALT negotiations, the Joint Chiefs of Staff were adamant and were very much concerned that Backfire be counted in the SALT aggregates of the strategic nuclear delivery vehicles. Now, this went on for several years. The JCS memorandums on this are consistent in that regard, that they were concerned about this, very concerned about it, and that it was one of the major issues they considered.

The Soviets were just as adamant, as I am sure Ambassador Earle would testify, that this not be in the treaty. It was negotiated, and negotiated, and negotiated. We felt strongly enough about this so that it went back and forth, and was presented a number of times. It was at our insistence that this was brought back to the table again and again because our Joint Chiefs and others in our Government thought it was extremely important.

It finally was considered to be so important that not being able to get it into the treaty itself, it became the subject of a separate statement to be made, to be included with the treaty at the time of the Vienna talks. We still were pushing it at that point. It was at our insistence.

One new thing occurred here that the Joint Chiefs of Staff were very much for, and this was the limitation on Backfire; they were not able to get it included in the SNDV aggregate limits, they then went back to pushing for a limitation on production of the Backfire, which they were able to get.

That took care of much of the concerns of the Joint Chiefs.

But, even after all of this, even at Vienna, when this other statement was being presented, the President still tried to straighten out an ambiguity and a misunderstanding in this that I am still trying to straighten out with the understanding I am putting before the committee today.

I will read the Soviet Backfire statement:

> The Soviet side informs the United States side that the Soviet "Tu-22M" airplane, called Backfire in the United States, is a medium-range bomber, and that it does not intend to give this airplane the capability of operating at intercontinental distances.

The next sentence, referring to that, reads:

> In this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the United States. Nor does it intend to give it such a capability in any other manner, including by in-flight refueling.

RANGE VS. RADIUS OF ACTION

Now, this gets into rather technical detail. Technically there is a difference between radius of action and range.

The Joint Chiefs and our side still felt strongly enough at that point that we tried to straighten out the difference between radius of action and range, and the President pushed to get radius of action out of this and to make it range.

Radius of action means that you can go out in an airplane, hit a target, wherever it is, and come back to your point of takeoff. That is the Soviet definition, by which they define this airplane as not having an intercontinental capability.

I know of no country in the world that tries to state the capability of its aircraft today by that method. We certainly do not. A far more legitimate consideration is range, which the President made a best effort at Vienna to get their agreement to.

I will quote from the State Department statement: "At the Vienna Summit, President Carter made clear that any significant upgrade in range/payload capability would be inconsistent with the Soviet Backfire assurance."

To me that is very straigthtforward. This statement continues, and this is what happened: "The Soviets responded that they would not be bound by U.S. unilateral interpretations of their statement."

That was the response when the President tried to straighten out the matter of whether it is or is not an intercontinental bomber, whether it is one that we should continue to have concerns about.

I have proposed this as a category III proposition because I think with the concerns in this country about the Backfire, and with it being the subject of such long negotiating attention by the Joint Chiefs of Staff, to have it come down to this point where we still could not get it into the treaty itself, to have it as a separate Backfire statement, but so ambiguous in the difference in definition, between the Soviet term "radius of action" and ours of "range," when we know that what really is important in a bomber is the overall range, and to have the President putting importance on this particular subject without tangible results, is a matter of great concern to me.

Senator STONE. Would the Senator yield to a question?

Senator GLENN. Yes.

Senator STONE. Is what you are trying to convey that if range is the question, you are talking about a one-way trip by the Backfire bomber from its own base to strike targets in the United States and land elsewhere, not to have to go back? Is that what you are trying to convey?

Senator GLENN. That is correct. That is the way all nations that have bombers would consider a mission to be performed these days. We do the same thing in this country. We would not expect to take a B–52 and run a mission against the Soviet Union and bring it back, on a radius of action mission to land at the spot from which it took off. We would have planes going ahead, hitting their target, and landing in third countries or in different areas, where they then would refuel or be taken care of and would come back by another route.

So, a radius of action definition, with regard to Backfire, it seems to me is not the way we want to go.

To keep this from being ambiguous, to keep it from being misunderstood in the future, to keep the Soviets from violating this, I have

proposed that this be a section 3 understanding, and it would read as follows:

That after the date of signature of the treaty, the Union of Soviet Socialist Republics will not make any significant increase in the range/payload capability of bombers of the type designated by the U.S.S.R. as the TU-22M [known to the United States of America as the Backfire] or increase the production rate of the airplane beyond the present rate [not to exceed 30 airplanes per year.]

We added the last part about the 30 airplanes per year for this reason. Although we have the 30 figure covered in different language in past considerations and understandings, what they agreed to was that their production rate would not go beyond its present rate. Now it may well be, and in fact I think some estimates are, that the Soviet production on that is below 30 now. So, I included that phrase to spell out not the 30 rate, which may be above what they actually are now producing, but would lock in that they would accept the present production rate, whatever that may be. It may be less than 30.

Senator JAVITS. Mr. Chairman, I have a question.

The CHAIRMAN. Senator Javits.

Senator JAVITS. John, did you compare this language with the section 3 on production rate that we already have adopted? We have adopted a section 3 understanding saying that the assurances given by Brezhnev are legally binding on the Soviet Union.

Senator GLENN. I did not go back and actually pick that up.

Senator JAVITS. Actually, it is a duplication in some respects.

Senator GLENN. Well, the phrase involving 30 per year was added on to this, and actually it is not key to this understanding. The main point is the difference between radius of action and range.

Senator JAVITS. I think the language says that the Soviet written assurances regarding the Backfire and the verbal statement that the production rate of this bomber would not exceed 30 per year, and are legally binding upon the Union of Soviet Socialist Republics. That was already adopted.

Senator GLENN. Would you read that again, please, Senator Javits?

Senator JAVITS. "That the production rate of this bomber would not exceed 30 per year"—that is, is related to all the commitments—"and are legally binding upon the Union of Soviet Socialist Republics."

Senator GLENN. The difference I pointed out just a moment ago which varies from that is there is good reason to believe that their present production rate is below 30.

Senator JAVITS. Well, this says "shall not exceed."

Senator GLENN. I know.

I would ask Ambassador Earle for his comment on this. What the Soviets agreed to was not to exceed their present production rate or, in any case, not more than 30 per year.

Senator JAVITS. But I have not read the whole thing. The whole thing says that we make Brezhnev's statement binding upon the Soviet Union. That includes everything you say about production rate and not in excess of 30 per year.

Senator GLENN. Maybe we can take out that part of it, then.

APPROPRIATENESS OF A CATEGORY II

Senator JAVITS. Now, I will move to make this a section 2 and I will explain why.

I am in thorough agreement that it should be in section 2, and I think you will have locked up a very critical element of the Backfire, which is an important element of the argument about this treaty. But the point that I make is if we make this a section 2, then we can say look, Mr. Soviet Union, we construe this phrase as a totality.

John, you have defined, very intelligently, and that is why you are so valuable to this committee, the words "radius of action." But you did not include the rest of the phrase: "In such a way as to enable it to strike targets on the territory of the U.S.A."

That means whether they go one way to Cuba or whether they go both ways back and forth and modifies, in my judgment, radius of action.

Therefore, the President of the United States was right when he said this is the way we are going to construe it. The Russians said we are sorry, but we are not accepting your construction.

Now I want to lock this in, but I want to do so on the basis of letting the Russians know that we consider this serious enough to get out of the treaty. That is our real recourse. They are never going to agree to this because they would not accept it when it was raised before. So they certainly are not going to accept it now. We know that in advance. But what I want to do is make this a section 2, which says to the President of the United States: "Mr. President, we not only agree with you and we want you to end this treaty if they violate the range and payload proposition which you made."

On this basis, it makes a lot of sense to me, and I would be very strongly for it.

Senator GLENN. Let me reply regarding the sentence in the middle of the Soviet Backfire statement, the sentence which reads:

> In this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the U.S.A.

Senator JAVITS. Well, it is in doubt. I am not arguing that we ought to rest on that. I say no, let's not. I thoroughly agree with you. But I think our real recourse, because we already have the record, is to make it a section 2 and say to the President, look, Mr. President, this to us is a very key point, and we want you to get out of this treaty if they violate it.

Senator GLENN. Well, I would keep this as a section 3, obviously, or I would not have submitted it in that way. I think this has been such a big issue all along. Our Joint Chiefs for so long pushed long and hard for this and felt so strongly about it, and the President even brought it up later—it was important enough to be on his list of items to be brought up at Vienna and hammered out before we signed the treaty—and when it had that level of importance and that level of consideration by the very topmost levels of our Government in trying to get agreement on this, and when we were rebuffed specifically by the Soviets with their statement that they just would not be bound by this and will go their own route regarding their being bound by radius of action or range—they will put on their own interpretation and not be bound by ours—I think it is important enough to keep it as a category III.

Senator ZORINSKY. Would the Senator yield for a question?

Senator GLENN. Certainly.

Senator ZORINSKY. Inasmuch as it is pretty well conceded that the Backfire has the range to reach the continental limits of the United States, what would be accomplished by precluding them from going any farther?

Senator GLENN. Well, they do not acknowledge that they have that capability.

Senator ZORINSKY. Well, we have.

Senator GLENN. We are saying that they do have it.

Senator ZORINSKY. Yes.

Senator GLENN. What we tried to get was that they would not in any way extend the capability of the aircraft now, beyond what they say.

Now it is true that we say it does have that capability now. But, if we had taken that attitude all the way through, it would seem to me that the Joint Chiefs would never have wanted this included in the treaty. They would not have been concerned about radius of action versus range. The President would not have brought this up at Vienna. It never would have been an issue at all.

PRESENT VS. UPGRADED BACKFIRE CAPABILITIES

Senator ZORINSKY. Well, it appears to me that the reason we took the action of trying to get the Backfire included in the treaty was the fact that it had the range capable of reaching the United States.

Senator GLENN. The difference is this. What I am trying to prevent is any misinterpretation of radius of action and range to prevent the Soviets from upgrading, in any way, that would enable them to reach this country more easily than they can now.

Now they have a marginal capability. I agree with that.

They can hit certain targets in this country, but they have a marginal capability. Where the Backfire would really become a very serious problem for us and be much more of a threat than it is now is if they did extend its range, and give it capability to hit deeper into this country.

Now they are defining radius of action in that they guarantee with this statement that they will not give it such a capability, such a radius of action capability—although that is implied by the sentence above: "Nor does it intend to give it such a capability in any other manner, including by in-flight refueling."

If they started extending this radius of action, they still could stay within their agreement, as written and hit the United States. If they enhance the capability of the airplane, they are going to extend the range such that it could be a very definite threat to targets all over this country.

So I think the definition is important. They define it as being one that limits radius of action. With that definition, it does not have more than a marginal intercontinental capability. If they extend the range any more, though, it then becomes a much more serious threat to us than it is now.

Senator JAVITS. Mr. Chairman, I would like to put my amendment on record so that we may vote on it at the appropriate time.

I move to amend the Glenn Backfire understanding as follows: Strike the section 3 designation, and insert section 2; to strike all after the close of the parenthesis on line 6 and to include in lieu of the

language there, to wit, which now reads "or increase the production rate of the airplane beyond the present rate (not to exceed 30 airplanes per year)" the following: "and that any such action would undermine the fundamental objectives of the strategic arms limitation process, justifying United States withdrawal from the treaty."

The CHAIRMAN. Very well. That will be the pending motion before the committee when the committee returns to public session on Tuesday morning.

Senator MUSKIE. Mr. Chairman, could I ask Senator Glenn one question.

The CHAIRMAN. Yes, Senator Muskie.

Senator MUSKIE. I am concerned, Senator Glenn, and I have listened with a great deal of interest to your problem, and I must say that I share it, although I have not necessarily reached a conclusion, as you have. What do you mean by "significant increase?" If the Backfire already has the range, marginal or not, to reach targets in the United States, and if we do not accept the radius of action measure for extending its capability, what do we mean by significant? What would trigger the implementation of your understanding?

Senator GLENN. We talked about that a great deal and tried to arrive at a figure as to whether a 10-percent increase, or a 15-percent increase, or what figure would be significant. We found it very difficult to come down to a specific percentage figure.

So, we thought this probably would be the best way to take care of it, and leave it up to our negotiators and those who would be bringing this before the SCC to determine what they felt was significant.

In other parts of the treaty we have left some points vague purposely. I believe, too, that this follows the President's own language. I would ask Ambassador Earle to comment on this. I think we finally wound up following the President's own language at Vienna on this, rather than trying to set a specific percentage.

Is this not the language the President used in Vienna, "any significant increase"?

Ambassador EARLE. Yes; that is correct.

Senator MUSKIE. What would be the shortcoming of using intercontinental capability as the test of what we would object to, or what would be proscribed by your language?

Senator GLENN. Well, we feel that it has an intercontinental capability now. The Soviets define it as not having that.

Senator MUSKIE. But you say marginal.

Senator GLENN. Yes.

Senator MUSKIE. Well, you might have a significant increase that did not take it beyond marginality.

Senator GLENN. Well, I would be happy to accept a percentage figure, difficult though this might be. I think we wound up following the language the President used in Vienna, which is what they tried to negotiate and failed.

Mr. CUTLER. Senator Glenn, this was the President's language at Vienna, but it was not an attempt to negotiate agreement on the words "significant increase." It was an attempt, as Senator Javits indicates, to put the Soviets on notice of what we would interpret as a violation of their written statement, especially the statement that they were not

going to give it a capability to strike U.S. targets in any other manner, which could include basing, increasing its range, refueling, and a whole variety of possibilities.

Senator MUSKIE. May I ask Mr. Cutler this question?

If it already has an intercontinental capability, then of what significance—to use that word again—is their commitment? They say they do not intend to give it something. Well, if it already has that something, promise with respect to additional capability are meaningless, as I see it.

Ambassador EARLE. May I try to respond to that, Senator Muskie?

Senator MUSKIE. Yes, Ambassador Earle.

Ambassador EARLE. The intercontinental capability that it has is a very marginal one. In fact, there is some dispute in the intelligence community whether, in fact, it can recover in third countries, having struck the United States. It is a bomber that is a variable geometry bomber, a swing-wing bomber, designed for high speeds. It is supersonic at high altitudes, and close to supersonic at low altitude. It is incapable in its present form of using any of those capabilities in a strike against the United States, since it would not have sufficient range to do so when flown at such speeds. In other words, it cannot be used to its maximum performance if flown to an intercontinental distance. Therefore, it is important that it be denied an upgrade potential which would permit it to maximize or capitalize on its inherent capability which now exists only at shorter ranges.

Senator ZORINSKY. Ambassador Earle, is it capable of delivering nuclear device to this Nation?

Ambassador EARLE. It is in a marginal sense, Senator Zorinsky, if it flies in a high altitude subsonic profile.

Senator ZORINSKY. Thank you.

Senator GLENN. The point in trying to define the radius of action range is exactly the point Senator Muskie has raised. If the Soviets are permitted to go with their definition, radius of action, then they can add a considerable capability to that bomber. They can add a lot of radius of action to it, by their definition, and still not be in violation of SALT.

Senator MUSKIE. You have made that very clear, and this is the first time I am realizing this point.

Senator GLENN. Somewhere in the treaty—and I don't recall exactly where—we defined something as a "significant increase" and then defined it in the understanding as 15 percent.

Ambassador Earle, to what did that refer?

Ambassador EARLE. That referred to silo volume, Senator Glenn.

Senator GLENN. So, use of the term "significant increase" is not without precedent in the treaty, although it was referring to a different matter.

Senator SARBANES. Let me ask this rather simple question, please.

Is it agreed that the term "radius of action" means the ability to fly from a base to a target and return to that base?

Senator GLENN. In the accepted definition of "radius of action", which you get into in aeronautical definitions of terms, of things that

are accepted internationally by most nations, and I think by the Soviet Union, to, it states this:

Radius of action is defined as the maximum distance a ship, aircraft, or vehicle can travel away from its base along a given course with normal combat load and return, without refueling, allowing for all safety and operating factors.

Mr. CUTLER. Senator Glenn, may I point out once more that radius of action is not the only limitation contained in the Soviet Backfire statement. The next sentence says, "Nor does it intend to give it such a capability"—which is the capability of striking targets on the territory of the United States of America—"in any other manner, including by in-flight refueling."

Senator GLENN. "Nor does it intend to give it such a capability," and what the sentence above says is, "the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets" and so on. So, it still defines it in terms of radius of action.

Mr. CUTLER. But in the sentence ahead of that, there is the reference to the capability of operating at intercontinental distances. That is the antecedent of "such a capability."

Senator GLENN. Well, I would disagree, because the following sentence after where it says "intercontinental distance" starts out and defines what was said above by saying, "In this connection, the Soviet side states that it will not increase radius of action." So it still does refer back to the above.

The CHAIRMAN. I think Senator Glenn has the better of that argument. The problem that I have with the Glenn proposal has to do with its category III character. The Soviet Union already has said that the President pressed this with them and they have said no, they accept this proposition. If they said no to the President, I think they will say no to the Senate.

If we make it a category II proposition, we put the Soviet Union on notice that if it does actually increase significantly the capability of this bomber, we will regard this as an action of sufficient importance as to warrant American withdrawal from the treaty. So, we accomplish our national purpose by putting the Soviet Union formally on notice that if they proceed to significantly increase the capability of this bomber, we will regard that as a sufficiently serious violation of their commitment to warrant our withdrawal from the treaty.

That is the only course of action open to us in any event, and, therefore, I think it ought to be a category II.

Senatotr MUSKIE. Mr. Chairman, may I add a thought that troubles me.

I have not yet concluded whether I would accept Senator Javit's argument. It is persuasive, but I have not yet come to a decision. However, I am troubled that no formulation that I have seen satisfactorily deals with the problem of range versus radius of action as the test by which we will measure their performance, our interpretation of their responsibility.

The CHAIRMAN. I would just suggest that the answer to that question would be, from our point of view, that any significant increase in the range or payload capability, as we presently know it, would constitute a violation that we would regard as sufficiently serious as to justify American withdrawal from the treaty.

Senator GLENN. Mr. Chairman.
The CHAIRMAN. Senator Glenn.

IMPORTANCE OF PROPOSAL VS. SOVIET REACTION

Senator GLENN. In response to the chairman's statement of a moment ago, I hate to hear us say that our biggest consideration of being against something is the Soviets may say no.

If I had felt that that was my biggest consideration during this markup in trying to make this treaty acceptable and clear up some of the ambiguities and things that I feel are loopholes, we never would have made any changes here. I am concerned that we not kill the treaty with something like this, either; but where there has been a continual negotiating record on this, where the Joint Chiefs of Staff pushed for it, where the President himself felt this was important enough to bring up and discuss again, where it has been discussed time after time, where the Soviets were absolutely intransigent on this, and where it is an item that is an important factor—though less important than it would have been had we not gotton the limitation on production—I will not hesitate to bring this up as a section 3. The Soviets have even had their people over here selling SALT, and even on American television. I think they want this treaty as badly as we do, maybe even worse for a lot of reasons if you look at it from the Soviet standpoint as to why it is valuable to them.

So, on a matter like this, where it comes down to a fundamental difference of defining a range of action of a major weapon system, I find it difficult to believe that the Soviets would refuse to talk about this, even though it was a very contentious issue in all the negotiations.

Senator JAVITS. Mr. Chairman, I cannot let that go by without replying.

I am not the remotest bit bashful about voting anything, including an amendment, if I think it is necessary and will advance the cause of the United States. But, where you can accomplish everything you want without it, why do it? Why run into a brick wall when it is very easy to walk around it? That is what I have suggested. You know, if we get out of the treaty, that is it. This is a pretty significant and very serious decision that we would be making. But to know very well that this is the showdown, because they already have said no—it is clear that they would look like fools, and we know they are not going to do that—so what is the use in fooling ourselves. We might as well know it in advance. We are better off not ratifying the treaty if that is the route we are going to go.

Senator GLENN. Mr. Chairman, I might make one very short statement.

The CHAIRMAN. Very well.

Senator GLENN. Senator Javits, there are two understandings that I will propose which have been distributed. One was a category III understanding and the other is a section 2. The section 2 we have worked over with the administration.

Before we vote next time, you might want to look at that. I think probably it will do everything you want to do if we go to a section 2. But I still would like to vote on this as a section 3, obviously. But you might look at that as doing what you want as a section 2.

Senator JAVITS. You and I will have no problem over the form.

The CHAIRMAN. I would like to make the following announcements.

First of all, the committee will meet Tuesday morning next at 9:30 in the anteroom, next door, in executive session, to take up whatever the administration wishes to say concerning the Glenn proposal and the Percy proposal. We have those two proposals to pass upon.

Following the executive session—and I do urge members to show up promptly at 9:30 on Tuesday—we will go into public session and discuss both proposals in public session and hopefully move to a vote on them.

I am asking the staff to distribute to members of the committee the resolution of ratification reflecting the various understandings, reservations, and declarations that have been adopted by the committee to date so that members may review that resolution of ratification for the final consideration of the committee, which will occur following the disposition of the Glenn and the Percy proposals.

I am told by members of the staff that they should have that available for Senators not later than Monday, and possibly it will be available by the end of the day, so that it can be taken home over the weekend and studied.

Senator JAVITS. Mr. Chairman, I give notice that on Tuesday, or whenever it is appropriate, I will call up the substance of Senate Resolution 235, sponsored by Senator Bellmon, which proposes to defer consideration of ratification of the treaty pending a comprehensive foreign policy and defense policy study to be completed by March of next year.

I do this in my capacity of ranking member by way of redeeming my assurance to Republican Senators that if they had a proposition to put before the committee, it would be my duty to put it before the committee, even though I may not favor it. I do not favor this resolution in its present form.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Mr. Glenn.

Senator GLENN. Yesterday we talked about whether in future SALT negotiations we should include parties other than the Soviet Union or attempt even to consider that. I don't know whether the administration has considered this or wished to make any comment. We could hold any comment on this until our next meeting, if there is any.

Mr. CUTLER. Mr. Chairman, I can respond very briefly that, while that is certainly a laudable objective for future arms limitation negotiations, we would recommend against trying to include any understanding or anything else on that subject in the ratification document on SALT II.

Senator GLENN. I would accept that. I don't know that it needs to be in this by way of understanding. But I think it is something with which we do have to deal. Future SALT negotiations are not going to mean much, even if we get the arms scale down, if at some point the third nations which also have nuclear weapons are not included. The Soviet Union could get down to their balance point and we will not be able to go any further.

So, somewhere along here that has to be considered.

Thank you.

The CHAIRMAN. The hearing is adjourned.

[Whereupon, at 12:52 p.m., the committee adjourned, to reconvene at 9:30 a.m., Tuesday, November 6, 1979.]

THE SALT II TREATY MARKUP

TUESDAY, NOVEMBER 6, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 11:45 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Helms, Hayakawa, and Lugar.

Also Present: Senator Cranston.

The CHAIRMAN. The meeting will please come to order.

OPENING STATEMENT

The Chair wishes to announce that during the executive meeting of the committee this morning, several propositions were considered.

PROPOSALS ON BACKFIRE RANGE, PAYLOAD OR PRODUCTION RATE INCREASES

The first proposal, offered by Senator Glenn as a section 3 understanding, read as follows:

That after the date of signature of the treaty, the Union of Soviet Socialist Republics will not make any significant increase in the range/payload capability of bombers of the type designated by the U.S.S.R. as the TU-22M—known to the United States of America as the Backfire—or increase the production rate of the airplane beyond the present rate—not to exceed 30 airplanes per year.

This understanding was rejected by the committee on a vote of 8 to 7. Senators Glenn, Stone, Zorinsky, Baker, Helms, Hayakawa, and Lugar voted in the affirmative; Senators Pell, McGovern, Biden, Sarbanes, Muskie, Javits, Percy, and Church voted in the negative.

The committee then considered a similar understanding as a category II understanding, although the wording differed somewhat from the previous proposal. I will read it:

In section 2 of the resolution of ratification include the following: "That any significant increase in the range/payload capability of the Soviet TU-22 M bomber (referred to as Backfire in the United States) would be inconsistent with the written statement which President Brezhnev handed to President Carter on June 16, 1979, concerning this bomber. Any action of the U.S.S.R. that is inconsistent with such statement or with the statement President Brezhnev made to President Carter on June 17, 1979, that the production rate of this bomber would not exceed 30 per year, would undermine fundamental objectives of the strategic arms limitation process justifying United States withdrawal from the SALT Treaty."

The committee unanimously adopted this understanding as a category II understanding by a vote of 15 to 0.

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ANTISATELLITE WEAPON INTERFERENCE WITH VERIFICATION: CATEGORY II AND III PROPOSALS

The next proposal was offered by Senator Percy as a category III understanding. It reads as follows:

In section three of the resolution of ratification, include the following understanding: "That the use by a Party of an antisatellite weapon to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of Article XV of the Treaty would be a violation of the prohibition provided for in paragraph 2 of Article XV of the Treaty."

In the vote taken on this proposal as a category III proposal, the following Senators voted in the affirmative: Senators Stone, Percy, Baker, Helms, Hayakawa and Lugar. Senators voting in the negative were Senators Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Zorinsky, Javits and Church. The vote was 6 yeas and 9 nays.

The committee then voted on the same proposal as a category II proposal and adopted it unanimously, the vote being 14 to 0. That vote now is 15 to 0. We have heard from Senator Biden since that vote was taken.

That was the work done by the committee in executive session this morning.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Yes, Senator Percy.

Senator PERCY. I don't know whether Senator Glenn would want to make any further comments on his understanding. He did comment in public session on his proposal previously.

However, I have never commented in public session on the antisatellite understanding and at some point I would like to take about 3 or 4 minutes to explain that understanding.

The CHAIRMAN. That would be perfectly in order.

I had promised Senator Hayakawa that I would recognize him.

Senator HAYAKAWA. I would yield to Senator Percy for the purpose he has stated.

Senator PERCY. Thank you very much, Senator Hayakawa.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, I introduced the understanding on antisatellite weaponry as a category III proposal because, in my judgment, it is an important area where we should have explicit agreement. It is an area that we have thoroughly explored with the Soviet Union. The Soviets have agreed that to shoot down a reconnaissance satellite, in a sense, as one of their negotiators apparently said unofficially, could be an act of war. It is a very serious matter.

This kind of outer space warfare should be banned and we should not have to spend millions of dollars, if not billions, in developing capabilities which we should have outlawed. But yet, we have knowledge that the Soviet Union has continued to develop this capability and we are following suit. We are spending a great deal of money in an area which I hope we could make totally illegal.

Now some of our discussion on this matter is classified, but I can reiterate what Secretary Brown has indicated publicly. He has confirmed what defense experts have long suspected, that the Soviets have developed a hunter-killer satellite, straight from "Star Wars" that can track down orbiting U.S. spacecraft and wipe them out.

Secretary Brown said that the Soviets have an operational capability to destroy some American satellites and have thus raised at least the possibility of a Soviet-United States space war.

The trouble comes in the form of a beetle-shaped Soviet satellite, about 10 feet long and 3 feet wide, equipped with a very high frequency radio antenna and small, square infrared scanners which work in tandem with radar to direct the killer toward its orbiting prey.

Now certainly in this treaty we should make it eminently clear to the Soviet Union, as we have without question during the negotiations, that our means of verification cannot be interfered with. In fact, that has been a part of the treaty and has been clearly pointed out by the administration. Paragraph 2 of article XV implicitly says that we and they cannot interfere with reconnaissance satellites.

My only purpose was to try to make this statement explicit. The statement is necessary in order to make eminently clear that we ought not to engage in this process, we ought not both be engaged in research and development to do something which clearly, if ever used, would cost the treaty. This was the purpose of my proposal.

I am pleased that the administration has supported it in a category II. I respect the administration's right to oppose a category III proposal, as it has opposed all category III proposals.

It was my feeling that this was not at all a substantive change in the treaty itself; it was simply an explicit statement of what we had agreed the treaty prohibits.

Senator STONE. Would the Senator yield?

Senator PERCY. Yes; I would be happy to.

Senator STONE. Are you saying that we are developing an antisatellite satellite sytem because the Russians are?

Senator PERCY. For what reason I do not know, Senator Stone. But as I understand it, we are not letting the Soviet Union proceed alone in this field.

Senator STONE. Are they ahead of us?

Senator PERCY. Yes. They have poured a lot of effort into it. They seem to be well advanced in the field, and it is my understanding that we are developing a similar capability. I would hope that both nations would decide that it is in our mutual interest to cease and desist in these efforts.

Senator STONE. Well, why are they developing it if it is against the treaty?

Senator PERCY. Why are they?

Senator STONE. Yes; why are they?

Senator PERCY. I haven't the slightest idea.

Senator STONE. But they are.

Senator PERCY. Yes; they are.

Senator STONE. And therefore we are.

Senator PERCY. As I understand it, yes.

I would ask the administration whether or not it wishes to comment. If we are working as hard as we are to limit weaponry here on Earth, the last thing we ought to be doing is venture forth into the potential of a space war. This is one way to nail down the limited agreement we now have that antisatellite weaponry cannot be used against verification satellites. It is an integral part of this treaty.

I will admit that it has been taken care of by the administration implicitly in paragraph 1 of article XV. But I simply wanted to make it explicit, and we certainly have explicitly stated U.S. policy on this by unanimously adopting it as a category II. But I would have been a little more satisfied if we had had an acknowledgement from the Soviets that they agree. I don't think, in my judgment, that we would have to yield a thing to get that acknowledgement.

Senator STONE. Well, we have an acknowledgement from them, don't we? They are developing it.

Senator PERCY. That's right. That is the disturbing part of it.

I wanted to make it a matter of public record that I am disturbed. They are going ahead and therefore we feel it necessary that we go ahead in this particular field.

Senator PELL [presiding]. The Senator from California.

SALT II PARALLEL WITH VERSAILLES TREATY: U.S. REFUSAL TO RENEGOTIATE

Senator HAYAKAWA. Mr. Chairman, during the markup sessions of this treaty, I did far more listening than talking, as everyone knows. I do not have the technical expertise of my distinguished colleague from Ohio or that of the senior Senator from Tennessee. However, the time now has come in my opinion to appraise some of the pitfalls of this treaty process which I have watched with great fascination.

As I watched the proceedings of this committee, I remembered some introductory comments of the chairman as we started up. I would like to quote him, verbatim.

He said:

> Some sixty years ago, the Foreign Relations Committee began its markup of the Versailles Treaty. Although historians still debate as to the full implications of the Senate's rejection of the Versailles agreement, there was no doubt it had an important influence on the course of history and the advent of the Second World War.

I continue to quote Senator Church.

> I personally believe the United States Senate is at an equally historic moment. We must consider not only the consequence of approval, but also the consequence of rejection. What will rejection do to the position of the United States in the world, to the renewal of an accelerated arms race, to our relations with our own Allies? We here on the committee are charged with a heavy responsibility.

I believe, Mr. Chairman, that Senator Church was quite right when he compared the significance of SALT II with that of the Treaty of Versailles. Undoubtedly today, as in 1919, we are at a critical crossroads of American history. It is not only the significance of the treaty itself that we should consider; in my judgment, the comparison should be extended to encompass the nature of the Senate debate or, in other words, the treaty process. As I see it, there is a disturbing parallel.

I believe there is nobody on this committee who is not in favor of the principle of strategic arms limitation talks. I certainly am, and so is the Senator from Tennessee, so is the Senator from North Carolina. We all repeatedly stressed this very point.

I also believe there is nobody on this committee who considers SALT II, as it is before us, a perfect instrument, and even the supporters of SALT II have stated again and again that there are con-

siderable weaknesses. However, so they argue, it is the best treaty that we can get and any attempt to improve it will kill it.

As I followed their arguments, it occurred to me that I had listened to a similar debate before. So, I subsequently looked through the Senate's voluminous records which cover the floor debate on the Treaty of Versailles. I also read two interesting books published many years ago. One is written by my colleague and friends, the senior Senator from California. It is entitled, "The Killing of a Treaty." While it is partisan, it covers the subject very, very well.

The second book to which I want to refer is by Henry Cabot Lodge, "The Senate and the League of Nations." I recommend these two books to the attention of my colleagues.

While everybody knows that the Treaty of Versailles was rejected by the Senate, there are not many among us who remember the details, and I think these are terribly important. Moreover, at least in my judgment, the similarities with today's situation are quite ominous.

The principal difference between the Senate of 1919 and the one of 1979 is that in 1919 the Republicans were in the majority. There were 49 Republicans and 47 Democrats. Accordingly, the Foreign Relations Committee also had a Republican majority. The committee held 6 weeks of hearings. It listened to more than 60 witnesses. During the markup, Mr. Chairman, a great number of amendments and reservations were approved.

However, these were all pretty innocuous and inconsequential. All were voted down on the floor.

Then the chairman of the Foreign Relations Committee, Senator Henry Cabot Lodge, moved into action and introduced 14 reservations. They were all accepted by a simple majority on the floor.

Several of these reservations were of little consequence, and the administration would have been willing to accept them. However, there were a few which seemed unacceptable to President Wilson. Today we would classify them as category III reservations, and the Wilson administration, if it had used today's language, would have called them "killer amendments".

They required renegotiation, and this is precisely where the similarity comes in. The Carter administration, exactly like the Wilson administration, has declared that any substantive changes are unacceptable. Today, as well as in 1919, the country is told that any changes will be rejected. We are being stonewalled on this.

However, history has demonstrated that it was not true in 1919. I think some later historians have disagreed, but many of them have said that changes would have been renegotiated. Personally, I believe it is not true in 1979 either.

The principal difference between the situation in 1919 and today is that at that time the Republicans were in the majority. Accordingly, the Democratic administration of Woodrow Wilson was unable to prevent the acceptance of the Lodge reservations which required only a simple majority. On the other hand, Wilson had enough votes to prevent an affirmative vote on the treaty itself, so he persuaded many of his Democratic friends to vote against the treaty so that it fell short of a two-thirds majority.

So, the Treaty of Versailles was rejected.

Now, today, the roles are reversed, but let me emphasize that the principle is the same.

Mr. Chairman, I am coming to the end of my remarks. During the last 10 days, the committee has rejected, often with narrow majorities, three amendments and one reservation introduced by Senator Baker. It also has rejected one amendment by Senator Lugar, one reservation by Senator Stone, as well as several reservations and understandings introduced by Senator Glenn. It seems quite possible, if not likely, that the amendments, reservations, and understandings, if reintroduced on the floor, will also be defeated by simple majorities.

Now the media have hailed these defeats as successes for the administration. I see things differently. In my judgment, the Carter administration, represented here by Ambassador Earle and Mr. Cutler, is repeating President Wilson's error. Possibly there will be enough votes to eliminate the improvements which Senators Baker, Glenn, Stone, and Lugar have suggested. But there will not be enough votes to support a treaty which, without substantive change, is clearly a bad treaty.

PROPOSAL FOR COMMITTEE RECONSIDERATION OF FOUR PROPOSALS

I believe it is imperative that this committee make a decisive effort to amend SALT II in order to save it from almost certain defeat on the floor. With this consideration in mind, I would like to move, at the appropriate time, that there be another vote on Senator Baker's Backfire amendment of October 17, Senator Baker's reservation on heavy ICBM's of October 23, Senator Glenn's understanding on the transmission of telemetry of October 25, and Senator Lugar's amendment on intelligence collection facilities of October 25.

That, Mr. Chairman, is a motion.

Thank you, Mr. Chairman.

Senator PELL. Did you say that you would make that motion at the appropriate time, or that you would like to move it now?

Senator HAYAKAWA. I would like to move that these matters be dealt with at the appropriate time.

Senator PELL. The present procedure will be that tomorrow any item can be taken up. As we said at the beginning of these hearings, Senators will have the full privilege of asking for reconsideration. That is the present procedure.

I would like to add here that we welcome General Rowny to the markup of this treaty. At the request of the Republican minority, Gen. Edward Rowny has joined the committee staff as a consultant. The minority has the right to ask for such a consultant and has properly chosen to exercise that right.

It has also been asked that General Rowny sit at the staff table, along with the other staff members and consultants who have been part of the SALT process since the beginning of our deliberations.

Anyone who wants to direct a question at General Rowny tomorrow is at full liberty to do so.

I would add in this regard that the Legislative Counsel's Office and the staff of the committee have been working on technical changes to the draft resolution of ratification. The staff will circulate the revised draft of the resolution of ratification with the technical changes noted,

and the committee will begin, along the lines of Senator Hayakawa's thoughts, its second, and final review of the treaty and the resolution of ratification tomorrow morning at 10 o'clock.

The staff will be available throughout the day to answer any questions in this regard.

Senator JAVITS. Mr. Chairman.

Senator PELL. Senator Javits.

Senator JAVITS. Mr. Chairman, I wish to give notice that a resolution by Senator Bellmon, which I had expected to bring up today, perhaps will be redrafted. He wants to discuss it with me. So, I will bring it up tomorrow, and I will do it the first thing.

Senator PELL. Very well. That will be understood.

Senator JAVITS. Second, I would suggest, as I think it would be very helpful, if, like Senator Hayakawa, other members desiring reconsideration of specific matters which we have already considered, should give us notice. It takes a little study and a little preparation to deal with these matters when they come up. It would be very helpful if members could give the committee notice as to what items are to be reconsidered. I think Senator Hayakawa has set an excellent precedent.

Senator PELL. I agree with the Senator that it would be helpful. All of the members who would care for reconsideration are asked to put the committee on notice of this today, if they possibly can.

Senator HELMS. Mr. Chairman.

Senator PELL. Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

AMENDMENT TO LIMIT MISSILES IN EXCESS OF LAUNCHERS TO 200

I have filed an amendment, and I would be glad to have it considered at the committee's pleasure. If the committee wishes to waive the 2-day rule, that would be fine with me, or if it prefers to wait the 2 days, that would be fine, too.

Senator JAVITS. Senator Helms, there is no 2-day rule. You can bring up the matter at any time. It is just a matter of courtesy to give members notice.

Senator HELMS. All right.

In any case, I am perfectly willing to discuss it any time the committee wishes to consider it.

Mr. Chairman, if I might, I want to welcome General Rowny here today. I think it is going to mean a very great deal to have his expertise.

As we discussed in your absence last week, General, considered on a full-time basis, you have more experience as a SALT negotiator than any other person. I was corrected on a point that when you get into part-time service, Ambassador Earle may have served a bit longer.

In any case, sir, we welcome you and will be calling upon you for your comments.

I know that you have not had access to the working papers of SALT for several months, and therefore you are going to have to call upon your memory for what information you have. Of course, you do not have a large staff to help prepare answers that may be raised by this

Senator and others. But, in any case, you will be very helpful to us and I welcome you here, sir.

Senator JAVITS. Senator, if you would yield to me, I not only would like to welcome General Rowny, but also to express my appreciation that he fitted in so cooperatively to the frame of organization which we have for this markup.

Senator HELMS. I think all committee members will agree that he was immensely helpful in the executive session this morning.

Thank you, Mr. Chairman.

General ROWNY. May I make a brief statement, Mr. Chairman?

Senator PELL. Yes.

General ROWNY. I thank you for your invitation to me to be here today. I am not familiar with how I was invited here. But I want to make it clear that I was invited by the chairman, that is, Senator Church, and by Senator Javits. So, I am appearing here at their invitation.

I just wanted to make that point.

Senator PELL. General, you now are a consultant or an employee of the committee, and for that we are delighted. You will be with us until we finish our consideration of this matter.

General ROWNY. Thank you, Mr. Chairman.

Senator PELL. Senator Helms, if you want to bring up your amendment now, I think it is an appropriate time to do so.

Senator HELMS. Very well.

Senator PELL. We may not be able to reach a vote on it because some of us will have to leave at 12:30, but I think we can begin our discussion.

Senator HELMS. Mr. Chairman, I was going to say that I am now missing the ranking members' meeting, and we have a policy luncheon scheduled for 12:30. I don't know whether it would be wise to even begin this, because my own remarks will take about 15 or 20 minutes.

But I will do whatever the Chair desires.

Senator JAVITS. Senator, did you want to go to the ranking members' meeting, or would you like to make your remarks in brief and continue with the discussion tomorrow?

Senator PELL. That's a good thought. Why not make your remarks now and at least open up the topic for our consideration.

SALT II STRESS ON LAUNCHERS, NOT NUCLEAR ARMS

Senator HELMS. That would be very well. I appreciate the courtesy of the Chair and the suggestion of my friend from New York.

Let me read the amendment. At the end of paragraph 5, article IV, add the following:

> (d) not to manufacture, store, or maintain intercontinental ballistic missiles (ICBM's) within its territory in excess of a number which is 200 more than the number of launchers of ICBM's which each Party had on November 1, 1978, as set forth in the Memorandum of Understanding Between the United States of America and the Union of Soviet Socialist Republics Regarding the Establishment of a Data Base on the Number of Strategic Offensive Arms.

Mr. Chairman, obviously the purpose of this amendment is to limit intercontinental ballistic missiles, as well as launchers.

For the past several weeks, we have been proceeding as though we were limiting nuclear arms. This Senator has tried over and over

again in the hearings and in the markup to point out that, as a matter of fact, all we have been doing with this treaty is limiting launchers.

It is widely known that the Soviets have more than 1,000 ICBM's in excess of the number of launchers to which they admit. The United States, on the other hand, has fewer than 200. The exact numbers, of course, are classified.

Now it is reasonable to expect both the Soviets and the United States to have additional missiles for testing and training. The treaty itself makes reference to allowing missile launchers for testing and training, so it follows that both sides would have missiles to fire from those launchers.

But the Soviet reserve strategic missile force is so excessive, Mr. Chairman, as to make the limitations on launchers ludicrous. The Soviets have more missiles in reserve than we have in the ground. So, this scenario makes mockery of the entire SALT process.

Mr. Chairman, the treaty has been so subtly crafted that the average citizen looking at it thinks that it limits missiles. It does not limit missiles. Nowhere does this treaty limit missiles. It limits launchers.

If you want to look at it in one way, the treaty appears to be limiting guns without limiting ammunition; but, if you look at it the other way, what we are doing with this treaty is limiting holsters, but not guns.

LAUNCHERS NOT DEFINED

So, for all of the sophisticated and fancy rhetoric in the treaty, the treaty does not define what launchers are, nor do the agreed statements or common understandings offer much help. After all, what is an ICBM launcher?

The magazine, "Aviation Week," not long ago printed a photograph of a Minuteman missile being launched with a portable firing mechanism in the back of a jeep. "Aviation Week" has also stated that the Soviets can fire SS–9's and SS–11's, and SS–17's, SS–18's, and SS–19's directly from their storage canisters without any requirement for a supporting silo launcher.

If this is true, obviously the Soviets can stockpile hundreds of missiles in their reserve strategic forces and then, in a confrontation, erect into firing position a missile fleet more than half again as large as contemplated in this treaty. But, even if Soviet technology has not yet reached that capability, the strategic reserve forces can be used for reloads under present Soviet technology.

Although this treaty purportedly prohibits more than one ICBM at a launcher site, nothing in this treaty, Mr. Chairman, defines the size of an ICBM launcher site.

So, if this treaty is not amended to include ICBM's under the definition of strategic nuclear arms, then all of the work that we have been doing in this committee for the past several weeks has been nothing but a charade. If we want to provide for strategic arms limitation, let us limit arms and not just launchers for arms.

I know I risk being somewhat tedious about this, but I would like to examine the treaty to demonstrate that whenever it refers to arms, this treaty refers to launchers—to launchers, not missiles. This gives to the American people a misleading impression.

Moreover, most of the so-called definitions in the tautology, that is, the key terminology defined in terms of itself. The most elementary course in logic condemns such sophistry.

For example, the key definition for our purposes is the definition of an ICBM launcher. Article II, paragraph 1 reads: "Intercontinental ballistic missile (ICBM) launchers are land-based launchers of ballistic missiles capable of a range in excess of * * * 5,500 kilometers."

This tells us that launchers are launchers. We learn only that the term is limited to those launchers which are land-based. The only part of the term which is defined is "intercontinental," that is, capable of a range in excess of 5,500 kilometers. We never do find out what launchers are.

I submit, Mr. Chairman, that this is a critical, critical point. If a launcher means a silo, then we can count silos by our national technical means. But is a storage canister a launcher if it is capable of launching with the addition of portable firing control? At what moment, precisely, does it become a launcher—at the moment the firing control is attached? If that is the moment it becomes a launcher limited by the treaty, then is it not too late, strategically speaking, even to think about a treaty? The treaty is worthless if it allows the Soviets to have such a breakout capability.

Mr. Chairman, the next key point comes in article III, paragraph 1, and this is the heart of the treaty. I will quote:

> Upon entry into force of this Treaty, each Party undertakes to limit ICBM launchers, SLBM launchers, heavy bombers, and ASBM's to an aggregate number not to exceed 2,400.

Please note again that the limitation is not on missiles, it is on launchers. It is not on ICBM's, but on launchers. Every reference to limiting strategic arms in this treaty is referred back to this single paragraph. Most people think that "strategic arms" refers to missiles. But it is plain that throughout this treaty, "strategic arms" has a twisted definition limiting the term to launchers. We don't even know what a launcher is and the treaty does not attempt to define it.

This is one of the reasons this is a bad treaty.

We see in the immediate next paragraph of article III, to which I just referred, setting the January 1, 1981, aggregate limits at 2,250, that the reductions are in the "strategic offensive arms referred to in paragraph 1 of this article."

This talks of the requirement "to initiate reductions of those arms," but those arms, Mr. Chairman, are launchers—they are launchers—not missiles.

In article IV, we see that each party undertakes not to start construction of additional fixed ICBM launchers, not to relocate fixed ICBM launchers, and not convert launchers of light ICBM's into launchers of heavy ICBM's. It should be noted that none of this—none of this—forbids the startup of construction of ICBM's themselves, or the relocation or conversion of ICBM's.

Then we come to article IV, paragraph 5, which is the point that would be amended by the proposal I have just submitted. Paragraph 5 says:

> Each Party undertakes: (a) not to supply ICBM launcher deployment areas with intercontinental ballistic missiles in excess of a number consistent with normal deployment, maintenance, training, and replacement requirements.

DEFINITIONS AND LOOPHOLES RELATED TO MISSILE STORAGE

If the Soviets intend to use their ICBM strategic reserves against the United States, this is the paragraph which they easily could use to justify keeping 1,000 or more ICBM's. It should be noted that the term "ICBM launcher deployment areas," again, is not defined.

What is the extent of an ICBM launcher deployment area? Is it a square mile? Two square miles? Cannot the Soviets store a number of ICBM's a mile from the ICBM launcher and assert that it is not within the "ICBM deployment area?"

The treay does not tell us. Nobody knows. It should be noted further that the number of ICBM's which this paragraph allows is a number consistent with (1) normal deployment requirements; (2) maintenance requirements; (3) training requirements; and (4) replacement requirements.

Thus, the Soviets could claim at least one or more for each. Yet, when you look at the agreed statement for paragraph 5, it defines only one out of the four requirements. It says, and I quote:

> The term "normal deployment requirements," as used in paragraph 5 of Article IV of the Treaty, means the deployment of one missile at each ICBM launcher.

At first glance, it looks like the treaty limits the Soviets to one missile for each launcher; but, in reality, the treaty permits the Soviets to have reserves at each launcher to meet each of the four different requirements.

So, they could have at least four missiles at each launcher without violating the letter of the treaty and, in reality, have any number that they really wish to have.

Let's move on to the next subparagraph, subparagraph (b) of paragraph 5 of article IV. We see that each party undertakes "not to provide storage facilities for or to store ICBM's in excess of normal deployment requirements at launch sites of ICBM launchers."

That sounds like fancy language. Again, at first glance, this would seem to limit storage of missiles at launch sites to one ICBM. But, again, there is no definition of a launch site. How does a launch site, in subparagraph (b) differ from deployment areas in subparagraph (a)?

It appears to be even more particular and even more specific. The Soviets could assert the right to store missiles just outside the launch site, Mr. Chairman—don't you see—and thereby meet the four requirements of subparagraph (a).

So, Mr. Chairman, if we are going to get snookered, let's get snookered knowing what the language of the treaty says and what it does not say. Let's not let the American people be misled into believing that this treaty, in fact, does limit missiles. It does not. It limits launchers—period.

Finally, in subparagraph (c), each party agrees, "not to develop, test, or deploy systems for rapid reload of ICBM launchers."

MISSILE RAPID RELOAD CAPABILITY

I am confident that the Soviets already have the capability for rapid reload. We are not children around here, as the distinguished Senator

from New York so often says. We know what the Soviets are up to in technology and in other areas. Their capability for cold launch or popup launch, which preserves the silos from the searing heat of a hot launch, is well known. We don't have to go into executive session to understand that.

There is not any definition of what "rapid reload" means. Is it 15 minutes? Two hours? Two days? I have heard speculation that any of those times could be useful in a strategic confrontation. This is why this amendment, which I have submitted, would add a new subparagraph, subparagraph (d) at this point, because under my amendment, each party would agree:

Not to manufacture, store, or maintain intercontinental ballistic missiles (ICBM's) within its territory in excess of a number which is 200 more than the number of launchers of ICBM's which each party had on November 1, 1978.

Who is going to argue with that? The number of launchers, of course, appears in the data base signed by President Carter and Chairman Brezhnev on June 18, 1979. It is 1,054 for the United States and 1,398 for the Soviet Union.

My amendment, simply said, would allow each side 200 missiles for maintenance, testing, and training. Let's make this clear. If this amendment is not approved, the Soviets will be able to have almost two and a half times as many missiles as the United States.

Now you tell us that this is logic; you tell me that this is security for the United States.

If we really want the American people to believe that in fact this is a strategic arms limitation treaty, let's make sure that the definition of arms includes both missiles and launchers, because if we do not limit both, then there is going to be no practical limitation at all. We will be perpetrating a hoax on the American people. If we do not reduce missiles as well as launchers, we cannot pretend that this truely is an arms reduction treaty.

Mr. Chairman, I submit that my amendment therefore is crucial to the integrity of the entire SALT process, and if the Soviets won't agree to this, there is little reason to respect their good faith in terms of any other provision of the treaty.

I thank you, Mr. Chairman.

Senator PELL. Thank you, Senator Helms.

Before I ask for administration comment on this, let me add that I, too, will be leaving and Senator Glenn will take over the chairing of the committee. Let the record show that tomorrow and for the following two mornings I have to preside at meetings of other committees and will be voting here by proxy.

Senator Glenn, would you take over the gavel, please.

Senator GLENN [presiding]. Thank you, Mr. Chairman.

SALT AND WARHEAD LIMITATION

Before we ask for any comments from the panel, I am sure that other Senators, including me, have some comments.

Senator Helms, I would say that while I agree in principle that I wish it were possible to move in the direction in which you are proposing to move at this point, pragmatically this was the best we could get at this stage. We, or at least I, look at SALT II not as an end prod-

uct that will necessarily reduce arms—and, as you rightly have pointed out, it does not—but as a steppingstone onto SALT III, where, hopefully, we can negotiate some of these reductions. In fact, you point out the launcher problem. I would submit that the launcher problem is only a halfway house to the problem, or a halfway step. The real problem is number of deliverable nuclear warheads. That is what rains destruction on the other side.

Senator HELMS. I agree.

Senator GLENN. So, the number of warheads totaling up in this treaty is the important thing to which we want to move on. I think the only value, really, or the major value to me, of SALT II is as a steppingstone onto SALT III, where I hope the basis for negotiation is the number of deliverable nuclear warheads.

You pointed out, correctly, the advantage to the Soviets in launchers that still exists with this treaty. I would submit an even more startling figure is what both sides can do if you start looking at warheads instead of launchers. You can be completely legal under the provisions of SALT II and have ICBM's, 820 of them, permitted, with 10 warheads per booster. This comes out to 8,200. You can be legal under SALT II, in addition to that, and have sublaunched missiles, 380 of them, with 14 RV's per booster, and that comes out to 5,320. You can add to that, then, those with the single reentry vehicle, 1,050 remaining boosters, launchers, as you term them, which gives you another 1,050. That brings us up to a legal deliverable nuclear warhead total in SALT II of 14,570.

When we get to that level, it gets a little preposterous. We are sitting with somewhere around 9,000 to 10,000 deliverable warheads now and the Soviets are sitting with somewhere around 5,000 deliverable vehicles.

I think you are correct in pointing out something the American people should fully realize, and that is that this treaty does not achieve much arms reduction; it is an arms cap where there never was a cap before, with the cap being way, way above anything that we ever thought we would build or that they would build under this treaty.

While I am with you in principle, I would submit that sending this back for a renegotiation on launchers would really kill it for now, because this was one of the early agreed-upon criteria for negotiation, way back when SALT II was started. I think it is the best we could get now, I see it as a steppingstone onto SALT III, SALT IV, or SALT V, where I really hope we can use as a basis not launchers, but numbers of deliverable nuclear warheads, which is really what rains the destruction on one country or the other if we get into a nuclear exchange. I see this as an arms cap, an arms limit, not an arms reduction treaty because it does not reduce arms. It puts a cap where there was never any cap before. I think that is the value of it.

I would think, Senator, that your amendment just goes halfway.

Senator JAVITS. Mr. Chairman.

Senator GLENN. The Senator from New York.

Senator JAVITS. I will debate this tomorrow. But right now I have to leave and I believe so does Senator Helms. So, if it is agreeable to you, I would ask that we terminate this hearing.

Senator GLENN. Of course, if you gentlemen do have to leave.

We have a policy on this committee requiring minority representation. Also, the Senate is in session.

This committee will reconvene tomorrow, in this room, at 10 o'clock, in open session.

This hearing is adjourned.

[Whereupon, at 12:32 p.m., the committee adjourned, to reconvene at 10 a.m. Wednesday, November 7, 1979.]

THE SALT II TREATY MARKUP

WEDNESDAY, NOVEMBER 7, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:45 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Helms, Hayakawa, and Lugar.

Also present: Senators Cranston and Bellmon.

The CHAIRMAN. The hearing will please come to order.

OPENING STATEMENT

This morning the committee resumes its consideration of the SALT II Treaty.

On Wednesday Senator Helms made a presentation on behalf of a proposal he is offering for the committee's consideration this morning. I think there was some discussion of it at that time. I remember that Senator Glenn commented on it, as did some other Senators.

So I think we had best take up where we left off.

Senator Helms, would you care to make a brief recapitulation of your proposal?

Senator HELMS. Thank you, Mr. Chairman, very much. I will do that and make a few additional comments as well.

As you indicated, yesterday I proposed an amendment to the treaty which would require each party, the Soviet Union and the United States, to have not more than 200 ICBM's in excess of the number of ICBM launchers in the data base. In some detail yesterday I explained why this is essential. I pointed out that the Soviet capability for reload is well known. I also pointed out that technological breakthroughs in canister launchers, without the aid of silo launchers, would give the Soviets an opportunity for surprise breakout.

PRACTICAL UTILITY OF SOVIET RESERVE MISSILES

Today, I believe before each Senator is a copy of photographs which appeared in "Aviation Week and Space Technology Magazine," in the June 25, 1979 issue.

This [indicating] is a picture of a canister launch of a Minuteman ICBM using fire controls on the back of a jeep. The Soviet ICBM strategic reserve is certainly over 1,000, giving them more missiles in reserve than we have in silos.

Mr. Chairman, yesterday the distinguished Senator from Ohio, my good friend, Mr. Glenn, suggested that limitations on the number of ICBM's, in addition to limitations on silo launchers, are really a matter for SALT III instead of SALT II. I believe that was the burden of the Senator's comments.

Senator GLENN. Would the Senator yield?

Senator HELMS. Gladly.

Senator GLENN. Maybe I did not clarify the matter enough, but I was stressing the importance of warheads, as opposed to launchers, missiles, or anything else. The things that come down and do the damage are individual warheads. In SALT III that should be the major area on which we will concentrate; that is, reducing the number of available warheads on both sides, and we should get away from dependence on launchers or specific missiles.

Senator HELMS. We are really talking about the same thing, because it is megatonnage that kills people. When you get to the bottom line, that is what it is.

I don't want to characterize the Senator's comments, but I believe he said that we have obtained in SALT II just about as much as we could. I think John Glenn knows that nobody has higher respect for his expertise in this field than do I.

But, Mr. Chairman, I do think we ought to examine this point in just a little more detail.

The basic assumption of SALT I and SALT II has been this: by counting silo launchers, we could thereby estimate the Soviet threat against the United States. Both SALT I and SALT II have assumed that the silo launcher was fundamentally a one-shot blunderbuss. Thereby, by limiting the launchers, we thought that we could limit the threat. But, Mr. Chairman, plainly, technology has outstripped that assumption. If silos can be reloaded with dispatch or if ICBM's can be fired from canisters, and obviously they can, then a limitation on silos does not limit the threat against the United States.

I don't think we are playing games here. I just feel that it is ridiculous to limit silos if the number of silos is not a limitation on the threat to the United States and the people of this country.

Moreover, we know that the Soviets had a complete set of ICBM's in their silos when SALT I was ratified. No sooner was SALT I ratified than many of those ICBM's were replaced with today's new generation of missiles.

Mr. Chairman, what happened to the missiles that were taken out?

We know that the Soviets seldom throw away anything. Although those missiles are not as accurate as those of the new generation, they still are of the same vintage as our Minuteman II's, with greater throw-weight. Therefore, they remain a significant strategic force, particularly for a second strike.

So, the notion that SALT II somehow provides a cap on strategic launchers just does not hold water. With the new technology, there is no cap.

Let me repeat that for emphasis. With the new technology, there is no cap. We may as well face that, regardless of how any Senator wants to vote on this amendment.

Similarly, there is no cap on MIRV's. If we assume that there are 308 launchers of SS–18's and the treaty limits the SS–18 to 10 warheads, then obviously 10 times 3 is 3,080 warheads.

But, if we are talking about 10 times an infinite number of SS–18's, then we have an infinite number of warheads. The capability of firing an SS–18 without a launcher destroys the notion of a cap on warheads. So, I repeat, there is no cap on MIRV's either.

The concept of negotiation is that certain benefits would be conferred upon the United States in exchange for certain concessions on our part. The much-touted benefits to be conferred are the cap on strategic launchers and the cap on MIRV's. The concessions we made were to place limitations on our strategic bombers, while the Soviets excluded their new strategic bomber, the Backfire.

Second, we gave up options and delayed options with regard to the cruise missile. And, Mr. Chairman, the cruise missile just happens to be our main option for preserving strategic balance.

For the purpose of emphasis, I will repeat. Technology has overtaken the supposed benefits of this treaty. The cap on launchers and on MIRV's is an illusion. On the other hand, the concessions that the treaty makes surrender the various technologies that would enable us to overcome the disparity.

The United States produced one set of missiles for a set of silos that only can be fired once. We modernized part of that force by changing the warheads and keeping the vintage 1960's boosters. Then we shut down the production line and dispersed these technicians. Meanwhile, the Soviets modernized by building new, bigger, and more accurate missiles. We have no way of knowing whether the Soviet production lines have, in fact, been shut down.

The estimate, therefore, of 1,000 Soviet missiles in their strategic reserve is a conservative estimate.

We thought by counting silos that we could estimate the size of the Soviet threat. But, if missiles can be reloaded or launched without a silo launcher, the threat, Mr. Chairman, simply cannot be verified.

We thought that we were counting guns and that the ICBM's were just the ammunition. Now we see that we have been counting holsters, and we have no idea how many guns they have pointed at us.

This amendment clearly is a SALT II proposal. It cannot wait until SALT III. It goes directly to the reality of the limits proposed.

Mr. Chairman, if the flood waters are rising and we need to build a dike, it does no good to say that we will build only the right side of the dam this year and wait until the next flood to build the other side. What we have to do is build the dike all the way across at this time, at the first opportunity, and then hope that we can add to the height later on as the flood rises.

Mr. Chairman, I suggest that SALT II as it stands is just half a dike. If we are serious about holding back this flood, we simply must limit the launchers and the ICBM's.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Helms.

I will call upon the administration for its comment in a moment. But I think we need not have a prolonged discussion of this since the committee is fully familiar with the provisions of the treaty relating to

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the limitation on launchers and also relating to the limitation on the storage of extra missiles in the launching fields or nearby the silos, so as to prevent their repeated use in the event of war.

Let us hear from the administration on this particular proposal, please.

EXTENT OF SURPLUS MISSILE THREAT

Mr. CUTLER. Mr. Chairman, Mr. Slocombe of the Department of Defense will speak to the existence of the so-called surplus missile problem that is covered by the proposed amendment. He will summarize the evidence showing that no significant problem exists in our view.

Then Ambassador Earle is prepared to answer any questions about the text of the treaty which we believe fully covers any additional missile problem that could arise in the future.

The CHAIRMAN. Very well.

Mr. Slocombe.

Mr. SLOCOMBE. Mr. Chairman, there are several parts to this problem. The first is the excess missiles, which probably do exist. Senator Helms says that most of these are older ICBM's that have been replaced by newer models. But these older missiles cannot be launched operationally because they are not compatible with the existing launchers, most of them, as they are not cold launched or cannisterized. So, whatever the cold launch or cannisterized problem is—and I will come to that in a minute—it does not apply to the retired SS–7's, SS–8's, SS–9's, and SS–11's. None of this class of missile has been tested since 1976, which strongly suggests that they are not being maintained as an operationally ready force.

Some of the older SS–11's might be compatible with current SS–11 launchers, although the current SS–11 launchers underwent a several month modernization process when the later models of the SS–11 were installed. In any event, the SS–11's are hot launched, and the excess SS–11 types have not been tested since 1976 either.

It is important to recognize that there are legitimate reasons to keep retired missiles: for training, for space launch, to cannibalize for spare parts, for tests, and so on. We have done this for economic reasons. We produced a total of 925 retired Minuteman I missiles. Nearly all of those have been expended for various purposes, including a large number which have been cannibalized for parts, and there are some 50 remaining. They are now used for test vehicles.

With respect to the newer Soviet missiles, while we do not have very good information about missile production, there is no evidence that the production of those missiles for which there are existing launchers is significantly greater than the number of those launchers plus the normal maintenance and training float. We have high confidence that there are no facilities to store more than a few missiles in the launcher deployment areas. There is space only for something like two to four missiles in fields which have 50 to 100 launchers. The ratio of space to store missiles to available launchers is very low.

Again, our information is quite limited, but there is no evidence that the Soviets have any plan or capability to use the excess missiles as reserves or for refires. Some of the retired ones actually are stored out in the open.

We are quite confident—and our information on this is very good—that they have not been tested or trained in those ways. In particular, there is no indication that the Soviets have any capability to launch these kinds of missiles from canisters, jeeps, or the like. To do this on a large scale, for example, to have a force of 500 missiles, would require thousands of vehicles, thousands of trained personnel, and millions of gallons of propellant. To be militarily effective, this operation would have to be practiced and tested extensively, and we would observe that. We have never observed any such tests or training or any other signs for the preparations which would be necessary for this theoretical capability to be a military threat.

Reference has been made to a 1970 test in which the United States did fire a Minuteman from the open, as it were. This is the so-called jeep test. The picture was only recently published, but the event took place in 1970. We have gone back and checked on that. What happened is the missile was propped up, as you would see from the picture. It had no guidance system in it. It fired for 7 seconds. It had a tether on it and was recovered. To put it mildly, that was not an operational demonstration of a military capability.

To show you what is involved in switching the launch mode for a missile, at one point we considered using Minuteman to go into the shelter system as an interim M–X. We looked at it very carefully and were told that to make the rather modest shift from basing in a silo to the basing in a vertical shelter would cost $1 billion and would take at least 15 flight tests and 3 years before we could deploy a significant number of missiles. It is a substantial operation.

It also is worth noting that the use of a cold launch technique for the SS–17 and SS–18—which do use that technique—does not mean that the Soviets are planning on a refire or a fire from canister approach. There are other reasons for using a cold launch technique, notably enabling a silo of a given dimension to hold a larger missile and, probably most important, making the silo easier to harden. This is with respect to the canister problem.

EXTENT OF MISSILE RELOAD THREAT

With respect to reload, reload is not a significant military problem, given the treaty and our own targeting option. If the reload facilities were survivable, then reload could be a significant problem. But the treaty prohibits the development testing, or deployment of systems for rapid reload, or storage facilities for ICBM's in the deployment area. There would be no such ban without the treaty. We can verify this effectively for hardened reload or nearby storage facilities.

Therefore, any hardened reload system is effectively banned by the treaty. That means you are driven back to a soft reload operation. Our targeting can inhibit this potential.

Reload is a complex operation that takes many hours, even in a totaly benign environment. This particularly is the case because the Soviet missiles in question are liquid fueled missiles. This means that fueling is an important stage in preparation of a missile for firing and is quite a time-consuming and delicate operation.

We could target a weapon on every silo, and even if it did not destroy the silo outright because of lack of accuracy, it would make it utterly impractical for crews to carry on, after the nuclear war has started, this complex reload operation.

That is a statement of the reason why we do not think it is a military problem.

The CHAIRMAN. Thank you very much.

I might call the attention of the committee to the language of the treaty itself. Article IV, section 5(c) reads: "Each Party undertakes not to develop, test, or deploy systems for rapid reload of ICBM launchers."

Is there further discussion?

Senator HELMS. Yes; Mr. Chairman.

The CHAIRMAN. Senator Helms.

Senator HELMS. I have a question for Mr. Slocombe.

Sir, four times that I recall you said that this is no problem. If it is no problem, why would the Soviets or the United States hesitate putting this bit of increased security into the treaty?

Mr. SLOCOMBE. I think that is a question which I should refer to Ambassador Earle.

Senator HELMS. Well, you are the one who said it was no problem.

VERIFICATION CONSIDERATIONS

Mr. SLOCOMBE. The reason why we chose not to push for a limit on missiles, as distinct from a launcher limit is this. First, it is not a significant problem. There is not a significant loophole to be plugged here, if you will. There are also some significant verification problems without a limit on missile production.

Senator HELMS. I took down a lot of your statements. Your statement was loaded with qualifiers. You said, "most of them," "it strongly suggests that," "they have not been tested since 1976," "we don't have very good information," "we have high confidence that," "our information is quite limited, however," "we have not observed," and so on.

I think your statement was prepared and I think you will agree upon reading it that you qualified it up and down the line.

Mr. SLOCOMBE. I did not, Senator, qualify the fundamental conclusion, which is that for the technological, theoretical possibility that you outlined to be a real military potential would require the preparation and training of a very large force. There is no qualification to the fact that our confidence in being able to detect the preparation of the critical factors, such as hardened reload facilities or the training necessary to make this a real, as opposed to a theoretical problem, is very high.

Senator HELMS. You referred to the SS–11 as being "old."

Would you tell me what date or year the latest model of the SS–11 became operational?

Mr. SLOCOMBE. I suppose it was about 1973. But those are not the missiles which are in question. The missiles which are in question are the old SS–11's, which were deployed in the mid-1960's, and which were taken out of the silos to be replaced by the new SS–11's, which were deployed in the early 1970's.

Senator HELMS. How does this compare with Titan II?

Mr. SLOCOMBE. It is a newer missile than Titan II.

Senator HELMS. Excuse me?

Mr. SLOCOMBE. It is a newer missile than Titan II.

Senator HELMS. Mr. Chairman, I would like to have the comment of General Rowny on this, if he has any.

The CHAIRMAN. Very well.

General Rowny.

General ROWNY. Senator, my comments would be of two types. The first would be of a general type and the second would be of a more specific type.

I would say that, in general, I very much agree with Senator Glenn and I think other members of the committee that what we need to do is to limit the number of warheads. I think SALT II has gotten away from us. I think that since we first thought we could capture warheads by limiting the number of launchers, things have gotten out of hand.

INEQUALITIES

So, of the three major inequalities of this treaty—and my major reasons for not supporting this treaty, and I do support SALT and a treaty, are the three major inequalities—the first is inequalities in heavy missile launchers. This permits the Soviets to have 3,080 warheads of a half-megaton to megaton yield, while we are not permitted any, nor are we compensated for that.

This accounts for one-half of all the ICBM warheads that they have, and those are the really significant warheads, when you look at warheads.

The second inequality, which I will not now go into, is the Backfire. This is the second major inequality of this treaty, where we do not have an equal right to exclude heavy bombers, if you will.

The third major inequality is that which is expressed in Public Law 92–448, which is to govern, as I understand it, SALT II, and this is that there be equal levels of forces.

Now I will submit that we have resolved part of the problem in SALT II. We have an equal number of launchers set, and a lower number than the Soviets now have. But when you look at what you have in that package, you really are comparing very disparate systems.

For example, to use a figure of speech, if you were going to haul a load, and you had some cars and you had some trucks, we have Volkswagens and pickup trucks. The Soviets have some Volkswagens, to be sure; but where we have pickup trucks, they have 5-ton vans, huge load-carrying capacity vehicles. So, the levels are unequal.

I would say that anything we could do to bring about a limit to the number of warheads and anything we could do to limit the huge asymmetry in throw-weight in favor of the Soviets is desirable. In my view, we cannot wait for SALT III because the problem is with us now.

I can elaborate on these, if you like.

To be a bit more specific, my basic comment would be that there is no reason why we should not limit each side to 200 extra missiles. If this is no real problem for either side and you don't need any more for testing or for other reasons, then why not limit each side? If you are not sure about verification—and I am not sure—if you are not sure about whether or not they can reload—and I am not sure—and if you

are not sure about various other things, then why not have a safe way? Why not limit the number of missiles?

The arguments I have heard are reasons why it might not hurt us too much or why the problem may not occur. My argument would be to limit the number of missiles and get a start toward more limitations, I hope, in SALT II, on the number of warheads and the destructive potential that can be brought upon the United States.

Now, I can go on to more technical aspects, if you wish, but in the interest of time, I would cut my remarks off here.

Senator HELMS. I think that makes the point, Mr. Chairman.

The CHAIRMAN. Very well.

Is there further discussion?

Senator JAVITS. Mr. Chairman, there is a question I would like to ask the administration team.

The CHAIRMAN. Senator Javits.

WISDOM OF CONVERTING EXCESS MISSILE QUALITATIVE TO NUMERICAL CONSTRAINT

Senator JAVITS. In view of the fact that this is a qualitative restraint in section 5 of article IV, what Senator Helms is seeking to do is to convert it into a number restraint so that it is more precise. I would like to ask two questions.

Why is not that a good idea? Perhaps it hurts us and therefore is not a good idea. That may be something you would want to discuss in executive session. Second, could you write a restriction which would say if the Soviet Union has more than such and such a number, defined as you will, of ballistic missiles kicking around—because even storage area is undefined—that will be grounds for our canceling the treaty, if we wish? That would be a finite definition.

So, there are two questions. First, why is not a numerical limitation desirable? Second, if there is to be a numerical limitation, could you write one which would not be an amendment—because I will vote against that, as I do not think this warrants an amendment? Or, third, which I would vote against, too, a category II or a category I which would deal with what we would consider to be so alarming that it would be grounds for considering denouncing the treaty?

Ambassador EARLE. Let me try, Senator Javits, to address those.

As to why, as Mr. Slocombe pointed out, the excess missiles, if you will, have been put to use by both sides, I think the fact that we had over 900 and are now down to 50—after having used those 800-plus missiles for nonmilitary purposes—indicates that there is a reason, and a valid reason, for the sides to retain them. Obviously, a proposal of the sort that has been made would be greeted, I think, as an unequal proposal by the Soviets, given the fact that right now, at this turn of events, they have more excess missiles than we do. Some years ago, we had more than they. The situation might change.

Personally, I would not want to raise such a proposal because we have systems that not only are alleged to be reloadable, they are designed to be reloadable and are capable of being reloaded. The B–52, for instance, with respect to cruise missiles, is an example. I don't think we would want any limitation on the number of excess cruise missiles which we might retain.

As far as drafting a proposal or a reservation, I suppose we could do it. But I think, for the reasons I have stated, it would be undesirable and not in the national interest of the United States.

Mr. CUTLER. May I add to that, Senator Javits.

Senator JAVITS. Please.

Mr. CUTLER. First, the Joint Chiefs never raised this problem, this so-called surplus missile problem. On their long shopping list of things they wanted to achieve, as I understand it, this was never on their list.

Second, the United States also had a much larger number of nuclear arms that could be loaded on B–52's than one trip's worth of bombs. Any discussion about reducing the number of surplus missiles undoubtedly, I would think, would get into the question of our additional reloadable bombs.

Senator JAVITS. Thank you.

Senator MUSKIE. Mr. Chairman, could I ask a question at this point?

The CHAIRMAN. Yes, Senator Muskie.

U.S. RIGHTS TO EXCESS MISSILES

Senator MUSKIE. Is there any provision in the treaty that would prohibit us from stockpiling excess missiles?

Mr. SLOCOMBE. No, sir. Indeed, for the reasons I outlined, we would plan to retain the missiles as they are retired for various test and experimental uses.

Senator MUSKIE. So, to the extent it may be a problem, we can offset it by simply stockpiling missiles of our own—shotgun shells, if you will?

Mr. SLOCOMBE. If, for some reason, we wanted to do it, we would have the right to do it.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. I will be brief, Mr. Chairman, since I know you are anxious to vote. I have just one point to make about the ability to monitor the reloading capability.

The Intelligence Committee looked into this thoroughly. The report was written. There is a high degree of assurance as to whether or not we would be able to determine whether or not they were stockpiling for purposes of reloading and the facilities they would need and all that would have to be done in order to make it a feasible thing for them to do. I understand you have argued the rest of the points. But I just wanted to make that point again.

Senator PERCY. Mr. Chairman.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. I will yield to Senator Glenn.

Senator GLENN. That's all right, Chuck. Please go ahead.

Senator PERCY. I would like to continue Senator Biden's point. I would like to explore a bit further what the administration's position is and what Senator Helms' position would be on putting an unverifiable provision into the treaty that we would feel duty bound to fulfill and the Soviets might not because they know we cannot catch them violating it.

What is our position on that? As I understand it, this would not be a verifiable provision. Would we have to base it on trust? Essentially, we have said that it is not good to have a treaty based on trust.

Mr. CUTLER. We also, I think, have the provisions of the Arms Control and Disarmament Act requiring that any limitation agreement be adequately verifiable.

Senator PERCY. So, your position is because it is not verifiable, it probably should not go into the treaty.

Mr. CUTLER. That certainly is an additional reason.

Senator PERCY. Senator Helms, do you have a comment on that?

Senator HELMS. Excuse me, Senator, but I was checking out another point. Would you please restate the question.

Senator PERCY. My question concerns the limits of 200 excess ICBM's in your proposal. That could not be verified, could it? We would agree to say we would limit it, but would they? We both have decided it is not a good thing to have a treaty based on trust. In this essence we would be basing it on trust, wouldn't we?

Senator HELMS. In the first place, it can be verified and I would be glad to amend the proposal or modify it to include that it shall be verified. But, isn't it true—and I will ask any of the people here who have served as SALT negotiatiors, and there are at least two here, though Mr. Cutler has not been a negotiator, though Ambassador Earle and General Rowny have—that at one time we offered onsite inspection?

Ambassador EARLE. Not to my knowledge, Senator Helms.

Senator HELMS. General Rowny.

General ROWNY. I think, Senator, that we never offered onsite inspection, as such. I think it is interesting and pertinent that at one stage, when the Soviets complained about what they could and could not see with respect to our launchers at Malmstrom Air Force Base, I went to the chiefs and said let's invite them to come in. After a little discussion they said all right.

I took that message back and transmitted it informally to my Soviet counterpart. I said that we will invite you to come in and look at Malmstrom. They said no, we won't be suckered into that. Then you will want to come and see ours, whereupon I said they were exactly right.

Then they dropped it.

So, we have used the term of art "intrusive measures," and we do think—or let me say that I think, now that I am not any longer advising the chiefs—that intrusive measures are a necessary adjunct as we go down the line into SALT. In my view we need cooperative measures now for bombers and cruise missiles, and therefore some types of intrusive measures I think are an essential part of any SALT agreement that is going to be verifiable.

Senator PERCY. I have one other question for both Senator Helms and the administration to comment on.

It appears that the amendment would freeze the United States to the lower number plus 200, while the Soviets could add 200 to its higher number, our number being 1,054 and theirs being 1,398. We now are under the SALT ceiling and this would prevent us from building to it with ICBM launchers if we so choose.

Would this actually be a limitation on us?

Mr. SLOCOMBE. As drafted, I believe it would be, Senator.

Senator HELMS. What was your answer, sir?

Mr. SLOCOMBE. As I read the amendment, it is whatever the number is in the November 1, 1978 data base plus 200. We could, by building mobile ICBM's, add to the total number of ICBM's, and as drafted that would seem to require that we cut into the excess. Obviously that is a problem to be resolved in drafting.

Senator PERCY. It freezes us at a number lower than theirs, doesn't it?

Senator HELMS. Senator Percy, you have to bear in mind that we don't limit missiles in this treaty; we limit launchers. That is the whole point. We glide over this with semantics. We are not limiting the things that kill people. We are limiting holes in the ground.

The purpose of this amendment is to convey to the American people just what this treaty is and what it is not. It does not limit missiles. It does not limit warheads. It limits holes in the ground.

Senator PERCY. Your point is that you can launch the missiles other than from a hole in the ground, right?

Senator HELMS. Sure, and there you are.

Senator HAYAKAWA. I would implore my distinguished colleague from North Carolina not to use the word "semantics" as a synonym for some kind of dirty trick.

[General laughter.]

Senator HELMS. Well, then, political semantics.

[General laughter.]

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

LOCATION OF EXCESS MISSILES

Senator GLENN. Mr. Chairman, there is one thing Mr. Slocombe said which I would like to clarify.

As I understand it, then, do we have several hundred boosters around, too, and are we required to keep them a distance from the launcher? How is that controlled? How is it controlled on the other side?

Mr. SLOCOMBE. We have some 300 excess missiles by this definition in various categories. They are, of course, subject to the same requirement. There can only be one missile, the missile that is in the silo at the launcher site. In the whole deployment area, which is spread over many, many square miles, there can only be the normal number associated with maintenance and so on, and on both sides that is very low. The rest of the missiles on both sides are at test facilities and storage facilities that are a long way away from the deployment area.

I would be glad to provide a classified detailed breakdown of exactly where the U.S. extra missiles are.

Senator GLENN. OK. That concerns me a little bit. If we are doing that, then the quid pro quo is that they can do it, too, if it is not prohibited by the treaty. Isn't that right?

Mr. SLOCOMBE. But both sides are prohibited from having excess missiles beyond a very small number for maintenance flow in the deployment area.

Senator GLENN. That was the point. Three hundred or so doesn't sound to me like they are what is necessary just for a few tests.

Mr. SLOCOMBE. 300 is the total inventory in the whole United States that is in excess of the number of launchers. The great bulk of them are at test sites and at storage facilities.

Senator GLENN. That is a lot of tests.

Mr. SLOCOMBE. Yes. But over the course of the time since we produced the Minuteman I—and, as I said, we built some 900 or so—in one way or another we have fired off just over 250, if I remember correctly, and used up the rest, except for about 50, in various tests, for parts, and so on. So these get used up over time. We want to hold onto the excess 300 to use for these purposes.

Senator GLENN. Certainly, I do not want to sit here and argue the Soviet case, but it really surprises me that we have that many missiles out there, ready to go. All they need is to be put into something and they would be ready to go. We are saying they are for tests and so on. On the other hand, the Soviets can do exactly the same thing.

Mr. SLOCOMBE. Most of them are not ready to go. A few are, but most of them are not. Many of them are older types. Well over 100 of them are the extra Minuteman III's that were built for which there were no launchers or which there is no way to launch without an elaborate rebuilding of the silo.

The CHAIRMAN. Are we ready for a vote?

Senator HELMS. Mr. Chairman, I want to ask one more question.

The CHAIRMAN. Yes, Senator Helms.

Senator HELMS. What is the definition of an ICBM launcher deployment area?

Ambassador EARLE. Senator Helms, in the discussion of that phrase between the delegations, which went on at considerable length, it was agreed that it was a single area, grouping launch sites, together with associated support facilities and equipment, clearly distinguishable from other ICBM launcher deployment areas.

Senator HELMS. Is it about a square mile or two?

Ambassador EARLE. We deliberately did not, as in the ABM treaty, delineate a specific area because of our concern about Soviet mobile deployments, and we did not want them to be able to break their huge mobile deployment areas into small segments and have excess missiles in each segment.

Senator HELMS. Well, what I am getting to is this. However you define this launch deployment area and however it is interpreted by either side, the Soviets, or the United States for that matter, could go 1 mile beyond that and set up an operation and have missiles and so forth. Is that right?

Mr. SLOCOMBE. They could do so, Senator, but then they would be a very substantial distance away from the launchers which are necessary to launch the missile. Quite apart from whether we would discover that, this would have a very heavy impact on the military reality of a reload possibility.

Senator HELMS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Helms.

If there is no more discussion, the clerk will call the roll. This is an amendment to article IV, adding to paragraph 5 of article IV of the treaty. The text is before each member.

The Clerk will call the roll.
Mr. BADER. Mr. Pell.
Senator PELL. No.
Mr. BADER. Mr. McGovern.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Biden.
Senator BIDEN. No.
Mr. BADER. Mr. Glenn.
Senator GLENN. No.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. No.
Mr. BADER. Mr. Muskie.
Senator MUSKIE. No.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Baker.
Senator HAYAKAWA. Aye, by proxy.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator HELMS. Aye, by proxy.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.
On this vote, the ayes are 7 and the nays are 8. The proposal has been rejected.

DISCUSSION OF SENATE RESOLUTION 235

Next I will recognize Senator Javits for the purpose of the committee's discussion of a proposal by Senator Bellmon, and I want to recognize the presence of Senator Bellmon here this morning and to welcome him here to the committee.

Senator BELLMON. Thank you, Mr. Chairman.

Senator JAVITS. Mr. Chairman, I will propose to the committee the essence of Senate Resolution 235, as submitted by Senator Bellmon. However, I assume that because it relates to our country and a direction to our President, that it could be transformed to be a section 1 understanding in the resolution of ratification.

Under this resolution, as presently drafted we would call for the establishment of a select committee of the Senate to develop a comprehensive foreign and defense policy before we vote on SALT II and that this select committee would be required to report on or before March 1, 1980, and therefore there would be, at least as presently drafted, no vote on the ratification of SALT II before March 1, 1980.

Senator Bellmon is here, Mr. Chairman. I ask unanimous consent that he may be permitted to explain this provision.

The CHAIRMAN. Without objection, Senator Bellmon, would you please make your presentation at this time.

Senator BELLMON. Thank you, Mr. Chairman.

I appreciate the courtesy of the committee in allowing me to appear in support of Senate Resolution 235. I might say, before I go further, that this resolution was introduced on September 17, 1979. Since that time, the debate or the committee action on the SALT II Treaty has proceeded considerably and I doubt that it is practical any longer to suggest that the vote be put off until the work of this select committee could be concluded.

Therefore, I would not press the point of holding back the SALT II Treaty until this select committee has had a chance to do its work.

LACK OF COHERENT COORDINATION OF U.S. FOREIGN AND DEFENSE POLICIES

Primarily, I am concerned that we do not seem to have any coherent coordination between our foreign policy and the defense policies of this country. I serve both on the Budget Committee and the Appropriations Committee. We often are called upon to appropriate very large sums for defense and yet, in my own mind, it is never clear whether or not these sums really are being expended in a way that supports our foreign policy.

I do not mean this as any criticism of either the Foreign Relations Committee or the Armed Services Committee. But it seems that, institutionally, the Senate is not arranged so that these two subjects are ever dealt with concurrently. It almost is as if the twin ever meet, foreign policy and defense policy, in the legislative branch. Perhaps in the executive branch it is a different situation.

We seem to consider the DOD appropriations bill largely separately and apart from foreign policy considerations and from the Senate point of view, we seem to appropriate funds for whatever new hardware the admirals and generals want, without any clear picture of what it does in support of our country's foreign policy. If this is the case, and I am convinced that it is, then I believe it is a mistake which we really cannot afford to make any longer.

This probably is not an exact parallel and it may not even be a good illustration, but it seems to me that what happened to the Shah in Iran sort of illustrates the case. He had invested huge sums of money in expensive, sophisticated weapons, yet when his test came, the hardware which he had was of very little value to him. I wonder if we may not be making similar mistakes in the way we invest our defense dollars.

So I feel there is a need for the Senate to create a mechanism to bring about a thorough, methodical review of our Nation's foreign and defense policies together, with the view of determining whether or not they are mutually supportive. I believe that the debate on the SALT Treaty gives us the opportunity to launch that undertaking and to conduct it at the time when the Nation's awareness of foreign policy is high.

If the committee decides to go ahead with the SALT II Treaty—and I think it is fairly clear that it will—I believe this kind of policy review still would be valuable and that we could amend Senate Resolution 235

to allow the review to go on afterward and delay the date for reporting, perhaps, to the middle of 1980. In this way we could get the information that I feel we need, but at a little later date.

Now it is my thought that the select committee would use the best counsel available, both inside and outside Government, and not have to do this entire job on its own. So, my feeling is that the SALT debate is the time to get into this matter.

Mr. Chairman, I appreciate the opportunity to be here this morning to call your attention to Senate Resolution 235 and I hope that perhaps in amended form, it might be considered and approved.

PROCEDURAL ALTERNATIVES FOR CONSIDERING

Senator JAVITS. Mr. Chairman, if Senator Bellmon would yield, I only suggested it as a section 1 understanding for the following reason:

Senator, I might communicate to you that this means the instruction which we give the President and the President's acceptance of those instructions when he accepts the ratification resolution. I suggested a section 1 understanding because there is no other context within which it could be brought within the treaty.

This committee could consider Senate Resolution 235, mark it up, and send it to the floor quite separately from the SALT Treaty. I do appreciate very much that Senator Bellmon has taken the delay factor out of the resolution. I think that simplifies it a lot.

Mr. Chairman, may I be heard on the resolution in chief?

The CHAIRMAN. Yes, Senator Javits.

Senator JAVITS. It is my judgment that we do have inadequate relationships established in our work between what we have for security and what we have for diplomacy, and that the two are not intimately related. We had a problem with that before, and so we provided in section 815 of Public Law 94–106, that with the annual budget of the Defense Department, there should be submitted to the Armed Services Committee a Department of Defense posture statement which was responsive to that particular need. I assume that this will be done this year. I am sure Senator Muskie and Senator Bellmon are well aware of it, better even than I. But it has not been incorporated into a comparable document for the Foreign Relations Committee.

Gentlemen, this is a big job, and we are busy, busy people, just like everybody else around here. I think this committee has a decision to make as to whether it can do it. If it can, I believe it should. I think it is a very essential element in our country. If we cannot, then some technique, whether it is a select committee or appropriate delegates from this committee and the Armed Services Committee both here and in the House, or here alone, as we do, for example, when we send representatives to the appropriations markup, which we are invited to do as a legislative committee, becomes in order.

Frankly, Senator Bellmon, I believe what you are asking for is very desirable. But I do not know how we can fit it in to our present context. Senator Robert Byrd does not want resolutions of this kind—he just turned us down on Cambodia—considered on unani-

mous consent. He wants them referred to the appropriate committee, no matter how quickly the committee acts on them.

My feeling is, as you are a Senator and as your vote is necessary—as everybody's vote is necessary if this is going to be ratified—what we ought to do is consider how we can give an audience to your resolution with a view toward reporting it, or to some resolution, or making a commitment of our own in order to satisfy the substantive need, even if we cannot meet the precise form in which you have it.

This may take a hearing. We have now heard you and we will hear the administration. We may hear you again and will hear any other witnesses. This is the way I see it. I doubt in the new guise that you now have it that it can be fit into the context of this treaty.

Now it is possible to do a declaration under this treaty process, which will say that this is a need, a need which must be filled, that it is partially filled by the Armed Services Report, but that this is not related to a report from us and that we are going to undertake to solve it, and that this resolution is a suitable vehicle for that purpose.

Now that could be done in a declaration.

Senator Bellmon, if you so wish, I will make myself responsible for drawing it to your satisfaction, for proposing it, and I would hope getting it approved.

FOREIGN RELATIONS COMMITTEE HEARINGS PROPOSED ON SENATE RESOLUTION 235

The CHAIRMAN. Senator Bellmon, I would like to say that I will give you my own assurance that the Foreign Relations Committee will hold hearings on the resolution that you have proposed. We already have considered the question of delaying the markup and reporting of the SALT II Treaty, and we decided against that because for the last 4 months we have been engaged in the most intensive exploration of a treaty that ever has been undertaken by the Foreign Relations Committee in its history of any treaty that has been presented to us. We have thoroughly probed the strategic implication of the treaty as it affects the nuclear balance between the United States and the Soviet Union, which is what the treaty deals with—the strategic weapons systems of both sides.

So I would hope that the larger questions which you pose, namely, the interrelationship between our foreign policy and the defense requirements, the military requirements, of this country, should be considered by the committee after it has dealt with this treaty and reported it to the Senate. You may be certain that your resolution will be the subject of hearings on that question, and a decision then will have to be made by the Senate as to whether a temporary, select committee should be set up for this purpose or whether this should be carried on within the jurisdiction of the Foreign Relations Committee in the normal manner.

It is a very important undertaking. I remember from my past service on this committee that there have been times in the past when this committee has addressed that subject and very extensive studies were made on the overall goals of American foreign policy and their relationship to our defense needs. But it has not been done for some time. I think the point is well taken.

You may be certain that insofar as I can determine the matter, your resolution, if it is not made a part of this treaty, will be the subject of hearings and will be in due course reported to the Senate for that body's own decision.

Senator BELLMON. Mr. Chairman, may I say that it was not my original intent that the resolution be made a part of the treaty. It was my hope that we could look at our foreign and defense policies and then decide whether or not SALT fits into our total defense and foreign policy objectives. That, obviously, will not happen now because the time is passed.

I am pleased to know that the chairman is willing to hold hearings later, but am a little concerned that if we wait until after we have dealt with the SALT Treaty we will be into the next session, and it will be late next year before we get any results. Next year we are going to be dealing with a $140 billion defense budget. I have heard recommendations that it go up either 3 percent or 5 percent per year for several years. I am at a loss to know how we decide whether or not those are appropriate levels for defense spending until we know whether or not our defense policy and foreign policy are parallel. So, I would hope you could move as expeditiously as possible on this.

The CHAIRMAN. You may be sure that as soon as we are freed of further deliberations on the treaty, this would be a priority matter that the committee would proceed to take up. There ought not to be any prolonged delay.

Senator BELLMON. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Glenn has asked to be recognized. Then I will call on Senator Percy.

Senator GLENN. Thank you, Mr. Chairman.

RELATIONSHIP TO SALT II TREATY

I support the objectives that Senator Bellmon is spelling out today 100 percent. It was not my understanding that it would be made a part of the treaty or of the understandings on which we have been working in the committee, but I believed it would be a Senate resolution, as such.

This dwells once again on the subject that I brought up in a letter which I wrote to all of the members of this committee, just before we started our markup. I am sure the members will recall it. I raised some of the same questions.

I stated that we were putting the cart before the horse, perhaps, for a couple of reasons. While we started out not wanting any linkage to the treaty, we now are saddled with linkage on SALT in a couple of areas.

There has been such a thing made of our lack of conventional armament that this is now to be made a special issue and will be discussed on the Senate floor at great length. Senator Bellmon's resolution does include conventional arms. This is the major thrust of it.

I don't know that Senator Nunn and the people who are concerned about these particular areas, including me, are making a big push to increase strategic arms. The linkage is being made and will be made on the floor, and that will be debated thoroughly before we ever get around to voting on SALT.

What Senator Bellmon is pointing out, I think very, very properly so, is that foreign policy is going to be dictated by the arms buys which we debate on the floor, and we will not yet even have determined what our foreign policy is that all of these arms are supposed to be supporting. That was the position I made in the letter I referred to. I tried to get these hearings delayed so that we could discuss some of these matters.

Second, Cuba has been made part of the linkage with this treaty. So there are two items that must be resolved on the floor, two items that right now are linked.

I think Senator Bellmon raises a very, very valid point, that we need to consider these things, that we need to consider what our policy is before we go off and consider other things such as conventional arms buys of $140 billion or whatever the amount is. Maybe that will not even be enough.

I think we do have time to get into this. I would support Senator Bellmon. The only thing I would suggest would be that perhaps instead of having a Senate select committee, as he has suggested, I have advocated for some time that we do a lot more work in close harmony with the Armed Services Committee ourselves because I do not think we do enough with them. We all get busy in our own committee work. What I would suggest, if Senator Bellmon agrees, is that we appoint a special study group of the Armed Services Committee and the Foreign Relations Committee, and perhaps even contract for some outside help to help set up a study group that would be adequate to the task, and let that be the study group empowered to do the things that have been suggested here. Instead of setting a date, as Senator Bellmon had in the original version of his resolution, perhaps the study group could report back as soon as is practicable.

I think we are going to be in debate on the Senate floor for a period of time over matters of conventional arms and the Cuban situation, which I am sure is going to come up again on the floor.

I still have some personal concerns that we have not developed our monitoring capability sufficiently to verify SALT II. That has not yet been worked out. I would hope we might be having another executive session of this committee during which I would like to go into some of those matters again before we vote on this, because I have serious doubts about some areas of our intelligence gathering and our capability. That would give us some time to work out some of those things, too.

So I don't see that this would be bad. I don't think it would delay things unnecessarily, and I would support the objective of what Senator Bellmon is trying to do very, very much. I think it is very valuable and we should have done it a long time ago.

The CHAIRMAN. The appropriate way to consider the resolution would be by way of hearings, so that we could get the testimony and decide in what ways the resolution should be modified.

If that is the committee's wish, I can assure the Senator that we can get to a hearing on the resolution in this month. I would think that the normal course of procedure is advisable.

Senator GLENN. Mr. Chairman, Senator Bellmon's point, I think, and one on which I support him completely, is that the objective of

what he is trying to accomplish here is that these considerations be made before we proceed with SALT on the floor of the U.S. Senate. So, promising hearings some time in the future just defeats the purpose of what Senator Bellmon is trying to do.

Would the chairman be willing to hold hearings on Senator Bellmon's resolution immediately and hold up voting on the committee sending this treaty to the floor until we have these couple of days of hearings?

The CHAIRMAN. I think the committee did take up that proposal already. It was initially your proposal to postpone a report of this treaty until such time as a comprehensive review of American foreign policy on a global scale was completed by the committee. That was the subject of your letter. We discussed it thoroughly when we took up that matter, and the committee voted against delaying consideration of the treaty for that length of time.

I am trying to abide by the decision already reached by the committee. The best I can offer Senator Bellmon is a hearing on his resolution as quickly as that can be done once the markup of this treaty has been completed.

Senator HAYAKAWA. May I ask a question, Mr. Chairman?

The CHAIRMAN. I had promised to recognize Senator Percy. Then I will recognize you, Senator Hayakawa.

Senator PERCY. Senator Bellmon, I understand that you would not press to place this in the treaty. I really think we ought to vote this treaty up or down, long before that study could be completed.

I have engaged in three such long-range studies. I think they are absolutely essential. Certainly the President, in announcing now a commission to look ahead to the 1980's, expects that defense and foreign relations would be a large part of that. I think the Congress ought to have a counterpart of our own.

I think the assurance of the chairman that we will hold hearings very soon is highly desirable. There is no possible way we could undertake a serious study of that kind and make conclusions to it prior to the time we ought to vote this treaty up or down.

I think the resolution ought to be handled on its own merits. I would support fully such a group. It is very difficult to get this committee together with the Armed Services Committee. I tried for months to get them to hold joint hearings with us on the Triad concept. We finally had to go ahead ourselves. We just were not able to coordinate our schedules.

Of course, if we are told by the leadership to do it, we will do it. If we hold hearings and decide that it is a good idea—and I think it is a good idea—we will somehow find the time to do it.

The CHAIRMAN. I hope that would be a satisfactory resolution for you, Senator Bellmon.

Senator BELLMON. Mr. Chairman, as I have said, I do not now feel that it is appropriate that we try to hold up the SALT Treaty while such a policy study is made. There is no intent to have it as a part of the treaty. The only problem I would point out is this. The SALT process is an ongoing process. There will be a SALT III and who knows how many more. We need to know whether or not the SALT process is serving our foreign policy goals.

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The CHAIRMAN. I agree.

Thank you very much.

Senator MUSKIE. Mr. Chairman.

The CHAIRMAN. Senator Muskie, I had promised to recognize Senator Hayakawa. Then I will recognize you, if that is all right.

Senator HAYAKAWA. Thank you, Mr. Chairman.

I want to ask a simple question. Is there any overlap in the membership of the Foreign Relations and Armed Services Committees?

The CHAIRMAN. That is not allowed under the Senate rules.

Senator HAYAKAWA. That is what I thought. It throws some additional light on the question, then, doesn't it.

The CHAIRMAN. Senator Muskie.

Senator MUSKIE. I simply want to make an important point briefly.

First of all, I would compliment Senator Bellmon, whose qualities of thoughtfulness I have come to appreciate in the Budget Committee. Second, the point he makes that we in the Budget Committee are not in a position to conduct the kinds of hearings he proposes is accurate. We are not an authorizing committee. We have no jurisdiction over these areas, which sometimes, perhaps all too often, are in conflict with each other. But, nevertheless, we are asked to make budget recommendations to the Senate which ought to take into account the best judgment of the Foreign Relations Committee and the Armed Services Committee on the significance of the numbers that we are asked to recommend for our national security and our foreign policy.

So, I would like to endorse what he is saying. I do not know how structurally we can best achieve it. Creating another committee always creates more work that we will neglect. But, nevertheless, it seems to me that we ought to move in that direction, and I would like to support the Senator.

The CHAIRMAN. Thank you very much, Senator Muskie.

Thank you, Senator Bellmon, for coming and making this presentation.

Senator BELLMON. Mr. Chairman, is your conclusion, then, that there will be hearings on my resolution?

The CHAIRMAN. Yes, during this month, if possible.

Senator JAVITS. Henry, under those circumstances, I will not propose anything regarding the resolution of ratification.

Senator BELLMON. Very good.

Thank you, Mr. Chairman.

Senator SARBANES. Mr. Chairman, as I understand it, we are going to have hearings on the resolution of Senator Bellmon. The objective of that, I gather—and it is one with which I concur—is to work out the mechanism by which the sort of study to which he has referred would go forward. I think this is a very thoughtful contribution which Senator Bellmon has made, as he has done in many other areas. I think this sort of process may well lead us into developing policy in the overall way that he is seeking, and I think that would be a tremendous accomplishment.

Earlier I expressed some concern that we never hold complete oversight hearings about policy with respect to the executive branch of the Government, just to get a total picture of what they are doing and what their objectives are.

The CHAIRMAN. I agree. It is a highly laudable objective, one that we should move ahead with.

Senator PELL. Mr. Chairman.

The CHAIRMAN. Senator Pell.

Senator PELL. I think there are two points here. In addition to military power, we have to consider economic power and cultural or educational power. I would hope as we move ahead with this idea, which I think is an excellent one, that we would not limit it only to military power and foreign relations. I would hope we would bring in these other aspects as well.

Second, from the viewpoint of the Rules Committee, I would hope that the staff could be drawn from the present staff, just as the Senators are drawn from the present committee of the Senate, rather than hiring a whole new staff for this period. We might have to hire some people from the outside, but I think the expert knowledge of our own staff people and the Armed Services Committee staff people, and maybe people from the Finance and Human Resources Committees, could add a dimension that would not be achieved if staff were all hired from the outside.

The CHAIRMAN. Very well.

Thank you, Senator Bellmon.

Senator HAYAKAWA. Mr. Chairman.

The CHAIRMAN. Senator Hayakawa, we have your proposal to take up next. I recognize you for that purpose.

Senator HAYAKAWA. Thank you, Mr. Chairman.

COMMITTEE RECONSIDERATION OF PROPOSALS

Yesterday, in my remarks I drew the attention of my colleagues to the fatal similarity between the Senate debates on SALT II and the debates on the Treaty of Versailles in 1919. In both cases, the respective administration has taken the position that any substantive changes would be unacceptable to the other parties and therefore are defined as "killer amendments." As I see it, the Carter administration is repeating the error of President Woodrow Wilson by resisting any changes which would make the treaty acceptable to two-thirds of the United States Senate.

Moreover, Mr. Chairman, it seems to me that those among my colleagues who follow the lead of the administration in this regard are making the same mistake. There may be enough votes to prevent important amendments or reservations, but the price will be the defeat of the treaty on the floor.

I therefore must urge my colleagues on this committee to keep this aspect in mind when they cast their votes for the second time on two amendments, one reservation, and one understanding.

There are, of course, other important improvements of the treaty which also were voted down in committee. However, I have been focusing only on two key deficiencies in SALT II, the problem of inequality and the issue of verification. The Baker amendment and the Baker reservation before you try to improve upon and repair the inequality aspect. The Lugar amendment and the Glenn understanding, on the other hand, deal with the verification issue.

All four proposals, of course, belong in category III. I think it only proper, Mr. Chairman, for me now to defer to the three Senators who offered these proposals so that they at once can plead their cases. May I start out by bringing up the Lugar amendment. I want to move its reconsideration, Mr. Chairman.

The CHAIRMAN. I think the best way to proceed would be, if you wish to recognize Senator Lugar as the sponsor, for him to restate the case. Then the question will be on whether this committee should reconsider its previous decision.

If the amendment will be distributed, I will recognize Senator Lugar for a restatement of the case.

I believe that the Senators now have a summary of the action that has been taken by this committee during the course of these markups. The summary identifies the Lugar amendment in question as No. 16, I believe, which is on page 5. It was considered on October 25 and was rejected on a vote of 6 to 9.

The Senators voting for and against are listed on page 5, item 16.

Senator Lugar, you are now recognized.

Senator LUGAR. Mr. Chairman, I appreciate the designation of my amendment by my colleague, Senator Hayakawa, as one of the important amendments which he believes will be required in order to gain ratification of this treaty on the floor.

As you will recall, Mr. Chairman, the amendment was argued and the vote was taken in a secret session because much of the material involved was classified. I will attempt to make a summary argument this morning that would not violate that problem.

I would simply say for the benefit of members of the committee that the issue has been well argued. I think, in fact, that all of us have debated it substantially. We have had expert testimony available to us in the privacy of the quarters of the Intelligence Committee. The administration has made a good case with regard to it as well. I have no reason to believe members will change their minds, but for the sake of this procedure, let me simply give my case for this amendment.

First, let me read the amendment so that everyone involved in our hearing today will know what it says.

In Article XV of the treaty, add the following new paragraphs: "4. Each Party may establish, in accordance with procedures agreed in the Standing Consultative Commission before the date of entry into force of this treaty, facilities for the collection of intelligence data necessary to verify compliance with these agreements at each test range in the territory of the other Party. For purposes of this paragraph, the term "test range" shall include testing sites referred to or identified pursuant to the Second Agreed Statement to paragraph 2 of Article VII."

The gist of this amendment and my reason for arguing for it is that collection sites would be placed in the Soviet Union and, likewise, on American soil to make certain, so far as possible, that monitoring of the provisions of the treaty was as complete as possible and the verification, likewise, as complete and sound as possible.

ASYMMETRY OF CLOSED AND OPEN SOCIETIES

I suspect that there could be argument against sites of this variety. Of course, the major argument against the amendment is that we are dealing with the Soviet Union, a society that long has been a closed society in many, many respects, and which has long held that intelli-

gence collection sites, such as the one I am proposing, are not in accord with the national policy.

In short, the Soviet Union has argued, in effect, that secrecy itself is a strategic position and is of value, and if any amount of secrecy is to be forfeited, it ought to be a negotiable item.

Our problem is that the United States is far less secret. In fact, some would argue that we are open to a fault with regard to all of the military information that might be required by the Soviet Union. Thus, we enter into these negotiations in a very unequal posture.

I appreciated being a part of the delegation which Senator Biden headed, and he was kind enough to allow me a forum with Mr. Kosygin and the members of the Supreme Soviet to make this case, quite apart from making it afar. First, ultimately this is in the advantage of the Soviet Union, as well as in the advantage of the United States of America, I believe, to get through the cat-and-mouse game of intelligence. This cat-and-mouse game of intelligence is one in which we have not defined "national technical means," although generally people believe they know what national technical means are. We have not really guaranteed our ability to use our national technical means without violation of our ability to permeate the atmosphere and make certain that we monitor and, therefore, verify successfully.

The Intelligence Committee report, a very important document, goes through each of the treaty provisions, arrives generally at an estimate of whether there is a high, moderate, or low probability that we will be successful in monitoring and, having monitored successfully, may therefore come to some degree of verification of confidence. Each member has been asked to read through that to try to make his or her own estimate as to how we are going to come out on that.

The point I was trying to make is this: At some point, we admitted in the United States that we may be frustrated with regard to our ability to monitor this treaty. Things may go wrong with regard to telemetry, satellites, or any other collection procedure identified in open session. We were hopeful that would not occur. We are saying that if these things deliberately occur, it would be very serious business and might be the end of the treaty.

There are some who would raise the question as to whether a treaty that has been fought for this long and hard by the administration would be turned off that abruptly in the event that monitoring became more difficult or, in fact, were denied. Some skeptics, such as me, are inclined to believe that the administration would go a long way, in terms of its tolerance of denial of collection before it said this is serious enough that we bring SALT II to an end.

Therefore, I have tried to ask my colleagues to think through this particular amendment, not only in the spirit of something that would require further negotiation, because, indeed, I believe it would, and if that is the criterion for the acceptance or denial of an amendment, then, very clearly, we have a difficult problem because we are going to have to talk some more about this.

SOVIET VIEW OF FURTHER VERIFICATION MEASURES IN SALT II

Kosygin was very explicit, so far as I could tell, in his reaction that this simply was beyond the parameters of the consideration of SALT

II. I think my colleagues would verify that he said that anyone who continued to press this sort of thing would bear a very considerable burden for potential disruption of the whole SALT II procedure if an amendment of this variety should be adopted by our colleagues. I was willing to accept that responsibility because I believe it is in his best interest, as in ours, to finally say that if the SALT process is important—and I think we all believe it is—it is important that we make certain how many elements we have, the characteristics of those elements, and the facts of breakthroughs or attempts at breakthroughs, if they are occurring.

One of the facts of life in terms of politics in the world today is that we have a pretty good idea, as has been pointed out many times, as to how many units each of the major powers has, and a reasonably good idea as to what sort of developments are occurring. They occurred over the course of time.

The facts of life with regard to SALT and its continuation are that we believe in the United States of America, and hopefully our friends in the Soviet Union believe, too, that if we are going to proceed down this course, there must be a very high degree of trust. This trust is not engendered in a situation in which literally we leave to chance whether or not we shall be able to monitor and verify this treaty successfully.

That is the argument, essentially.

Some will say that we can, in fact, know with a very high degree of certainty about what we want to know, and with a low to moderate degree of certainty those things that we would like to know and if accumulatively enough of them happen, we will move up to a high degree of certainty of knowing the accumulation.

There is no one, I believe, in responsible public life who is saying that this treaty, as it stands, can be adequately verified in every respect. What is being said and has been testified again and again is if there are violations that begin to change the strategic balance, then we would know about these, and, having known about this total accumulation, we could begin to take steps in time to try to rectify that balance.

This is our understanding of it. I don't think the American public has ever quite accepted that kind of definition of adequacy of verification. I think the American public has been led to believe by occasional political rhetoric that this treaty could be verified from day one in every respect. That was nonesense at the beginning and it is nonsense now.

What we are really arguing about among ourselves is this: Is a fairly high degree of verification and monitoring going to be good enough, given the fact that, if we are not going to renegotiate further, that is all we are going to have? We will simply have to assert our right to use various national technical means that we may have or devise and will have to call, through the Consultative Commission, the Soviets to account if things go poorly in terms of our collection situation.

I just think that at this point, before we lock up this treaty and before we proceed on to a SALT III that this is a bridge we need to cross. Some of my colleagues have said, and indeed we have felt, that some of our Soviet conversationalists inferred that SALT III would

call for greater concessions on the part of the Soviet Union, that there would be an opening up, that onsite inspection of various sorts might indeed be in the cards. This is for negotiation in SALT III. But our feeling was that the Soviets were quite adamant that they had done enough in terms of opening up for SALT II and that this was all they were going to let us have, that we could scratch and try to do the best we can to ferret out what they are doing from afar, but it is our tough luck if we don't make it. They are just not going to be all that cooperative.

What I am suggesting in this amendment is that both sides, the United States and the Soviet Union, had best get the verification situation squared away and to do it presently.

I am prepared to risk the period of delay that negotiation would require because I believe that ultimately this is so important to the whole SALT process, to the ongoing talks and negotiations.

Mr. Chairman, I think that all of that argument can be made in an unclassified way, and I will stop here. I think the logic of what I am saying is either persuasive, quite apart from the technical aspects, or it is not. That essentially is the case for my amendment.

The CHAIRMAN. Thank you very much, Senator. As you will recall, we spent about 2 hours in executive session discussing this before we reached a decision and a vote. While the committee voted against your amendment because, I believe it would have required a change in the text of the treaty and all that this entailed, it was also the feeling that on-site inspection is not yet feasible. And so, the committee adopted a section 1 understanding which provided that since national technical means of verification may not be sufficient to provide adequate verification of the provisions of future strategic arms limitation agreements, the United States shall seek to negotiate the inclusion in such future agreements cooperative measures contributing to the effectiveness of NTM. That was offered by Senator Glenn, and it was adopted by the committee.

That is the history of the discussion and its outcome. I would hope we could proceed to a vote on whether or not this matter should now be reconsidered.

Senator LUGAR. Mr. Chairman, may I ask General Rowny for a comment? His would be the only voice that was not a part of the last discussion. I would appreciate having his comment at this point.

The CHAIRMAN. All right.

General Rowny, we welcome your comment. Please direct it toward the issue before the committee in order to expedite our deliberation.

General ROWNY. Sir, I have read through the markup proceedings, which I got Monday. I tried to educate myself and bring myself up to date. In doing so, I have been struck by the large number of what to me were reasonable and sensible proposals which were put forth, and I would consider that this was one of them.

IMPLICATIONS OF U.S. POSITIONS NOT EXPLICITLY ENDORSED BY SOVIETS

I then had to reeducate myself on international law because I found that the procedures of the committee now have categories I, II, and III, which were unknown to me. So I now find that there are three new categories.

Without taking too much of the committee's time, my view on this is best expressed in a letter sent to this committee, to Senator Church, on the first of October, when he asked my views on September 13 about so-called unilateral statements. My view there was, and still is, that we were enjoined not to make unilateral statements in SALT because, after SALT I, we had found that we were simply just talking to ourselves and that these had no binding effect.

Now I find very little—and Senator Hayakawa, pardon the expression I will use—difference, I find only semantic difference between categories I and II and unilateral statements. If we are not going to put anything to the Soviets which is binding, which is category III, then what is it other than a unilateral statement?

Senator BIDEN. Excuse me, General, but I am confused.

Did you answer the question about what you thought about Senator Lugar's amendment for onsite inspection?

General ROWNY. I wanted to raise the point, sir, which I think is basic in here that the——

Senator BIDEN. I know that, General. But now you are a staff member who is asked a question, and the question was will you respond on that question. We know all of the rest of your concerns.

Senator HELMS. Mr. Chairman, in due course I will get the floor and I will ask him to comment on the very thing about which he is now talking. We have heard the administration go on for hours and hours and hours on various things, and now General Rowny is taking 5 minutes and we get a protest. When I get the floor I will yield to General Rowny.

The CHAIRMAN. Senator Helms, I believe it would accommodate everybody if we just proceed to let the general answer the question as he sees fit. It will accommodate your needs and I think in the end it will expedite the procedure, which we are trying to do.

General, please proceed.

General ROWNY. Thank you, Mr. Chairman. I will try to be brief.

I only raise this point—and I say "only," because I think it is fundamental—because what we are dealing here with is an assumption that anything that cannot be put back to the Soviets is not acceptable. This I find to be ill-advised.

As I look back over the history of the treatymaking process of this country, there perhaps are some 1,400 treaties since 1789, and a large number, a substantial number, of important treaties, starting with the Jay Treaty, were amended. I look to recent history and I see that the Panama Canal Treaty, a very important treaty, was amended. Amendments were attached and these had to be signed by the other party.

I don't want to belabor this, Senator Church and Senator Biden, but I want to make it my view that we ought to look at fundamentals, and fundamentals here are: is it a safe assumption that any treaty that has to go back to the Soviet Union thereby is unacceptable?

To put it more clearly, I do not accept the notion that every amendment that they must look at is a "killer amendment". Anything that is reasonable and anything that should be put forward, it seems to me, should be put in that basis, and I think the treaty is in the Soviets' interest as it is on ours. The term "killer amendment" uses too much

rhetoric on something which should be a reasonable procedure to follow.

So, having said that—and at some time I would welcome the opportunity to say some more about this, because I do not think the question is exhausted on the notion of whether or not any amendment is a killer amendment—I would like to repeat just briefly, for emphasis, that I think category I and category II are in the nature of unilateral statements.

To get back to this point, yes, I think that the notion of intelligence is very important in verifiability. In my 6½ years of negotiating with the Soviets, I found that we were playing with our poker hand face down and they were playing with their poker hand close to their chests.

Let's take the point raised a little earlier about missiles. They know how many missiles we have because these are published in one place or another and they can get access to those. We have to guess at the number of missiles that they have. It goes down the line, point after point after point.

Now, the question has been raised before that anything that exacerbates the Soviets or anything that makes them interrupt 700 years of a secret society, since the Tartars occupied them, is anathema to them. I think it is. But I think that they recognize that if they want to deal on a major power status with a major power, they have to accept certain facts things of the 20th century. In this respect, they did accept certain things on a data base.

I was subject to ridicule for several years about putting forth the notion of a data base. The Soviets, I was told by my colleagues, simply will never buy it. Well, they didn't buy everything in it; but they bought a substantial amount, and I think they will accept other things which are necessary for verification.

As we go down the line in this treaty, there are very many things which cannot be verified short of intrusive measures. I find nothing reprehensible—as a matter of fact, I find it a good step for confidence building and verifying on both sides—that there are established collection facilities on the territory of the other side. I would not put this in the category of a killer amendment. I would say, in reverse, that the way the vote came out simply is a unilateral statement.

In the interest of being brief, I would like to stop right there.

Senator BIDEN. Mr. Chairman.

The CHAIRMAN. Senator Biden.

Senator BIDEN. Mr. Chairman, I would just like the record to show in public session that there were reasons put forth by me and others, many others, in the executive session that go to the substance of this amendment and not whether or not it impacts upon the renegotiation of the treaty. I will not discuss those now, but will refer my colleagues in the full Senate when this comes up for debate, which I am sure it will, to that executive session record.

I would like to ask one question of Senator Lugar, because it seems to be the premise of Senator Hayakawa's well-thought-out statement as to why these reconsideration motions should be brought forward, and that is that it is the inflexibility of this President, as it was of President Wilson, in failing to go along with amendments to the treaty

that caused the downfall of the process which the three colleagues that are on the other side of the aisle today all support, that is, the SALT process.

In line with that, and I mean this sincerely, I would like to ask Senator Lugar this question.

Senator Lugar, if this amendment were to become part of the treaty, would you vote for the treaty?

Senator LUGAR. No; this would not be an adequate reason for me to vote for the treaty. It would improve the treaty. The treaty has a good number of deficiencies in my judgment, and I will not go through them all. But I suspect, whether one is in favor of the treaty as it stands or not, there is an obligation to try to improve it. I think this would and it is in that spirit that I offer it.

Senator BIDEN. I was just speaking to your commitment to the process. That is all I meant.

Thank you, Senator.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Chairman, I hope when this does get to the floor that members will go back and read the executive session transcript to which Senator Biden referred and the classified information contained therein. I think Senator Biden's statement might indicate that the weight of evidence does not support Senator Lugar's position. I think the record of the executive session probably will show just the opposite.

I support the intent of what Senator Lugar is trying to do, although I will not vote to amend the treaty as he is trying to do today.

There are some serious problems with regard to this matter that Senator Lugar is trying to address with his proposal which I think we do need to address. It might even be advisable to have another executive session before we come to a final vote.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Yes, Senator Javits.

Senator JAVITS. I would like 1 minute to speak. Every time something goes out over the television tube, it sounds like holy writ that never has been heard before.

General Rowny, with all respect to you, your argument has been heard before.

I have a paper before me which shows a long list of category III items which were considered and rejected and two which were accepted, notwithstanding what was said about exacerbating the Soviet Union or anything like that. One of the key proposals that was accepted concerned the Backfire.

We have evaluated every amendment. The category II which you describe, General, as talking to ourselves—I'm sorry, sir, but I cannot buy that argument. We have given strict instructions to the President about getting out of this treaty for things we do not think we could tolerate if they are found to be going on.

I respect your opinion, but I cannot allow this subject to lay that way and I deeply believe it represents every member of this committee, including the chairman.

I have not the remotest concern about voting an amendment or a category III reservation provided that I think it is worthwhile and

that we do not get more hurt by reopening than we would benefit from it, even if we won.

Lastly, General, you negotiated a great deal of this treaty. You never were able to get anything, except for something you were willing to give. Let's understand that. You didn't get something for nothing.

We always have to question what we are getting and what do we have to give, and therefore is it worth it?

General ROWNY. Mr. Chairman, may I please respond very briefly?

The CHAIRMAN. Yes.

General ROWNY. I don't doubt the sincerity of giving instructions to the President. I was pointing out—and I would like to make my point again—that a category III reservation is the only reservation that has any effect with respect to the Soviet Union. The two that I have seen that have been added here are things to which the Soviets previously have agreed.

With all due respect for the Senator, and I have a great deal of respect for Senator Javits, I don't see why we should pay a price for equality. Anything that is unequal, it seems to me, has to be equaled. That is the principle of this treaty. That is the basis on which I respectfully submit my statement.

The CHAIRMAN. Is the committee ready to vote?

Senator LUGAR. Mr. Chairman, I have found one further argument.

The CHAIRMAN. Senator Lugar.

Senator LUGAR. I think Senator Javits' point is well taken.

I think uniquely among the amendments at least that I have considered or offered, this one does offer equality. It talks about listening devices or whatever devices we need that are equally based on our soil and on theirs. If, in fact, one of the desires the Soviets have, and it may be a legitimate one, is to guard against breakouts, technological breakouts on our part, this really offers assurance to the Soviet Union that they would know. Granted, they know through Aviation Week or through the regular press sources now, or maybe they fear that they don't know.

I think it is important, as Senator Glenn has pointed out, and maybe these things can be accomplished in other ways. It becomes then a very technical argument.

I am not wedded to this specific amendment. I am saying that any sort of equality with regard to the verification issue finally comes down to that, to equality, and not to a game of chance. As to whether by category by category we can do it well or do it poorly, we finally have decided that we can't do it any better and we figure that this is the best we can do, and it is better to have a little something of this variety and proceed with the treaty.

But I think we would have to negotiate this more seriously, and this is something in which there could be mutual assurance and absolute equality so far as I am concerned.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

The question now is whether the committee should reconsider the vote that was taken on October 25. An aye vote would be in favor of reconsidering the previous decision of the committee. A no vote would be against it.

The clerk will please call the roll.

Mr. BADER. Mr. Pell.
Senator PELL. No.
Mr. BADER. Mr. McGovern.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Biden.
Senator BIDEN. No.
Mr. BADER. Mr. Glenn.
Senator GLENN. No.
Mr. BADER. Mr. Stone.
[No response.]
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. No.
The CHAIRMAN. Just a moment, please. Senator Stone votes aye by proxy.
Mr. BADER. Mr. Muskie.
The CHAIRMAN. Senator Muskie votes no, by proxy.
Mr. BADER. Mr. Zorinsky.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator JAVITS. No, by proxy.
Mr. BADER. Mr. Baker.
Senator LUGAR. Aye, by proxy.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator LUGAR. Aye.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.
On this vote, the ayes are 6 and the nays are 9.
The motion to reconsider is rejected.
Senator Hayakawa is recognized.
Senator HAYAKAWA. Mr. Chairman, thank you.

TELEMETRY IMPEDANCE CONSTITUTES VERIFICATION IMPEDANCE

I would like to move the reconsideration of the Glenn understanding requiring telemetry. I would yield to Senator Glenn to read the understanding and to give any further information he may wish to give.

Senator GLENN. I was not aware the Senator was going to yield to me.

I would be happy to read the proposal, however.

It says,

In section 3 of the resolution of ratification, include the following: "That any practice with regard to the transmission of telemetric information during the testing of the strategic arms limited by the treaty, including, but not limited to, the failure to transmit relevant telemetric information, constitutes a concealment measure impeding verification by national technical means of compliance with the provisions of the treaty, within the meaning of paragraph 3 of article XV of the treaty."

Senator HAYAKAWA. As I understand Senator Glenn's proposal——

The CHAIRMAN. Excuse me, Senator, but would you yield to me for a moment, please?

Senator HAYAKAWA. Yes.

The CHAIRMAN. This item appears as item No. 17 on page 5 of the recapitulation of committee action. It was voted on, on Thursday, October 25, and was rejected by a vote of 6 to 9.

The committee adopted in its place the following category I understanding, which reads:

> That any practice with regard to the transmission of telemetric information during the testing of the strategic arms limited by this treaty, including but not limited to the failure to transmit relevant telemetric information, which results in impeding of verification by United States national technical means of any provision of the treaty will be raised by the United States in the Standing Consultative Commission and, if the issue is not resolved to the satisfaction of the United States, the United States reserves the right to exercise all other available remedies, including, but not limited to, the right to withdraw from the treaty.

This was adopted on the same date by a vote of 15 to 0.

Senator Hayakawa is recognized.

Senator HAYAKAWA. I simply want to add, in order to put the matter into as simple language as possible, this information. The Glenn understanding stipulates that any practice which impedes the collection of telemetric information, including the failure to transmit telemetry, would constitute concealment.

If we are to be open with each other, that is, the Soviet Union and the United States, we must be open with each other. This is why, as I understand it, Senator Glenn has insisted upon this understanding.

I do not believe that a category I statement in which we really simply talk to ourselves is sufficient for the purposes of Senator Glenn's safeguard, so that we shall get the information necessary through the telemetry.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Mr. Chairman, I did not propose to bring this up again. I don't want anyone to think that Senator Hayakawa is acting as my surrogate on this. He is acting in his own regard and in his own interest with regard to this. I would only speak on his behalf and say that I still have the same feelings that I expressed in the earlier executive session. Unfortunately, we are somewhat limited as to what we can say here, as opposed to when we were in executive session. However, I would just state again the importance of telemetry.

Lots of things can be done in the way of getting information back from tests which can alter the telemetric data in one way or another, or how it is transmitted, or the types of antennas used. We have gone into all of those things before in great detail.

IMPORTANCE OF TELEMETRY TO MONITORING MISSILE MODERNIZATION

We are faced with a dual problem in the Soviet testing program. They can test not only one new missile, but they can test several old types that may be modernized or given additional capability. This is a big danger.

It is highly important that we be able to continue to get telemetric information because that is where we are able to get most of the information on which we base such fundamentals that this treaty constrains such as launch-weight, throw-weight, and certain types of MIRVing.

It is this area which I think is so important to us and that is the reason I made my proposal a category III proposal. I am sure committee members will remember some of the arguments made in executive session. I still feel this is important and I am glad to speak on behalf of it since Senator Hayakawa has brought it up. I will be glad to vote with him on this in the hope that it could be moved into section 3, even at this late date.

I don't know if there is much else that we can say in open session about it without risking a breach of security.

Senator BIDEN. Mr. Chairman, I would hope we would not say anything more about it in open session. We have all heard it and have debated it.

Sam, I don't mean the overall question, but I refer only to the importance of telemetry and why it is or isn't and whether or not it relates.

Senator HAYAKAWA. Mr. Chairman, might I ask General Rowny for his comment, the kind of comment that can be made in open session.

The CHAIRMAN. General Rowny.

General ROWNY. Thank you, Mr. Chairman.

I, of course, have not seen the proceedings of the executive session. I am aware of the sensitivity of some of the items and will respect those. I have no intention of violating any acts of secrecy of the United States.

I think I must say, again, on reading about this and seeing the markup, that I am struck with the nature of what we finally have arrived at here and am very much opposed to this statement the way it comes out as not being in the interest of the United States.

Let me explain why.

NEGOTIATING HISTORY OF TELEMETRY PROVISION

In the first place, there are three parts to this provision as it now stands. The first part is that the sides are permitted to encrypt telemetry. Now that was not in the original way this provision was stated. It has been added under the second common understanding as a concession to the United States. We do not encrypt. This is open information and I am not violating any security. We do not encrypt telemetry information and therefore it is simply a matter of equality that the other side should not encrypt either.

But then there are two other provisions as you read this. The second is that this encryption shall be denied, not be permitted, if it deliberately denies information.

Deliberate denial, of course, is a subjective judgment, and here the judge and jury is the other side. So you really do not know what is happening and what the final outcome will be until you ask the other side. The other side can say simply that well, we are not deliberately denying any information. We could say yes, you are, and

they could say no, we're not, we are only encrypting those things which we want to encrypt.

The third part of the provision pertains to the provisions of the agreement, in other words, deliberate denial of information relating to the provisions of the agreement.

Again, it is no secret that the Soviets steadfastly opposed anything in the treaty by way of a provision which would require telemetry. Therefore, to me the whole statement is a non sequitur. I find that we have nothing here that is binding. It is of no use to us and it gives us the illusion of something which is worse than not having it in the first place.

So, having lived through this and in reading this I very much favor Senator Glenn's motion that this be a category III, in other words, something that would go back to the Soviet Union.

I would be glad to the extent that I can in open session, without getting into classified information, to elaborate further on why I believe we have arrived finally at a provision in the treaty which is simply a non sequitur.

The CHAIRMAN. The question is on whether the committee should reconsider the vote that was taken on October 25. An aye vote would be in favor of reconsideration; a no vote would be against reconsideration.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. No.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Biden.

Senator BIDEN. No.

Mr. BADER. Mr. Glenn.

Senator GLENN. Aye.

Mr. BADER. Mr. Stone.

The CHAIRMAN. Aye, by proxy.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. No.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Zorinsky.

[No response.]

Mr. BADER. Mr. Javits.

Senator JAVITS. No.

Mr. BADER. Mr. Percy.

Senator JAVITS. No, by proxy.

Mr. BADER. Mr. Baker.

Senator LUGAR. Aye, by proxy.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. Aye.

Mr. BADER. Mr. Lugar.

Senator LUGAR. Aye.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

On this vote the ayes are 6 and the nays are 8. The motion to reconsider is rejected.

Senator PELL. Excuse me, Mr. Chairman, but I would move that the record be kept open for absent members to cast their votes.

The CHAIRMAN. The normal committee practice will be followed.

Senator Zorinsky was later polled in the negative.

Senator Hayakawa, do you have another motion to reconsider?

Senator HAYAKAWA. Thank you, Mr. Chairman.

I want to make clear what Senator Glenn also tried to make clear, which is that I am not acting as proxy or cat's paw for Senator Glenn, Senator Lugar, or Senator Baker. As I said in my own statement about the analogies between the SALT II Treaty and the Treaty of Versailles, the process of labeling certain things "killer amendments" and getting them included in the treaty I feel may be fatal to the treaty. I myself have selected these four items for reconsideration, the proposals of Senator Lugar, Senator Glenn, and Senator Baker.

RECONSIDERATION OF AMENDMENT TO COUNT BACKFIRE

Senator Baker is out of the city at the moment, so I will briefly summarize the rationale for his amendment and his reservation.

Shall I move reconsideration of both of these, Mr. Chairman? Is a formal motion necessary?

The CHAIRMAN. Yes.

Are you going to move that the two be considered en bloc?

Senator HAYAKAWA. I think they are close enough so that they can be considered together, unless anyone has any objections.

The CHAIRMAN. Very well, then.

Why don't you make your case and then I will briefly recapitulate what the previous action of the committee has been.

Senator HAYAKAWA. The rationale for this amendment and reservation is as follows:

The amendment, if accepted, would correct an important inequality in the treaty. The Soviets have been successful in avoiding the counting of the Backfire bomber. As a result, the Soviets will have 2,650 strategic nuclear delivery vehicles, 2,250 under the treaty plus about 400 Backfire bombers. We would have 2,315, which is 2,250 plus 66 of our FB–111's.

In other words, the Soviets would have a total of 2,650 compared to our total of 2,315.

These amendments would affect article II, paragraph 3(a) of the treaty. The amendments also would amend articles III and V to provide counting rules to the effect that each Backfire bomber would be counted as three-fourths and each FB–111 bomber as one-half.

The Baker reservation, furthermore, would eliminate the inequality of the United States not being permitted to convert launchers for light ICBM's into launchers for heavy ICBM's.

As I see it, the Soviets have been able to trade one horse three times. That is a pretty good horse deal if you can get it—and they did.

We agreed not to count their forward based systems; in exchange, they did not consider our forward based systems. Moreover, we agreed not to count their Backfire bomber and we agreed not to build any

heavy ICBM's. These are the inequalities that this amendment and reservation try to correct.

Thank you, Mr. Chairman.

Senator HELMS. This is No. 8 in the list, Mr. Chairman; is that not correct?

The CHAIRMAN. It is No. 8 on our recapitulation, on page 3. The committee voted on this matter on October 23. It was rejected on a vote of 7 to 8.

I wonder if the administration, Mr. Cutler, would make a brief comment. Senator Hayakawa presented his case. Would you like to make a brief comment on the administration's side?

Mr. CUTLER. To be very brief, Mr. Chairman——

The CHAIRMAN. Yes; please be brief. This is for the record. We are all well aware of the arguments.

Mr. CUTLER [continuing]. It is the position of the Joint Chiefs of Staff and General Ellis that the Backfire for forward-based systems trade is a good trade from our point of view and that it should not be reopened. Beyond that, reopening it would lead, in the view of General Jones, to a reopening of cruise missile definitions and limits which he regards as favorable to the United States.

So, this is essentially a military amendment. The Joint Chiefs and the Commander of SAC prefer not to reopen these issues.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Yes, Senator Helms.

Senator HELMS. I would raise a question to whomever can answer it regarding the arithmetic. Do we have 308 missiles to the Soviets' 600? What is the arithmetic there? Does anybody recall?

John, do you recall? I want to know what the imbalance in missiles is between the Soviets and the United States, heavy missiles.

General ROWNY. They have 308 launchers and we have none.

Senator GLENN. That's right. It is 308 to zero.

Well, now, wait a minute. We have 54 old Titans that would count in the same category, but they have 308 that would be considered heavies. So, it would be 54 to 308, with ours being older.

Mr. CUTLER. Might I add, since I dealt with the Backfire amendment, that the proposed heavy missile amendment is one which would allow us to do something we have no intention whatsoever of doing, that is, putting new heavy missiles which would cost at least as much as the M–X into the present holes for the Minutemen. Beyond that, it would give us the right to a second new type, in addition to the light missile new type, which we require for the M–X. We think it most unlikely that the Soviets would agree to a second new type for the United States if they were to have only one new type. If we gave them a second new type in exchange for something we have no intention of doing, that would be a very poor trade indeed.

Senator HELMS. What was it you said about the cruise missile?

Mr. CUTLER. What I said was that in the judgment of the Joint Chiefs and General Ellis—and all of this was testified to before your committee and repeated when this amendment first came up—the Backfire results that were achieved, the limitations on the production of the Backfire and the definition of its capability, in the context of excluding all American forward based systems that we have in Europe,

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was a very good result for the United States and if we try to reopen it by obtaining further restrictions or the counting of the Backfire, in General Jones' view that would lead to Soviet efforts to retrade on the cruise missile, which has been resolved in a manner satisfactory to the United States.

Senator HELMS. Well, the cruise missile is kind of academic anyhow because that is beyond the duration of this treaty.

General Rowny, do you have any comment about that?

General ROWNY. Which first, Senator?

Senator HELMS. Either one, both.

NEGOTIATING RELATIONSHIP OF BACKFIRE AND U.S. FBS

General ROWNY. Well, sir, on the Backfire, I am aware that the Chairman of the Joint Chiefs of Staff has said that he is not in favor of reopening this issue. That is his judgment.

It comes somewhat of a surprise to me, though, that he or any member of the Joint Chiefs of Staff has said that this was a trade for FBS. In 6½ years of working and advising the Joint Chiefs of Staff, this is the first time that I have heard an admission—and I have never seen a record—that there was such a trade. I remember quite distinctly the time that this was negotiated. At that time, before Vladivostok, when the Soviets wanted to bring up FBS, we said all right, you will have to bring up your FBS. After that exchange, they dropped it. At Vladivostok there was no further discussion of FBS.

So, I never have seen a record nor do I know of one that exists of a trade of Backfire and FBS.

Aside from that, I think that the Backfire problem on its own merits again represents one of the three large or gross inequalities of this treaty.

On page 60 of the State Department Selected Document 12B, it says: "Under certain flight conditions the Backfire is assessed to have an intercontinental capability." That is a correct statement. That statement is backed up by the intelligence community.

Therefore this, plus the fact that the Chiefs always have been in favor of counting the Backfire and never have retracted from that view, the fact that the Backfire, if allowed to run free, will be produced to the extent of some 380 to 400, and they will have more Backfires than we will have B–52's, and the fact that some of the Backfires are more powerful than some of our B–52's all mean that this force, which can put an additional one-third of total megatonnage on the United States, should be counted. Therefore, I think that the failure to count the Backfire is a very serious inequality in this treaty. I could go on, of course, about the negotiating record, which is very elaborate and is a very sad case when you look into it of how we failed to negotiate this Backfire problem.

But when I ask just on the sheer merits of the case, does it have an intercontinental capability, the answer is yes, under certain conditions, and those are conditions under which the Soviets could use it. Therefore, is it an intercontinental system? Yes. Therefore, should it be counted? Yes.

Putting all of these together, I find it hard to understand why the Backfire should be allowed to run free.

I would be glad to talk to heavy missiles, too.

The CHAIRMAN. The question is on the Backfire. I was going to suggest that we might have a vote on the Backfire proposal and then we can discuss heavy missiles.

Senator HELMS. Very well.

The CHAIRMAN. The question is whether the committee should reconsider the vote that was taken on October 17 on the amendment offered by Senator Baker which would have counted the Backfire bomber as three-quarters of a strategic nuclear delivery vehicle and the FB–111 bomber as one-half. The original vote was 6 to 9 against the proposal. A vote aye would be in favor of reconsideration, and a vote no would be against.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

Senator PELL. No.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Mr. McGovern votes no, by proxy.

Mr. BADER. Mr. Biden.

The CHAIRMAN. Mr. Biden votes no, by proxy.

Mr. BADER. Mr. Glenn.

Senator GLENN. No.

Mr. BADER. Mr. Stone.

The CHAIRMAN. Mr. Stone votes aye, by proxy.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. No.

Mr. BADER. Mr. Muskie.

The CHAIRMAN. Mr. Muskie votes no, by proxy.

Mr. BADER. Mr. Zorinsky.

[No response.]

Mr. BADER. Mr. Javits.

Senator JAVITS. No.

Mr. BADER. Mr. Percy.

Senator JAVITS. No, by proxy.

Mr. BADER. Mr. Baker.

Senator HAYAKAWA. Senator Baker votes aye, by proxy.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. Aye.

Mr. BADER. Mr. Lugar.

Senator HELMS. Aye, by proxy.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

Senator Zorinsky has given me a proxy to be voted, as he voted originally. That is in the affirmative. So, Mr. Zorinsky votes aye, by proxy.

On this vote, the result is the same as the previous vote. There are 6 ayes and 9 nays. The motion to reconsider is rejected.

Now we will proceed to item No. 8 for a vote on the second matter that has been discussed. This is the reservation voted on on October 23, which was offered originally by Senator Baker. This reservation would have given the United States the right to convert certain launchers for

light ICBM's into launchers for heavy ICBM's and the right to test and deploy one new type of heavy ICBM.

The question is on the reconsideration.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Senator Helms.

Senator HELMS. Here we go back to the subject to which I addressed myself earlier today, that of launchers. The Soviets have 308 heavy missiles, isn't that correct, and we have none?

General ROWNY. We have 54 older ones.

Mr. CUTLER. Launchers.

Senator HELMS. Is my information correct that each of those 308 heavy missiles has the equivalent of anywhere from 600 to 1,600 Hiroshima bombs in power? I am just trying to get a little prespective on what we are dealing with now. If we are going to put this treaty through and advertise it to the American people as offering security, I want to show what it does offer.

Mr. SLOCOMBE. It has very formidable capability, Senator, but those numbers strike me as a little high.

Senator HELMS. Do you have any opinion about that, General Rowny? Is that anywhere near correct?

General ROWNY. It would be quite high, Senator. The capability is very formidable. Let me see. It is 200 times 600, let us say 500, I think one makes a megaton.

Senator HELMS. The Hiroshima bomb was 12.5 kilotons; is that right?

[Pause.]

Senator HELMS. Well, I do not know that it is entirely relevant. I am just trying to point out what we are talking about in terms of awesome kill capability in terms of the United States.

There are 254 major urban complexes in this country, each with over 100,000 people. That includes, I am told, about 55 percent of the population. All of this stuff is sitting over there and we are talking all of the jargonese, but the bottom line is, how much do they have in readiness on a first-strike basis to kill millions of Americans.

What is your assessment, General Rowny, of No. 8, which is a category III understanding—no, it is a category III reservation?

The CHAIRMAN. Senator Helms, the hour of 1 o'clock has arrived, and under the rules of the Senate, owing to your objection to the committee sitting further, we will have to adjourn for the day.

Senator HELMS. That suits me fine; I'm hungry.

The CHAIRMAN. Pardon?

Senator HELMS. That suits me fine.

The CHAIRMAN. I'm sure it does.

The committee will continue its deliberations on this treaty beginning at 9 o'clock tomorrow morning.

[Whereupon, at 1 p.m., the committee adjourned, to reconvene at 9 a.m., Thursday, November 8, 1979.]

THE SALT II TREATY MARKUP

THURSDAY, NOVEMBER 8, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee convened at 9:25 a.m., pursuant to recess, in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Helms, and Hayakawa.

The CHAIRMAN. Senator Hayakawa, you have one more motion for consideration, and I wonder if you would present it at this time.

Senator HAYAKAWA. Thank you, Mr. Chairman.

AMENDMENT GIVING UNITED STATES RIGHT TO HEAVY ICBM'S

This is the Baker amendment offered originally by Senator Garn and presented here by Senator Baker. The purpose is to permit the United States to convert light ICBM launchers into heavy ICBM launchers and it reads as follows: before the period at the end of paragraph 3 of article IV, insert a comma and the following: "except that the United States of America may convert into launchers of heavy ICBM's a number of launchers of light ICBM's not to exceed the number necessary to enable the United States of America to deploy as many heavy ICBM's as were deployed by the Union of Soviet Socialist Republics on the date of signature of this treaty."

Then it goes on to say, before the period at the end of paragraph 9 of article IV, insert the following: "and the United States of America may flight test and deploy one new type of heavy ICBM."

This amendment, Mr. Chairman, deals with the question of the inequality that confronts us as a result of the omission of such provisions as this amendment proposes and therefore I would like specifically to ask these questions. If the heavy missile is not a weapon of significant value, why does the treaty specifically preclude the United States from having any and what did the United States get in exchange for this exclusion during the negotiating process? These are questions I would like to have answered again. I apologize if they have been answered before, but I would like to reconstruct those answers and I wonder if I might ask General Rowny, if he might comment on that.

General ROWNY. Thank you, Mr. Chairman.

Mr. Chairman, I would like to simply summarize the statements that I have made in the letter that I submitted to the chairman on

the first of October and you will find these on page 304 and page 318 of part 5. The arguments there are summarized or are put much more clearly than perhaps I will be able to give you orally.

HEAVY ICBM AND PRINCIPLE OF EQUALITY

The thrust of the argument is that we should enter a treaty that preserves equality and we should not enter a treaty that sanctions inequality.

The heavy missile is one of the most inequitable parts of this treaty and it is inequitable on two of the three points that I mentioned yesterday, first in its own right and second in that it does not help to get a handle on throw-weight or on qualitative limitations. In other words, the Public Law 92–448 requirements are not met. So if the treaty is to be equal, and I think it should be and if our task here or the task of advising the Senate is to try to remove as many inequalities as possible, then this is certainly one of the gross inequalities that should be remedied.

Why? Because the heavy missile is a superheavy missile. The Minuteman is about 2,500 pounds in throw-weight, three warheads. The Soviets' so-called light missiles, the SS–17's and 19's, are three times as heavy, that is 7,500 pounds of throw-weight, and have four and six-warheads respectively. The SS–18 is twice again as large as the Soviets' so-called lights; in other words, 15,000 pounds or six times as great as the Minuteman.

Now this means that by permitting these 308 heavy missiles the Soviets will be permitted 3,080 ICBM warheads. These warheads total one-half of the number of all of the ICBM warheads that the Soviets will be permitted to have under the treaty; in other words, 6,000. Of the 6,000 total, half will be represented by these heavies. Now the heavies constitute as much throw-weight, as much power, as all of the U.S. missiles combined, ICBM's and SLBM's. So clearly the heavy missile launcher issue is an issue which should be met head on. It was an issue which was discussed from the very beginning of SALT by the Joint Chiefs of Staff. The Chiefs wanted to curb the throw-weight of the Soviet Union and therefore try to suggest various means in which this could be done.

Now in the first instance after SALT I was signed, you remember there was a unilateral statement and the unilateral statement said there shall be no missiles heavier than the heaviest light. Of course we had in mind the Minuteman and the SS–11, but the Soviets didn't stop at that. The Soviets went to the SS–17's and the SS–19's which were heavy missiles. We didn't categorize them as heavy missiles. Subsequently we redefined the issue and made them light missiles about halfway in the game. Now along comes the SS–18, which becomes a superheavy missile. So we have found that the unilateral statement made at the end of SALT I was not binding and we find that now the superheavy is allowed to ride on top of these heavies.

The reason I dwell on this is because it is such a large inequity and causes so many of the problems concerned with crisis stability and deterrents. Since the Soviets will have 6,000 ICBM warheads to our 2,000 ICBM warheads and are permitted to do so under the treaty,

this makes the ICBM force vulnerable. This, in turn, leads to the M–X in a multiple-basing mode. We are preparing to deploy the M–X in some racetrack largely because of the presence of those extra warheads. It has been argued that, well, we need to protect our Minutemen even if the heavies are not there. That is true, but when you add 100 percent more in terms of warheads, then you can see that the racetrack system has to be that much more extensive and that much more expensive. The M–X and the multiple-basing mode will cost at least $40 billion in today's terms, which means by the time inflation and other things come in, by the time this program is finally fielded, it will be closer to $80 billion, a tremendous price to pay and largely attributable to the Soviet heavy missiles.

HEAVY ICBM'S AND REDUCTIONS

So if the Soviet heavy missiles were eliminated entirely, which would be the equal and equitable thing to do even if they were to be cut in half, as was proposed in the March 1977 proposal, this would be a tremendous plus because it would mean that we would be on the way to arms control reduction. It would mean that our Minuteman vulnerability probably would not be nearly as exacerbated. It would mean, for one thing, that we could bound the problem. What do I mean by that? What I mean is that by the time the M–X is prepared to be deployed in a mobile basing mode, the Soviets will be able to put 20 warheads on that missile because it has the throw-weight potential for them.

So even at the beginning of the deployment of the M–X in the racetrack mode we find we will have to build a larger racetrack. It will take us longer to get out of this trough of inferiority. It is going to be very expensive and largely caused by the inequity of the Soviet heavy missile in the 1980's.

So I would say that in almost any way you look at the problem, the Soviet heavy missile becomes one of the gross inequities in the treaty—it does not help arms control, it is a destabilizing element, it forces us to programs we should not have to go to under some reasonable or rational solution, and it does not really solve the problem. Let's suppose that the M–X for one reason or another in the racetrack mode is turned down—and we are not at all sure that it will be approved—then it would seem to me that a prudent military planner on our side would want to have open the option of doing something comparable to the Soviet Union in a fixed ICBM launcher. In the past it was not wise to build heavies on our side for several reasons. First, we thought that if we did, the Soviets would feel that they had to and would imitate us.

Second, we hoped that if we went to the smaller, they would go to the smaller system. Third, we did not believe that they would miniaturize and catch up to us in throw-weight. Finally, we thought our unilateral statement made at the end of SALT I should have some bearing. If the Soviets deployed something heavier than the heaviest light, then it would be a violation of at least the spirit of the agreement. Well, they did deploy something heavier than the heaviest light and we then called that a light. Then on top of that they compounded the problem with a superheavy.

So just to summarize again, the treaty should be equal and should codify equality. It should not make the law of the land inequality. That spirit is being violated if we permit the Soviet heavy missile launcher to be allowed by the treaty in its present form.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Mr. Chairman, I have two purposes of seeking recognition. One, I would like to make a unanimous consent request and, two, I would like to have 1 minute to say a word about how I shall vote on this proposal.

On the first matter, Mr. Chairman, having consulted the members of the minority, I ask unanimous consent that the vote on reporting out the resolution of ratification on the SALT II Treaty may be held at 11:30 a.m., tomorrow, Friday, November 9.

The CHAIRMAN. Is there objection?

Without objection, it is so ordered.

Senator JAVITS. Now, Mr. Chairman, just one word about General Rowny. I have heard many arguments, Mr. Chairman, on this matter and on other weaknesses in the treaty. There is no question about the fact that the treaty is not optimum and it leaves much to be desired but, in my judgment so far, the case has been made more strongly, that taken together as a package it does have some restraint as compared with no restraint. The alternative of no treaty and no restraint may have appealed to some, apparently to General Rowny, but not to me. Generally speaking, unless a big hole can be punched in the treaty that shows it jeopardizing our security, I would be for the treaty.

Second, on the heavy missiles, it takes 3 to 5 years to build anything, including heavy missiles. We are told the racetrack and M–X are not going to be ready until 1986. The treaty is up in 1985 so what is the use of retaining this option? We get nothing for it. We can start with heavy missiles if we want to right now but the Joint Chiefs of Staff say forget it. I think this is the weakest point of the opponent's argument against the treaty and therefore I shall vote to stay where I was; to wit, to vote against the motion to reconsider.

General, will you forgive me. If just wanted to state my position.

General ROWNY. I simply would like to make a short statement if I may.

Senator JAVITS. The Chair will have to recognize you.

Senator HELMS. I ask that General Rowny be recognized to respond.

The CHAIRMAN. Very well.

General ROWNY. Very briefly, Mr. Chairman, I don't think it was meant in this way, but the Senator said that I am not for restraints. I am for restraints. I am for arms control and for meaningful arms restraint. I feel that this treaty is the opposite of restraint and that putting restraints of the type contained in this treaty—that is, a 10-warhead restraint on the heavies—really is only for the purpose of the treaty. The Soviet's don't need any more than 10, and it really does not constrain them afterwards. Further there is no meaningful qualitative restraint in the treaty. Therefore, while it is a restraint in numbers, it is not a restraint in quality. Therefore, the quality being the more important element, it is not a restraint at all.

As far as a decision of the United States to start building heavy missiles, I think that this would be a violation of the spirit of the

agreement. Certainly if the treaty were ratified in its present form we could not. As the treaty says, you may not build or start construction, development, or deployment of new heavy launchers, so I don't follow that argument that we should start now and it would not make any difference. If we did it now, we would be violating the spirit of what has been put down on paper. If we did it or tried to do it after the treaty was ratified, it would be prohibited.

Senator STONE. Could I ask a question of the general?

The CHAIRMAN. Yes.

Senator STONE. Your theory is that if the treaty prohibits the United States building equivalent heavy missiles and if we were to start preparing to do so but without actually deploying it, that that would be a violation of the spirit of the treaty? Is that your approach?

General ROWNY. I think so, yes, sir.

SOVIET ASAT PROGRAM AND SPIRIT OF SALT II

Senator STONE. Then how is it that everybody understands that the Soviets are building antisatellite weapons when antisatellite weapons are prohibited in the treaty? Is that not a violation of the spirit of the treaty?

General ROWNY. Yes, sir.

Senator STONE. I cannot understand how we have a double standard here. We cannot do something that is prohibited, we cannot prepare an alternative which is prohibited to be deployed as heavy missiles, but there is not a thing wrong, though, with us following the Russians when the Russians prepare antisatellite weapons, the use of which is clearly the most fundamental prohibition of this treaty and all the treaties we have with them.

The CHAIRMAN. I wonder if we can hear a response from the administration since they have had no opportunity to speak.

Senator STONE. Yes, I would like to.

Ambassador EARLE. First, if I may say so in response to Senator Stone's comment, antisatellite weapons are not banned and each side is free to test and deploy them. What is prohibited under Article XV, paragraph 2, is the use of antisatellite weapons against national technical means; the treaty says that one side shall not intefere with verification by the other side. The prohibition on new ICBM's is more comprehensive: neither side shall flight test or deploy new types of ICBM's, except for one exempted new type per side. Each side has the right, as I suggested, to develop, test, and indeed deploy antisatellite weapons. What is prohibited is their use.

Senator STONE. What kind of a prohibition is that? You are not allowed to use it, but you can prepare it, develop, and even deploy it. What is the theory there?

Mr. SLOCOMBE. There are lots of ways to interfere with national technical means.

Senator STONE. The most interference I can think of is shooting one down.

Mr. SLOCOMBE. That is absolutely correct but we have, for example, ships which we used to observe Soviet missile tests. We have airplanes which we use to observe Soviet missiles. It would be an equally clear violation of the prohibition against interference with national tech-

nical means to use the massive way the Soviets have to sink ships or shoot down airplanes. There is no logical connection between the possession of the means and abandoning their use. We are trying in the antisatellite negotiations to impose limits which we think would be a good thing to have and that is not in dispute on the testing and deployment of antisatellite weapons.

Senator STONE. Isn't there a difference between a ship or an airplane and an antisatellite device? I mean a ship can sail, it can carry oil, it can carry freight. An airplane can carry tourists. There are a lot of things an airplane or a ship can do but an antisatellite killer system is designed for one thing. There is a difference.

Mr. SLOCOMBE. But a torpedo is designed to sink ships. The treaty prohibits torpedoes as NTM, it does not prohibit torpedoes. There are many satellites.

Senator STONE. That is twice removed. Don't you see?

Mr. SLOCOMBE. No; I don't agree.

Senator STONE. The torpedo to attack an observer of a satellite is a little different than a devise to shoot a satellite down.

Mr. SLOCOMBE. If a satellite is used to observe Soviet activity, then it is a satellite. If it is attacked, that is obviously a violation of the treaty, that being a very, very serious event in any case. The same is true if the Soviets were to torpedo a ship which is being used to observe the Soviet missile test. That would be a violation of the treaty and it would also be a very, very serious event totally unrelated.

Senator STONE. Are you saying a ship can shoot down a satellite?

Mr. SLOCOMBE. No; I am saying a ship that can be used is an NTM.

Senator STONE. One is the function of being an observer and the other is the——

Mr. SLOCOMBE. We obviously are not communicating.

There are other kinds of satellites than NTM and the possession of the means to attack satellites is not itself a violation of the treaty any more than the possession of the means to attack observation ships is a violation of the treaty.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Unless you have all that colloquy cleared up.

Mr. SLOCOMBE. I am sure it didn't.

Senator GLENN. I would add one thing. I always have thought this argument you use on the antisatellite thing is very inconsistent because if we applied this same kind of logic to the rest of the treaty, then we would have said it is OK to build weapon systems, it is OK to build launchers and multiple warheads in any numbers, the only illegal thing is to use them. The whole treaty is based on just the opposite, that we limit the capability. It seems to me that Senator Stone argues a good point here that we are building this thing, we are deploying it, we are setting it up—everything except pushing the red button and let it go. It is a little bit inconsistent with the rest of the treaty. I always have thought you were inconsistent on your logic here as to what you are doing with basic weapon systems. Give them 50,000, deploy them all over the place, the only thing illegal is don't fire them at us. That is what we are saying in the case of the antisatellite.

Mr. SLOCOMBE. We would like to reach a verifiable and to limit the antisatellite weapons and that is the purpose of the antiweapon negotiations that are now going on.

U.S. NEED FOR HEAVY ICBM'S

The CHAIRMAN. Gentlemen, the issue before us is heavy missiles, and the question is whether we should adopt on reconsideration the amendment that we rejected by the Senate committee on October 23. That was proposed by Senator Baker, and it was rejected on a vote of 8 to 7. The reservation he proposed would give the United States the right to convert certain of our launchers into heavy missile launchers.

Senator GLENN. Which number is this, Mr. Chairman?

The CHAIRMAN. It is No. 8 on page 3. I think we are familiar with the arguments. The Senators will remember from the testimony that the Chiefs of Staff and others pointed out that it had never been our intention to build missiles of the heavy missile size. It was not the Russians that prevented us from doing it, it was our own decision. You will also remember from the testimony that even if this treaty gave us the right to build heavy missiles, it would not be our plan to build a missile larger than the M–X which, in the judgment of the Chiefs of Staff, is large enough to serve our military purpose. So on that basis the committee reached its earlier decision.

The question now is on the reconsideration.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Senator Percy.

Senator PERCY. Mr. Chairman, I would like to restate briefly what I stated at greater length before. These negotiations have been going on for 7 years and quid pro quos have been made. I don't think either side at this stage will conceivably make any major negotiating concessions without demanding an offset.

What would we be willing to give up for this right to build something we have no desire or need to build? Nothing.

I certainly tend to stay with my previous vote. I would think that, sure, we would like an ideal world where we could write a unilateral agreement to have as much as we could get but I just don't think at this stage there is any possibility of getting something in this area without giving up something.

Senator HELMS. Would the gentleman yield?

Senator PERCY. Yes.

Senator HELMS. Of course we are giving up something, we are giving up equality in the area of weaponry. The question I would ask my friend and all friends is, are you absolutely certain beyond any doubt that there is no possibility that we will change our minds on the necessity of the heavy missile? We are cutting ourself off from changing our mind no matter what the necessity may be and we are giving up equality on it.

Now I ask my friend, does that make sense?

Senator PERCY. It is a fair question. Within the limited technical knowledge that I have of this field I would not think that any proposal, even if put forward for the Joint Chiefs today, would attract my support. What would be the point of having more throw-weight

other than to put more MIRV's on which we have now limited. What have we gained just by having far more explosive power to do what—make much bigger holes? For what purpose?

I think our strategic weapons right now are targeted adequately; they are accurate, reliable, and, compared to the Soviet Union's forces, much less vulnerable. I don't see that we really gain that much more by accumulating that massive explosive power. We had that option available to us. We have known for years that is the route they have chosen to go and there has not been a single serious proposal that I know of made by any administration for five administrations in a row that we go that particular route. I think they happen to have made a mistake in having place the bulk of their strategic power or increasingly vulnerable land-based missiles. I am not sure they would do it again if they now knew in retrospect what they now know.

Senator HELMS. Who is "they"?

Senator PERCY. The Soviets. I would think they would want to change positions with us and not have all of that power in land based missiles, 70 percent of which is highly vulnerable and increasingly so. On the other hand we have gone the other route, far greater accuracy and about 70 percent in the air and under the sea where the Soviets cannot find them and they are invulnerable. We are now making a choice. Do we go forward with a mobile missile? The technical proposal being made to us now on the M–X is that we go for only about one-third the throw-weight, not greater.

We now are able to build another system but we are not pushing for a heavy missile. We are going to have it mobile, more flexible. The extra throw-weight is not one of the ingredients this administration or any previous research indicated should be built into it.

I would be very pleased to have General Rowny reply because he has lived with it far longer than I have on both the negotiating and military side. The question was put to me, how would I look at it. I am not an expert in the field but I have to make a practical judgment. I have had to make practical judgments all my life. What would you like to have? Where would you put your money? I have put my money, the U.S. money, the taxpayers' money in a system other than one which emphasizes very heavy throw-weight. I think they have made a very bad investment so far as the Soviet taxpayers are concerned.

General ROWNY. I would like to comment if I may, Mr. Chairman.

The heavy missile problem was in the beginning, I think, as you have described it. However, this situation has changed over the years, and the reason it has changed is that the Soviets, contrary to our hope and desire, went the way of heavy missiles, didn't follow our lead and developed their accuracy so that now their warheads, by the mid-1980's at the latest will be as accurate as ours.

Now the problem becomes one of an exchange during a strike. We have no plans, and no intentions to my knowledge, to strike the Soviets first. We don't have a first-strike plan, so their missiles are not vulnerable to that extent. Our ICBM's are highly vulnerable and they become vulnerable because the Soviets now have so many warheads.

They will have 6,000 of these heavy accurate warheads, which they could use in a first strike against us to take out 90 percent of our ICBM's. We have very little left then with which to retaliate against

their other military targets. This is a serious situation and is highly destabilizing, so it is not a matter of how much bang is enough, it is a matter of having enough bang on their side and not enough bang on our side.

Now, I would submit that today or some time in the future that future Joint Chiefs may very well want the option of building a heavy missile in order to give them 20 to 30 warheads if that is the only alternative left to them. They have to be able to retaliate after receiving a first strike.

The present plan, still the most cost-effective plan, is to build M–X in a mobile basing mode. The M–X is limited in size to the size of their light missiles, their SS–17's and SS–19's. We may build nothing heavier than their light missile. So we are in effect building an M–X which will be equal to their light, not their heavy missiles.

Again, the heavy missile which they have built has caused us serious problems, the most serious of which is the instability of being faced with a situation, not necessarily by any peremptory strike, or strike out of the blue, but because the situation might escalate where the President of the United States is faced with the option of what to do if the Soviets decide to take out our Minuteman force.

Senator PERCY. Is it not true that the M–X will be about one-third in throw-weight or as great or greater in capability, General Rowny?

General ROWNY. Of what, sir?

Senator PERCY. As the heavier missiles.

General ROWNY. The M–X will be roughly one-half of the throw-weight of their heavy missile. It will be about 7,500 pounds in unclassified literature, about three times as large as our Minuteman. In capability it will be equal in throw-weight to their lights, not to their heavy. Their heavy will be twice as heavy. Each will be limited for the period of this treaty to 10 warheads, but when the treaty runs out in 1985, because they have the superior throw-weight, they can then put at least 20 warheads on that heavy missile that we don't have the option to do. We won't have the capability. So, when the treaty runs out and before the M–X is deployed, we will find that what we started to build is a racetrack system that becomes obsolescent or at least needs to be extended. So the heavy missile is a very serious problem and it does create a gross inequality in throw-weight and in the qualitative limitations of the treaty.

Senator PERCY. Could we have Mr. Cutler respond now?

The CHAIRMAN. Yes.

PROPOSED U.S. RIGHT TO TWO NEW TYPE ICBM'S

Mr. CUTLER. Even if the problem of the heavy missiles were a serious problem for the future and, Senator Percy, I believe General Rowny just conceded to you that the mobile M–X will have the same destructive power essentially as the present SS–18, but even if we concede that the heavy presents a problem, there are two fatal flaws to this amendment. The first fatal flaw is, all it does is to allow us to put heavy missiles in our present fixed Minuteman silos. We are worried about the vulnerability of the Minutemen in those fixed silos. As General Rowny just pointed out, we are not going to be the ones to launch

the first strike. If we spend $30 billion to put heavies in those fixed silos, whatever their capability is, they are going to be just as vulnerable to a Soviet first strike as the Minutemen that are in those silos today.

The second fatal flaw is that in order to take advantage of this amendment, which Senator Baker conceded he would not favor taking advantage of even if we had it, we must establish the right to two new types while the Soviets have the right to only one new type. Now, how in God's name are we going to negotiate that?

Beyond that, if we try to fix that problem by saying instead of two new types for us and only one for the Soviets, we are certainly not going to allow them two new types; that would certainly be a disadvantage to us if we are not going to build this heavy. If we provided instead that either of us could have only one new type but we could choose whether it would be a light or a heavy, that would also be a great disadvantage to us.

We are going to pick the light. Everyone concedes we are going to pick the light. Senator Baker conceded we would pick the light. The Soviets would then have the right to a light or a heavy, and they might pick the heavy. We had the choice in negotiating this treaty to allow either side to have heavy mobile missiles, and the Joint Chiefs when that question was put to them decided to propose banning all new types of heavy missiles—which would include a heavy mobile missile—and we did so.

So any way you look at this amendment, even if General Rowny and others that are concerned about the heavies are right about that problem in the future, this amendment does not solve the problem, it only makes matters worse.

Senator PERCY. Mr. Chairman.

The CHAIRMAN. Yes.

Senator PERCY. Mr. Chairman, because General Jones is not here, I would like to put in a sentence from page 378 of part 1 of the hearing record in answer to a question on this very point:

> Mr. Chairman, we would not build a missile comparable to the SS–18, the very large missile. We might have a little bit more throw-weight on the M–X, but it would have the warhead of the type that we are contemplating. So we would not build a missile that would have any substantial difference from the M–X, even if there were not a treaty limit on the light missiles.

Then I just ask to be inserted in the record extracts from Secretary Brown on page 153 of part 1 also on the very same issue so that we can have both at this point in the record, the present authorities on that issue.

The CHAIRMAN. So ordered.

[The information referred to follows:]

> Senator HAYAKAWA. What are the consequences of the right of the Soviets to have 308 heavy throw-weight ICBM launchers while the United States has no such right?
>
> Secretary BROWN. Senator Hayakawa, in practical terms I would say the consequences of that difference are negligible. This is one reason why we and our predecessors were prepared to concede that right to the Soviet Union, even in SALT I, in return for concessions on things that we wanted more.

The United States, during the SALT I period, never built as large an ICBM as it was allowed under SALT I. That is one evidence that large missiles were of less interest to us.

This does not mean that they are not of interest, because essential equivalence does require us to have a survivable ICBM capability with substantial numbers of reentry vehicles.

The treaty, by limiting the number of reentry vehicles on any ICBM to a maximum of 10, and in some cases less, makes the value of the extra payload capability on an SS–18, as compared, say, to an SS–19, or an M–X, very much less. In fact, the M–X with 10 reentry vehicles on it will have a military capability against soft targets or hard targets that is almost identical, that is, within the range of uncertainty, equivalent to that of an SS–18.

Senator PERCY. Mr. Chairman, I would like to comment on the earlier conversation on the antisatellite issue. Possibly the record could include these comments at the end of the antisatellite discussion. They will be very brief indeed. It is true that antisatellite weapons are not prohibited by the treaty. Their use against verification satellites is prohibited by the treaty. They could be used against other satellites without violating SALT II, however. That is why the antisatellite talks that are going on now are so very important. I offered my understanding actually to pin down explicitly the rather narrow agreement we now have as to the use of antisatellite weapons against verification satellites. We obviously need a much broader agreement.

The CHAIRMAN. Thank you.

First of all, I want to congratulate Senator Muskie for his having concluded the conference on the budget. [Laughter.]

Senator MUSKIE. If that can be done, it ought to be possible to do this. [Laughter.]

The CHAIRMAN. I want to commend all members for their diligence and willingness to participate in the debate on all issues. We have been over this particular issue about a dozen times so I would hope we could come to a vote on it. However, I want to say that Senator Helms has been good enough to accommodate me. Tomorrow I have a scheduling problem, and I have asked him if it would be acceptable for this committee to vote on reporting the treaty at 10 o'clock tomorrow morning. He said it would be acceptable with him. If it is acceptable to the rest of the committee, then we will vote at 10 o'clock tomorrow morning.

Now, that having been agreed upon, I am happy to recognize Senator Glenn.

M–X AND POST 1985 SOVIET RV BREAKOUT

Senator GLENN. This will just take a moment. I think that any time we discuss the Soviet heavy missile, the SS–18, you also have to bring into focus our proposed racetrack M–X system. The Soviets have a considerably greater capability for expanding the number of warheads on the SS–18 in the future beyond the 10 it is limited to now. Most of our experts say it could have 25 and perhaps as many as 40 total warheads.

Now, even if you consider the lesser of those figures, that is an extra 15 RV's per booster, and if you multiply that out by 308 it comes out to 4,620 additional reentry vehicles. It just so happens that our racetrack system is going to have about 200 sites each with 23 holes, I believe, per racetrack and that comes out almost even. It means that if they develop this greater capability on the SS–18, they could assign one

additional reentry vehicle for every hole we are planning to build with the racetrack system and that is the reason the racetrack system to me remains highly, highly vulnerable. It is not as much protection, I think, as some of our people claim.

That is the reason I have advocated for a long time a fully mobile system, one that in peacetime is confined to military installations but when alerted can move to any one of the hundreds of presurveyed aim points. With the M–X system we are proposing, we are just trading one vulnerability for a lesser vulnerability that the Soviets, with the SS–18 capability alone, can overcome. So, I just wanted to add that. I don't think that has anything to do with our vote today, but I will throw that in for free.

The CHAIRMAN. The question now comes on whether the committee should reconsider the vote previously taken. A "no" would be a vote against reconsideration, an "aye" would be a vote in favor. The clerk will call the roll.

Mr. BADER. Mr. Pell.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. McGovern.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Biden.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
Senator STONE. Aye.
Mr. BADER. Mr. Sarbanes.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Muskie.
Senator MUSKIE. No.
Mr. BADER. Mr. Zorinsky.
[No response.]
Mr. BADER. Mr. Javits.
Senator PERCY. No, by proxy.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator HAYAKAWA. Aye, by proxy.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator HELMS. Aye, by proxy.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.

On this vote the ayes are 6 and the nays are 8. The motion to reconsider has been rejected.

Senator Zorinsky was later polled in the affirmative.

Senator Helms is recognized.

Senator HELMS. Mr. Chairman, I thank you.

Earlier Senator Javits expressed in his typically gentlemanly way his views about this treaty. He stated that it was not in effect a good

treaty but, and I am paraphrasing him, the best we can get. I doubt that. I seriously doubt it.

Then he suggested, and I am not sure he meant to do this, that General Rowny was opposed to restraint in the arms race. This suggestion has been made by certain individuals in publications and broadcasters favoring the treaty as to the position of those of us who oppose so-called SALT II.

Mr. Chairman, I want to make clear again, as I have tried to make clear from the very beginning of the hearing 4 or 5 months ago, that I strongly favor a Strategic Arms Limitation Treaty. I cannot support this one. I think we are headed on the wrong track from the word go. We have compromised when we need not have compromised and, as was said yesterday, we bartered away equality.

Now this Senator, for one, favors a true, genuine arms reduction treaty and I still think, as I said back in August or late July that if we would send this treaty back and take our case to the world and say to the Soviet Union, let's both of us stop this insanity, let's embark on negotiations for a true arms reduction treaty, I believe the world would side with us.

Now, as for this particular treaty, if we had a truth in labeling law applicable to those who name treaties, the person who decided to call this a limitation treaty would be in jail, because it does not limit, it escalates.

Now, one other thing, Mr. Chairman, and I shall be brief. I have noted in several of the publications this morning and heard on the radio last night, some comment about the consultant fee being paid to General Rowny of $143 a day. I wanted to suggest to the chairman and the committee that if this $143 a day is any problem, the Senator from North Carolina will take care of it privately; but at the same time, I think the media ought to break down the daily salary of these three gentlemen who have been sitting here day after day after day. Now, if we are going to talk about a picayune $143 a day for a distinguished American who probably knows as much about SALT negotiations as anybody in the world——

Senator SARBANES. Who is talking about it?

Senator HELMS. If the Senator will forgive me, I will finish my statement and then he can get the floor. I will say to the Senator it is in the paper this morning locally and it is on the news wires nationally that here we are paying $143 a day for a consultant. If that is any problem, Mr. Chairman, to any member of this committee or to anybody in the media, we can save the taxpayers that $143 a day but I still say that if we are going to play that sort of game we ought to analyze what it costs these three gentlemen day after day to sit here.

Senator SARBANES. Could I comment at this point if the Senator would allow me?

Senator HELMS. Yes.

Senator SARBANES. I think General Rowny is entitled to his pay as a consultant. I don't think the Senator should pay for it out of his own private practice——

[Laughter.]

Senator HELMS. The Senator is a lawyer; I am not.

Senator SARBANES. I think that the addition of General Rowny by the minority if they chose to do so is a fine thing. I have listened to the

general with considerable respect. I consider some of the points he has made as important, others I have disagreed with so I am certainly not making an issue of it. I have not seen this comment in the press.

The CHAIRMAN. Every Senator, it should be clear by now, is entitled to his own opinion and is uninhibited in expressing it but the committee has not objected. I think the chairman has cooperated fully.

Senator HELMS. I mention this as an example of how the deliberations on the SALT II have been reported by some of the media. Mr. Chairman, I come from the media. I have run some pretty sizable news operations in my day but I think that the major media of this country should take a look at the way that this treaty and the consideration of it have been presented to the American people. Now if we persist in saying that this is a limitations treaty when in fact it is an escalation treaty, then the American people are going to be misled, but that notwithstanding, Mr. Chairman, I move that we call up item No. 3 on page 2 for reconsideration.

AMENDMENT TO COUNT GOLF I AND II SUBS

The CHAIRMAN. Item No. 3 on page 2 was offered originally by Senator Stone. It was considered by the committee on October 18 and rejected by a vote of 10 to 5. This category III reservation would have included Soviet *Golf I* and *Golf II* submarines within the SALT II provisions. Is there a desire to discuss this further?

Senator Stone.

Senator STONE. Mr. Chairman, if it were reconsidered for any new type of diesel-powered submarines and not just *Golf I* or *Golf II* because diesel-powered submarines could be built and armed with the same kind of nuclear weapons which the *Golf II* have.

First, I would like to ask the administration consultants that are here to say why it is that they have taken the view that this was a concession to us which I think is a loophole. Why is this a concession to us? You have been saying that it helps us.

Ambassador EARLE. Senator Stone, it was a concession to us in SALT I. In SALT I where there was a freeze on existing numbers of SLBM launchers and ICBM launchers, it was understood that each party could substitute newer launchers for those that were included in the freeze. Therefore, to exclude these from the freeze in SALT I meant that they could not in effect be traded in for more modern submarines and/or launchers.

Senator STONE. Now as to SALT II, that is the treaty we are considering now, is it a concession to the United States in SALT II that this is excluded?

Ambassador EARLE. No; it is not a concession to the United States in SALT II.

Senator STONE. That clarifies it. Would you consider it a loophole?

Ambassador EARLE. No; I would not, Senator.

Senator STONE. Why not?

Ambassador EARLE. Given the nature of it, we have opposite systems involved. I don't consider them strategic weapons.

STRATEGIC CAPABILITY AS FUNCTION OF BOTH PLATFORM AND WEAPON

Senator STONE. The same weapons are strategic weapons if they are carried on a nuclear-propelled submarine. What is the difference?

Ambassador EARLE. The difference is in the effectiveness and capability of the system as a whole. As I noted when we had our colloquy earlier on this subject, some weapons are carried on B–52's and the B–52's are counted. The same weapons are carried on other aircraft and these aircraft are not counted. The platform enters into the capability.

Senator STONE. Then why are some of the Soviets counted while the bulk of them are not?

Ambassador EARLE. Because the missiles they carry are different and the overall capability rises to a higher level.

Senator STONE. Well, you cannot have it both ways because the missiles that this excluded submarine group carries are covered on another platform.

Ambassador EARLE. When that platform is a better system, then the system as a whole is a more capable system and was viewed in that light.

Senator STONE. I have never heard such specious——

Ambassador EARLE. It is not specious.

Senator STONE [continuing]. Ridiculous——

Ambassador EARLE. You have to take two things into consideration, the weapon and the platform. The two add up to a strategic system.

Senator STONE. Heads they win, tails we lose. When they have a better platform, what if it does not have the right kinds of weapons—they don't get covered?

Ambassador EARLE. Yes, sir.

Senator STONE. But when they have another kind of a platform, then they don't get covered.

Ambassador EARLE. Senator Stone, it seems to me taken logically your position would require the counting of all F–111's and FB–111's.

Senator STONE. I have heard so many times that the system is inferior by the administration's own statement itself, otherwise the Brezhnev offer to withdraw troops and some missiles would not have been rejected out of hand as being a way to keep us from coming up even on the theater side by modernizing our weapons in the European theater. Every time we find either a loophole or shortcoming in the treaty, the administration trots out the FB–111's, yet the FB–111's and everything else we have in the European theater do not equal the Russian power in the European theater. That is by our own statements and that is why this idea that, watch out or the FB–111's are going to get included, does not add up. The firepower does not add up—at least I don't see it.

Mr. CUTLER. Senator, our weapons in the European theater can strike the Soviet Union but the Soviet weapons in the European theater cannot strike the United States.

Senator STONE. Is that accurate?

Ambassador EARLE. That is accurate.

Senator STONE. What about the SS–20?

Ambassador EARLE. It cannot.

Senator STONE. It can strike the U.S. mainland, everything but one small little radius.

Ambassador EARLE. If they off-loaded the front ends so that they ended up with one very small warhead, it would achieve a range in excess of 5,500 kilometers.

Senator STONE. So the opposite is true.

Ambassador EARLE. No, because it has never been tested in that configuration, it has never been deployed in that configuration, and it would make absolutely no military sense for them to do it.

Senator STONE. Later today or, in the morning, I will refer to a piece of paper that Senator Glenn showed me yesterday, which is not classified which shows that it does reach the United States but I think I have made as much point about this as I can. I think, just to wind it up, that this is at best a concession we obtained in SALT I, not SALT II. It is clearly not a concession of SALT II. It is clearly a loophole. It not only is a loophole as to the 20 diesel submarines that now do carry, I think, the SS–N–5 sea-launched ballistic missile but under this loophole the Soviets are able to construct similar submarines or even better diesel-powered submarines but with the SS–N–5 I think it is a loophole that ought to be closed. It is not the biggest throw-weight issue in the world, but I think it is quite revealing.

Senator HELMS. Mr. Chairman, I would like to hear from General Rowny on this, if he cares to comment.

General ROWNY. Mr. Chairman, I must agree with Senator Stone. This is a loophole and I think that the concession argument about SALT I is rather irrelevant at this stage. I think that the record is clear that we made many more concessions in SALT II than did the Soviets. I would total them up about twice as many on our side and twice the effectiveness. So this is a loophole and I think it would be desirable to clear it up.

What disturbs me is the reopening of the argument on forward-based systems and the point about striking the territory of the other side. I think that this is a more ominous point. If we accept that argument, then we reject NATO and we reject article V of that treaty that an attack on one is an attack on all. We have troops and families in Europe. That is part of our defensive establishment. Not only that, these are our friends and allies; we cannot and we have never accepted the Soviet idea that only attacks on each other's homeland must be counted.

Now when they raised the FB–111 argument we said, all right, let's put in your systems and, since they had 2 to 3 times as many systems with 10 times the throw-weight, they said, no, we are not going to get into that kind of game. The FB–111 is a red herring. It is not a heavy bomber by any definition that you want to write except the definition that is stipulated that it can hit the territory of the Soviet Union. It is not as powerful, it is not as large.

We didn't get a definition of a heavy bomber, so one of the fallacies of this treaty, one of the shortcomings, is that we did not define heavy bombers, we didn't define launchers, we didn't define many essential things. The only thing that is defined as far as heavy bombers go is type. By stipulation, just by fiat or by a stroke of the pen, the Soviets have said, "Well, yours are heavy bombers, ours are not," and so they have excluded the Backfire, which is much superior to the FB–111. You look at a silhouette of the Backfire and it is comparable to that

of the B–1. By excluding a system according to their definition that only radius missions count—by that logic we should not count the B–52 or B–1.

So more important to me than closing this loophole, which I think should be closed, is using other arguments about hitting the territory of the other side, which is a Soviet argument we should not subscribe to. We should not even hint to our allies that we are throwing them over, that article V is meaningless. I believe that when we made that treaty we believed what we said and I believe an attack on one is an attack on all. Therefore, we should not undermine the NATO treaty, I think, by those kinds of arguments.

Mr. CUTLER. Confining myself to the amendment at issue rather than what General Rowny just said, the question of these old diesel submarines was never raised on the negotiating shopping list of the Joint Chiefs of Staff nor, so far as we are aware, by General Rowny himself.

The CHAIRMAN. All right. The question is on whether the committee should reconsider its vote on this particular reservation. A "no" vote is against reconsideration, an "aye" vote is in favor.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Biden.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Glenn.

Senator GLENN. No.

Mr. BADER. Mr. Stone.

Senator STONE. Aye.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. No.

Mr. BADER. Mr. Muskie.

Senator MUSKIE. No.

Mr. BADER. Mr. Zorinsky.

The CHAIRMAN. No, by proxy.

Mr. BADER. Mr. Javits.

Senator PERCY. No, by proxy.

Mr. BADER. Mr. Percy.

Senator PERCY. No.

Mr. BADER. Mr. Baker.

Senator HAYAKAWA. Aye, by proxy.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye, in person. [Laughter.]

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. Aye.

Mr. BADER. Mr. Lugar.

Senator HELMS. Aye, by proxy.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

On this vote the ayes are 5 and the nays are 10. The motion to reconsider is rejected.

Are there any further motions?

Senator Helms.

AMENDMENT TO REDUCE TO 512 OR BAN HEAVY ICBM'S BY END 1981

Senator HELMS. Mr. Chairman, I move that we reconsider page 4, item No. 10, which is the amendment that required the United States and the Soviet Union to dismantle, otherwise the treaty would expire on that date.

Now, Mr. Chairman, on October 24 Senator Baker submitted two amendments, both of which were intended to move us toward true arms reduction. The committee rejected these amendments by a vote of 6 to 9 and thus the committee's majority at that time chose to vote against arms reduction, preferring the current treaty language which gives the Soviet Union more than 300 heavy ICBM's capable of destroying our land based ICBM's before the treaty period expired.

Now that question must be confronted and that is why I am asking for reconsideration of this amendment. What if these missiles were removed from the Soviet arsenal? Would we then need to spend $30 million to $50 million on the M–X? Would we then need to rachet up the arms race even more to deal with the Soviet heavy missile threat?

In the first amendment Senator Baker thought to have the Soviets dismantle their threatening heavy missiles to limit the number of MIRVed ICBM's on both sides to 512 and this is a mandatory cut. If the Soviets choose not to cut their heavy ICBM's to zero by December 31, 1981, then the treaty terminates. I think this is a perfectly reasonable amendment and if there were some way for the American people to understand that the committee rejected this amendment I think we would have some interesting response but this received scant coverage and I am not sure that 1 percent of the American people understand that the amendment was ever proposed.

I have no further comment. I don't know whether General Rowny has a comment or not. If he does, I would like for him to comment.

COMPARISON OF SS–18 AND M–X

General ROWNY. Well, Mr. Chairman, I would like to very briefly repeat why the heavy missile launcher is such a problem. It does give the Soviet Union a right to something it does not give us the right to. I think the situation can change, and if the situation should change we should be able to exercise the right to build a heavy missile. I think we have been over the ground that it does provide all these warheads, and it does allow this huge breakout capability for the future.

Mr. Cutler said that I conceded that the M–X is as good as the SS–18. I am not sure those were his exact words.

No, that was not my point. My point is that the M–X has 10 warheads as does the SS–18, but it is not as good as the SS–18. Let me explain why.

If you have 10 warheads on each missile and they are of equal accuracy and one has the greater throw-weight, then the one that has the greater throw-weight can be a little off its target and still accomplish its mission. You measure the effectiveness of any warhead by its yield and its accuracy. Now accuracy is more important than yield, but if you don't have accuracy, then yield does make a difference because

you measure this by circular error probability, which means that half can strike within a circle, half without.

Therefore, with a heavier missile you could strike and miss a little outside the circle and still be able to kill your target. More importantly, once the treaty is over, that throw-weight remains on the Soviet side. At that time they can put 20 ICBM killer-type warheads or 30 or 40 lesser type warheads on them, and we don't have that capability. So, I don't accept Mr. Cutler's argument that they are equal.

Now, he made three other points. First, that if we did have the M–X and we put them in the same holes, they would be just as vulnerable as the Minuteman. True, if we put them in these same holes. But suppose we went to the vertical protective shelter system which would be a cheaper system. We then put M–X into these and we now have a much more survivable force. Even if we were to put the M–X into our current silo holes instead of having 10 percent of our force surviving, 30 percent of the warheads would survive because now we have three times as many warheads.

So, any way you look at it, the M–X is a plus. But it must be regarded as against the SS–18, so the argument does not logically follow that just because a better missile is vulnerable we should not have the better missile. If some are going to escape, those that can, can be used.

Now, the next argument made was that if we wanted to do this it would mean that we want two new things in the treaty. Again this is by definition. This problem is assumed by definition. In other words, the new type is one new type over and above what this treaty permits.

I think what we are debating is that the Soviets should not be allowed this new type, this heavy, heavy, superheavy in the treaty. I submit that the Soviets will agree to equality if we press them for it and the biggest leverage would be to say we will wait until you come back to a treaty. I think that the Soviets in the interest of seeing that there is an arms control agreement, would renegotiate, so I don't follow the two new types argument because you assume that by that kind of argument, their SS–18, their superheavy, is not a new type; that is a definitional problem.

The final argument made was that the Chiefs opted against a heavy mobile missile. That is true; that is, an SS–18 type in a mobile mode. That becomes a horrendous thing to haul around and we would not put that in a mobile mode nor would the Soviets put one that size in a mobile mode. It is very difficult to put even the M–X, which is half as large as the SS–18, into a mobile mode. Of course, it would be ridiculous to try to—or at least very difficult, if not impossible, to haul around a huge superheavy missile. That is what the Chiefs recommended against when they were asked.

So I think that, just to sum up, this is a problem of basic principles. The basic principle is that the treaty should be equal. There should be equal limits, equal levels on both sides. The heavy missile permitted the Soviet Union gives them a large inequality, not only by mere definition, but because the tremendous amount of destructive power, so tremendous, I repeat, that the warheads on the heavies alone equal or surpass all of the warheads on all our ICBM's and SLBM's put together.

Therefore, this particular part of the treaty should be looked at for what it is, a gross inequality, and that should be corrected. If we don't correct this, I don't see how we can get to SALT III, because I don't

see what leverage we will have in SALT III to correct this. I think the situation then will be as bad as it is now. Once we have sanctioned their right to a super heavy missile, I don't see any leverage for trying to walk back the cat. The time for the equality is now and not in some future agreement. Because I want to see a SALT process continue and because I want to see agreements reached in the future, I think permitting the heavies in this treaty inhibits, if not prohibits, us from ever reaching a further or follow-on SALT agreement.

The CHAIRMAN. I think that we know the arguments pretty well. I think we should vote.

Senator HAYAKAWA. Mr. Chairman.

The CHAIRMAN. Yes, Senator Hayakawa.

ONLY AMENDMENT WHICH WOULD RESULT IN DEEPER CUTS

Senator HAYAKAWA. May I point out all the amendments and measures placed before us, most of them either increase or authorize increased weapons on one side or the other. This is the major one that calls for a dramatic decrease and I think this is one that can be defended before the public and among ourselves. I am as eager as anyone else that we should reduce the whole level of armaments and therefore I want to announce my determination to vote for the reconsideration.

The CHAIRMAN. Let me say, Senator Hayakawa, that I strongly favor, and have for years, a reversal of the nuclear arms race which I think is not only extremely dangerous, threatening the survival of our civilization, but increasingly irrational, since we are building at enormous cost and risk, weapons that we dare not use except in the act of commiting national suicide. If there were a way open to us on both sides, I would favor it but this would surely kill the treaty. For those who think the treaty ought to be killed, it is an amendment they should support.

I think the treaty accomplishes some significant things for us. It keeps the SALT process alive and enables us to negotiate with the Soviet Union for more significant reductions on both sides in the next treaty. The adoption of this amendment would impose upon the Soviet Union the destruction of all their heavy missiles while the United States could continue to maintain all of its missiles and continue to build more. Obviously we are not going to achieve the objective of reduced levels of armaments on such a basis, and I think it was for this reason that the committee decided properly in its first vote to reject the amendment.

Now the question comes on the reconsideration.

Senator HELMS. Mr. Chairman, in the interest of time, inasmuch as item 9 on page 3 is so closely related, why don't we vote on both of those at the same time and the arguments, Mr. Chairman, pro and con are essentially the same. I see no point——

The CHAIRMAN. Would you just identify the other one for me, please.

Senator HELMS. This amendment of all heavy ICBM's and their launchers by December 31, 1981. I think you were really discussing this amendment in your comment just now.

The CHAIRMAN. Yes.

Senator HELMS. I actually——

The CHAIRMAN. We were talking about item 10.

Senator HELMS. Let's do that and save the committee time.

Senator JAVITS. The other one, Mr. Chairman, is at the top of page 4, that the United States and the U.S.S.R. will agree that by December 31, 1981, all numbers will be reduced, otherwise the treaty would expire.

The CHAIRMAN. Are your two proposals, Senator Helms, items 8 and 9 on page 30?

Item 9 would provide for the destruction of all heavy ICBM's by December 31, 1981, and reduce for the Russians the maximum number of MIRVed ICBM launchers allowed to 512.

They are the same arguments, and I think they can be considered en bloc.

The clerk will please call the roll on the two.

Mr. BADER. Mr. Pell.

The CHAIRMAN. Mr. Pell votes no, by proxy.

Mr. BADER. Mr. McGovern.

The CHAIRMAN. Mr. McGovern votes no, by proxy.

Mr. BADER. Mr. Biden.

The CHAIRMAN. Mr. Biden votes no, by proxy.

Mr. BADER. Mr. Glenn.

Senator GLENN. No.

Mr. BADER. Mr. Stone.

The CHAIRMAN. Mr. Stone votes aye, by proxy.

Mr. BADER. Mr. Sarbanes.

Senator SARBANES. No.

Mr. BADER. Mr. Muskie.

Senator MUSKIE. No.

Mr. BADER. Mr. Zorinsky.

Senator ZORINSKY. Aye.

Mr. BADER. Mr. Javits.

Senator JAVITS. No.

Mr. BADER. Mr. Percy.

Senator PERCY. No.

Mr. BADER. Mr. Baker.

Senator HAYAKAWA. Aye, by proxy.

Mr. BADER. Mr. Helms.

Senator HELMS. Aye.

Mr. BADER. Mr. Hayakawa.

Senator HAYAKAWA. Aye.

Mr. BADER. Mr. Lugar.

Senator HELMS. Aye, by proxy.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. No.

On this vote the votes are the ayes 6, the nays are 9 and the two proposals are rejected.

Senator HELMS. Mr. Chairman.

The CHAIRMAN. Mr. Helms.

AMENDMENT TO REQUIRE ADVANCE NOTICE OF ALL ICBM TESTS

Senator HELMS. My fourth and final motion to reconsider addresses itself to item 19 on page 5, a very fine amendment by Senator Glenn

for which I compliment John I might say, Mr. Chairman, that Senator Glenn has demonstrated as much expertise on this overall subject as anybody with whom I have been in contact and I want to pay my personal tribute to him for the immense amount of work that he has done. I guess I will let Senator Glenn speak for himself on this, and I will, but I do want to say it is the sensible reservation to the effect of enhancing the confidence between the Soviets and the United States on the important verification issue.

Now this category III reservation would have the Soviets and the United States alert the other party at any time that either of the two nations seek to test a single ICBM within its own national territory. Now Senator Glenn made it clear during the discussion of the reservation earlier that the United States can scarcely conceal its testing. We fire ours down the Atlantic and Pacific ranges so the effect of this reservation actually was to have the Soviets tell us when they planned to test firings of their ICBM's within test ranges that are located in their own territory.

I think this reservation probably more than any other suggestion that has been made is a measurement of the good faith of the United States versus the Soviet Union. If there is one iota of good faith on the part of the Soviet Union, why should they object to this category III reservation and why should we be timid about going to them and saying, let's have it. I think that our own willingness even to attempt to negotiate this point tells us something about SALT II.

Senator GLENN. Mr. Chairman?

The CHAIRMAN. Senator Glenn?

Senator GLENN. Thank you, Mr. Chairman. I think Senator Helms has stated it very well. I must say I have been disappointed in our administration's unwillingness to ask the Soviets more in an effort to recoup some of the ability we had to monitor their testing program when we still had the bases in Iran, Taxman 1 and Taxman 2, and this was an attempt to remedy some of that by asking for the Soviet's cooperation.

ASYMMETRY OF OPEN AND CLOSED SOCIETIES

That is the reason I made it a category III, because we do monitor from a very unequal basis. We talk about inequalities in the treaty, and if there is one mammouth gross inequality in this treaty it is our monitoring capability in both directions. They have the monitoring capability to monitor anything we do in this country not only by our publications—as we said many times here, a subscription to the Congressional Record and Aviation Week takes care of 90 percent of their intelligence gathering problem—and they can substantiate it with their satellites, of course, and so on, and they have their problem pretty well taken care of.

We are left to scramble around a secret society outside the Soviet Union, a secret society, to see what information we can get, and we are very good at that sort of thing but we cannot be expected to perform absolute miracles in this regard. I feel we do still have some considerable lack in that area. That is why I stated yesterday at a press conference that I do not believe the treaty is adequately verifiable. We still need to replace the capabiilty we lost in Iran.

I would say I am not pessimistic that we will develop those capabilities but I feel I will have to vote against the treaty tomorrow with the hope that these capabilities will come through before a final vote on the floor. I hope the capabilities come through on a reliable basis.

Now back to advanced notification of ICBM launchers, we test 100 percent over broad ocean areas, BOA's as they are called, and therefore we announce in advance when these tests will occur. The Soviets are not required to do that because 95 percent of their testing is within their own borders and only about 5 percent of it goes into the broad ocean areas where they, too, then make an announcement in advance that they are going to be impacting in a certain area.

We announce also most of our tests; in fact, the big proportion of them come from only two spots: off the cape down in Florida, Cape Kennedy, Cape Canaveral and off Vandenburg Air Force Base in California where most of the tests are conducted. The Soviets are just as aware of that as we are so they wheel the tracking ships up every time we announce we are going to make a test and they monitor everything unencrypted from beginning to end. They can line them up along that line and get complete information all the way through the whole mission.

We of course are left to try and recoup the information we used to get from Iran by whatever means we can whether surface, air or space. Obviously when we do not have 24-hour continuous monitoring as we used to have from Iran it puts a premium on these other facilities that are not 24-hour-a-day, 365-day-a-year facilities. So I felt that this provision, if we could have gotten that kind of cooperation out of the Soviet Union, which I did not think was impossible—if we could have gotten that kind of cooperation it would have been a major help to us so that we did not have to monitor every hour of every day to try and get the same information that they get quite easily by our announcing our testing program.

That was the purpose of this, it was defeated. I will vote to bring it back up again. I would not hesitate to go to the Soviets with that request and I have been disappointed that our administration has seemed from the beginning unwilling to bring up whether they would be willing to cooperate on some of these things and help us.

When we said that we were going to use national technical means on both sides, we had Iran and we had that capability and we could not have foreseen the situation in Iran coming up that would negate it for us. It just seemed to me reasonable that if we are going into this thing with good faith on both sides that that situation in Iran having changed that, it was not beyond reason to ask the Soviets to at least cooperate enough so that we had a better capability to monitor what they are doing and that was the reason for proposing this. This would give us notification so we could know when to get our facilities ready since we do not have those 365-day-a-year, 24-hour-a-day Iranian facilities available to us any longer.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Cutler, would you like to respond?

Mr. CUTLER. Mr. Chairman, there is of course a category I understanding approved by the committee which would endorse Senator Glenn's point as a negotiating point for future negotiations. This subject of the category III proposal was discussed at length in an ex-

ecutive session and I am limited in what I can say here. The members I think are all familiar with what was said in the executive session, but in essence for classified reasons prior notification of each test would only be marginal verification value. Second, with respect to one leg of the triad, the practice of our Armed Forces is not to give prior notification for valid reasons and we are concerned that for this to become a category III measure would lead to a concession which the Armed Forces do not wish to make as to that leg of the triad.

Senator HELMS. I would like to have General Rowny comment.

IMPORTANCE OF PRESSING SOVIETS ON CONFIDENCE-BUILDING MEASURES

General ROWNY. I don't follow the argument at all that this would be a concession. I think we would be delighted to give prior notification. The President in his press conference after he met with Mr. Gromyko stated that this had been raised and that it was an important point. I think it was and I think it should remain; it is a confidence-building measure.

I must agree with Senator Glenn that if the Soviets won't even agree to confidence-building measures, then I despair for agreements further down the line. The Soviets by this agreement, the way this is written, can launch their tests without prior notification and we won't know anything about them. We do give notice on our systems, so I don't follow the argument. I think that if we made the proposal, certainly we were going to abide by it.

The Soviets rejected it out of hand. We didn't pursue it. I think we should have. I think this is poor negotiating: to submit something and then simply because the Soviets said, "Well, we don't want this," just to pick up our marbles and walk away. I think it is an important reservation. I think that had we pressed, the Soviets would have agreed because it is a confidence-building measure which would give confidence to both sides that tests are tests and that misssiles are not being sent out in anger.

I don't know whether we want to go back and talk about the category I reservation earlier, because that is also very important, the one on the telemetric information. My reading of the record that I have seen leads me to believe that this issue is not clearly understood by all. I don't know whether you want to go into that or not, Mr. Chairman, but on this issue I think that it is a good provision. It was proposed by us and reinforced by the President.

I think that simply because the Soviets found it inconvenient and because we didn't want to press for it, we let it lie by itself. As much as almost any other provision, here is an indication of the type of thing we are up against. If you want a treaty badly and you won't take any criticism, you won't press a point, then you cannot succeed on any larger issues.

The CHAIRMAN. So for the discussion, the question has been explored thoroughly in classified session where we have got both sides of the argument. The question is whether the committee should now consider its previous vote.

The clerk will call the roll.

Mr. BADER. Mr. Pell.

The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. McGovern.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Biden.
The CHAIRMAN. No, by proxy.
Mr. BADER. Mr. Glenn.
Senator GLENN. Aye.
Mr. BADER. Mr. Stone.
The CHAIRMAN. Mr. Stone votes aye, by proxy.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. No.
Mr. BADER. Mr. Muskie.
Senator MUSKIE. No.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. No.
Mr. BADER. Mr. Percy.
Senator PERCY. No.
Mr. BADER. Mr. Baker.
Senator HAYAKAWA. Aye, by proxy.
Mr. BADER. Mr. Helms.
Senator HELMS. Aye.
Mr. BADER. Mr. Hayakawa.
Senator HAYAKAWA. Aye.
Mr. BADER. Mr. Lugar.
Senator HELMS. Aye, by proxy.
Mr. BADER. Mr. Chairman.
The CHAIRMAN. No.
On this vote the ayes are 7, the nays are 8.
Senator HELMS. Mr. Chairman.
The CHAIRMAN. Senator Helms.

Senator HELMS. There is no point in consuming further of the committee's time. As I recall, there were about 38 attempted alterations of the treaty. We have dealt with 7, 8, or 9 of those yesterday and today. Now it is obvious that in each of these I have invited the comment of General Rowny because I want it to be a part of the record. Rather than to consume the committee's time, could we have an agreement that on any of the other attempted alterations that General Rowny can submit a brief written statement to be included in the record?

The CHAIRMAN. Yes; I think that if that were done, we should have a comparable view from the administration.

Senator HELMS. Both sides.

The CHAIRMAN. That would be agreeable.

[The responses later provided by General Rowny and the Administration are included in the appendix.]

Senator HELMS. I thank the Chair and I thank the committee for their patience with me.

The CHAIRMAN. Are there any other proposals by any member of the committee?

Senator JAVITS. Mr. Chairman, I just want to say I think that the way in which the procedure has worked out and General Rowny's willingness to serve in the capacity of a staff member for this purpose, Senator Helms' cooperation and that of Senator Hayakawa, Senator

Lugar, and Senator Baker, I must say thus credit the Senate and the committee. The matter is being handled with expedition, with determination, and with a fair representation of both sides of the issue. I believe that this is a matter so deeply in our conscience and that it is being decided very profoundly on its merits. I believe that Senator Glenn's statement of yesterday was dictated by that deep feeling. I think all of us have. It is a matter of great pride to me that both opponents and proponents have handled this matter with dignity and the profound consideration in the national interest.

Senator PERCY. Mr. Chairman?

The CHAIRMAN. Senator Percy?

Senator PERCY. I also would like to comment on Senator Javits' contribution. I think he has represented fairly and clearly his own point of view as an individual Senator, and as ranking minority member he was unscrupulously fair in observing the rights and privileges of all the members of the committee. I think you, Mr. Chairman, have distinguished yourself with the fairness in which you have conducted the process.

I also would like to commend the administration for its contribution. I think they have been available to us. We have differed and disagreed on many things. I have not always agreed with Lloyd Cutler on every issue, obviously. But they have been scrupulously fair and they have presented a point of view that is extremely important and have articulated it well.

I do think that General Rowny has been refreshing and helpful in sharing his vast knowledge in this field and I think has put into perspective many things and enabled us to have as representative as possible a hearing here in the Senate Foreign Relations Committee. He has helped prepare us better, I think, for work on the floor.

I would like in this connection to mention my distinguished and beloved colleague, Senator Helms. I received a letter which he and many others have signed, including Dan Crane. I was presented with two flags—the red, white, and blue, Old Glory; and the white flag of surrender. It is a form letter obviously, and I was asked to contribute at the end to the Conservative Caucus.

Senator HELMS. I recommend that you do so, Chuck.

Senator PERCY. I have been sitting here all these months wondering There were seven points mentioned in the letter where they felt the treaty was flawed. I won't take the time of the committee to answer each one but I would like to include it because it is a letter that has been sent out to—do you have any idea how many letters were sent out?

Senator HELMS. I have no idea.

Senator PERCY. Dear friend, it says.

Senator HELMS. The Ripon Society is a flamethrower.

Senator PERCY. You will understand if I don't contribute.

Senator HELMS. I will express your regrets, Chuck.

Senator PERCY. I would like to insert the letter in the record tomorrow with a point-by-point response on each of those particular issues as I have seen them.

The CHAIRMAN. Very well.

Senator JAVITS. Will the Senator yield to me? He has been very generous and very warm, and I am glad he included those on our side.

Senator GLENN. Mr. Chairman.

The CHAIRMAN. Senator Glenn.

Senator GLENN. While we are complimenting people, I would like to compliment the staff on both sides.

Senator HELMS. I, too.

Senator GLENN. In executive session I was one who questioned whether we were setting up the staff to support the SALT hearings and markup on an unbiased basis which I thought was such an important matter. Instead, I must compliment the staff on the unbiased way in which they responded to every single question I have raised and gotten information for us. I think that has been true with everyone around the podium here. The staff has done yeoman's service; they have been up all night a number of nights through this, and I would like to commend the staff and pass that on to all members of the staff who are not here in the room today. I think that is an expression of what I perceive to be at least the sentiments of the whole committee on the way the staff has operated through this. But let's not forget that this thing is not over yet. We will have the debate on the floor to contend with, so keep up the good work.

Senator JAVITS. Would the Senator yield. I join to include the minority staff which performed a highly professional and very valuable service.

The CHAIRMAN. I want to compliment the staff, too, for its fine work, both the majority and minority staff. I want to compliment all members of the committee whose diligence and whose intensive study of this treaty, I think, have been demonstrated in the course of the markup. I want to commend the administration for the objective way that it has presented its arguments and the way that it has responded to the questions of the committee.

This brings us close to the conclusion of work which commenced on the 1st of July and which has absorbed most of our time and attention ever since. I think that it is appropriate to say that never before in the history of this committee has so thorough and so probing a job been done on a treaty presented to us for our judgment, and that, I think, was appropriate because of the stakes that are involved in the SALT process which might indeed be survival itself.

Tomorrow the committee will meet at 9 o'clock for the purpose of permitting members who may wish to make any final statement before the vote an opportunity to do so.

By unanimous consent, the committee will vote to report the treaty at 10 o'clock tomorrow morning.

Senator JAVITS. Mr. Chairman, is a motion now in order?

The CHAIRMAN. I think it was agreed by unanimous consent that we would cast the vote at 10 o'clock.

Senator JAVITS. So the question is before us?

The CHAIRMAN. It was agreed to by unanimous consent.

Senator JAVITS. Mr. Chairman, I move the treaty be reported favorably, that the chairman be designated to report the treaty and the resolution of ratification and to report them favorably. I move further that before we vote tomorrow suitable arrangements be made for minority views or any other matters which enter into the report of the committee.

The CHAIRMAN. That is the motion before the committee at 10 o'clock tomorrow morning on which the committee will vote.

Let me say, Senator Javits, before we conclude this meeting how very much I appreciate the cooperation that you have given me at all times to expedite the work of the committee on this very important treaty.

The committee will stand adjourned until 9 o'clock tomorrow morning.

[Whereupon, at 11:12 a.m., the committee recessed, to reconvene at 9 a.m., Friday, November 9, 1979.]

THE SALT II TREATY MARKUP

FRIDAY, NOVEMBER 9, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 9:22 a.m., in room 4221, Dirksen Senate Office Building, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, McGovern, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

Also present: Senator Cranston.

The CHAIRMAN. The hearing will please come to order.

First of all, this morning I want to call the members' attention to the resolution of ratification for the SALT II Treaty. Each Senator has a copy before him. This resolution of ratification contains all of the category I, category II, and category III reservations, declarations, or understandings that have been adopted by the committee in the course of the past 3 weeks.

We have had the staff review carefully the resolution for accuracy, and I am informed that there is only one mistake that has been found. I think that this mistake should be corrected at this time. On page 11, line 13, the term "SALT III Treaty" should be changed to "SALT II Treaty." Without objection, that change is made.

Now, I believe it would be prudent for the committee to ratify and confirm today the resolution of ratification; that is, the previous actions that we have taken during the markup so as to eliminate any possible question relating to any one of them.

I would entertain a motion at this time to that effect.

Senator JAVITS. Mr. Chairman.

The CHAIRMAN. Senator Javits.

Senator JAVITS. I move that in voting on the resolution of ratification, that vote shall contain provision that all conditions in the resolution which were designated in the debates as categories I, II, and III, may be ratified and confirmed as of this vote.

The CHAIRMAN. Is there any objection to the motion?

[No response.]

The CHAIRMAN. Without objection, the motion is agreed to.

Senator JAVITS. Also, Mr. Chairman, I move that the committee adopt such technical and conforming changes as have been made by the staff in order to meet the technical details of the actions which we took and which are now incorporated in the resolution of ratification.

The CHAIRMAN. Is there objection?

[No response.]

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The CHAIRMAN. Without objection, the motion is agreed to.

Senator JAVITS. Mr. Chairman, I repeat my motion of yesterday to favorably report the resolution of ratification of the treaty with authority to the chairman to report that resolution to the Senate and with authority to the chairman to designate appropriate time limitations for filing separate or dissenting views to the report, and to working out with members the details of the report.

The CHAIRMAN. It is my understanding that the procedures that we had previously agreed to and the rules of the committee provide 5 days for the minority views to be submitted following the preparation of the majority report. That rule will be adhered to.

Senator JAVITS. Mr. Chairman, I had in mind giving the Chair flexibility to deal with any problem which might arise. I am sure the Chair would consult me and I will, in turn, undertake to consult every interested member of the minority and, indeed, every other Senator who has evidenced an interest and who I believe should be advised. I am sure the Chair will do that on the majority side. All I had in mind was that if any flexibility is required, we vest the chairman with that capacity.

The CHAIRMAN. Is there any objection to that motion?

[No response.]

The CHAIRMAN. Without objection, the motion is agreed to.

Before we proceed to a vote on the resolution of ratification, I would like to give Senators an opportunity to make any final statement on this matter that they may wish.

CORRESPONDENCE WITH EXECUTIVE BRANCH ON RESOLUTION OF RATIFICATION

Before we proceed to our statements, I believe that it would be appropriate at this time to consider the letter that has been furnished the committee by Secretary Vance in reply to our inquiry, which sets forth the manner with which the executive branch will deal with the various categories contained in the resolution of ratification.

First of all, I ask the consent of the committee that the text of the letter may appear in the record. There is, however, one change in that text.

Mr. Cutler, I wonder if you would point out to the committee the change in the text.

Perhaps, Senator Javits, you would be prepared to do that instead? Might I ask you to do that, Senator Javits? Please bring up and explain the reasons why we have requested a change in the text. That would be most helpful.

Senator JAVITS. Thank you, Mr. Chairman.

I am sure Mr. Cutler will understand that I wish to do this because it is we, and not he, who picked that up.

If members will turn to page 2 of the Secretary's letter, under item (1), that is, the first paragraph on that page, I will read the last sentence of that paragraph and then will explain why we want to change it.

The sentence reads: "In particular, he"—meaning the President—"will proceed on the understanding that all obligatory conditions will

be equally binding on the President regardless of the category in which they are placed."

The desired meaning of that was that the President will be bound by all of the conditions according to their terms. In using the word "obligatory," the administration intended that to mean that such conditions as put duty or responsibility on the President are what the administration had in mind. However, when we read it, particularly the minority chief of staff, Mr. Lakeland, we felt that the word "obligatory" could mean that the President would determine what was obligatory and, in view of the litigation which is going on now regarding Presidential powers in respect of treaties, we thought it desirable to strike the word "obligatory."

Therefore, shortly we will have another page in place of this one which will read as follows:

In particular, he will proceed on the understanding that all conditions will be equally binding on the President in accordance with their terms regardless of the category in which they are placed.

We believe this language should settle any question.

The CHAIRMAN. Mr. Cutler, are you prepared to assure the committee that this particular change will be made in the text of the letter?

Mr. CUTLER. That is correct, Mr. Chairman.

I would want to pay tribute to Senator Javits' drafting ability which I think was superior to ours.

I will recall a statement of Elihu Root, Jr., who said, "The words you use must not merely be consistent with what you mean; they must be inconsistent with any other meaning."

That is a good standard and I think this is better language.

Thank you.

The CHAIRMAN. Very well. With that generic understanding, the text of the letter, as it will be revised, will appear in the record of these proceedings.

[The letter referred to follows:]

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 29, 1979.

Hon. CYRUS VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: The Senate Foreign Relations Committee began its mark-up of the SALT II Treaty on Monday, October 15. From the outset, the Committee has confronted several procedural issues regarding the legal effect of the various conditions or declarations which it may decide to incorporate into the resolution of ratification reported to the Senate.

With the intention of clarifying these matters, the staff has suggested drafting the resolution of ratification so as to distinguish three categories of conditions to the Senate's advice and consent:

(1) Those that need not be formally communicated to or agreed to by the Soviet Union;

(2) Those that would be formally communicated to the Soviet Union, but not necessarily agreed to by them; and

(3) Those that would require the explicit agreement of the Soviet Union.

While the Committee had tentatively agreed to designate its conditions in this manner, it has not yet decided upon the exact form which the resolution will take. The attached draft of a resolution of ratification is therefore merely illustrative. However, before the Committee completes its mark-up, we must decide how best to assure that our intentions. and eventually those of the full Senate, are accomplished in the resolution of ratification.

In making our final decision about the structure of the resolution of ratification it would be most useful to have an advance understanding with the President on a number of questions. In this regard, your formal assurances on the following points are desired:

(1) That the President would proceed on the understanding that the provisions contained in each category of the resolution of ratification are equally binding on the United States with respect to its adherence to the treaty;

(2) As to what procedure the President will follow for communicating to the Soviet Union the provisions of category 2 of the resolution of ratification that would constitute formal notification of the official United States position on such issues;

(3) That the executive branch would follow a procedure for securing Soviet agreement to the conditions in section 3 of the resolution that will leave no doubt as to the explicit agreement of the Soviet Union to the conditions contained therein, such as by means of a Protocol of Exchange or its legal equivalent.

Since we are proceeding steadily with the mark-up in Committee, we would appreciate your response on these matters at the earliest possible time.

With best regards,

Sincerely,

FRANK CHURCH,
Chairman.
JACOB K. JAVITS,
Ranking Minority Member.

DRAFT RESOLUTION OF RATIFICATION

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms and the Protocol thereto, together referred to as the SALT II Treaty, both signed at Vienna, Austria, on June 18, 1979 (Ex. Y, Ninety-Sixth Congress, first session), provided that:

I. The Senate's advice and consent to ratification of the SALT II Treaty is subject to the following:

(A)
(B)
(C)

II. The Senate's advice and consent to ratification of the SALT II Treaty is further subject to the condition that, in connection with the exchange of instruments of ratification pursuant to Article XIX of the Treaty, the President shall communicate to the Union of Soviet Socialist Republics the following:

(A)
(B)
(C)

III. The Senate's advice and consent to ratification of the SALT II Treaty is further subject to the condition that, in connection with the exchange of instruments of ratification pursuant to Article XIX of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following:

(A)
(B)
(C)

THE SECRETARY OF STATE,
Washington, November 8, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate

DEAR MR. CHAIRMAN: I wish to thank you and Senator Javits for your joint letter of October 29, inviting my comment on the form of a draft resolution of ratification for the SALT II Treaty and requesting formal assurances concerning the Administration's interpretation and implementation of this proposed resolution.

As you know, the Administration firmly believes that the Treaty, as it stands, is a sound, balanced agreement which is in the national security interests of the United States. We believe that the Senate should not adopt any conditions which would seek to alter the agreement or reopen issues which have been satisfactorily resolved in the negotiating process.

I believe that the basic structure of the Committee staff's draft resolution is desirable, in that it would make clear in each case whether a provision of the resolution is intended to require Soviet agreement, to place the Soviet Union on notice of a United States policy or position, or to document a formal understanding between the Senate and the President concerning the implementation of the SALT II Treaty by the United States. It also eliminates any need to attach a particular designation such as "reservation" or "understanding" to any proposal in order to convey the Senate's intent, thereby avoiding possible misunderstanding as to the intended effect of such terms.

With respect to your three specific requests, I am authorized to assure you, on behalf of the President, as follows:

(1) If the Senate decides to adopt a form for the resolution of ratification along the lines of the draft enclosed with your letter, the President will proceed in the ratification and implementation of the Treaty on the understanding, with respect to U.S. adherence to the Treaty, that the inclusion of a provision in any of the categories in the resolution would have the same effect on the United States as its inclusion in any other category. In particular, he will proceed on the understanding that all conditions will be equally binding on the President in accordance with their terms regardless of the category in which they are placed.

(2) The Executive Branch will communicate to the Soviet Union the provisions in category 2 of the resolution in such a manner as to constitute formal notification of the official U.S. position on such issues. Specifically, we believe the most desirable procedure would be for the United States to convey these provisions to the Soviet Union by formal diplomatic note prior to the exchange of the instruments of ratification. This procedure would have two distinct advantages over inclusion of the category 2 provisions in the U.S. instrument of ratification. First, it would ensure that the Soviet Union understands, in advance of the Treaty's entry into force, the express basis upon which the United States will adhere to the Treaty. Second, it avoids the risk of possible confusion over whether these provisions were intended to require Soviet agreement. As you know, there is some uncertainty within the international legal community over whether provisions in the instrument of ratification of one party to a treaty are binding on the other party in the absence of express disavowal by that other party. Indeed, the inclusion of provisions in the instrument of ratification is normally regarded as evidence of intent to bind the other party. Accordingly, that procedure would seem singularly inappropriate for carrying out the formal notice purpose of category 2. We do not see any advantage in following a procedure which, in view of this legal uncertainty, might cause the Soviets to feel legally compelled to express views on each of the United States category 2 provisions.

(3) The Executive Branch will follow a procedure for securing Soviet agreement to the provisions in category 3 of the resolution in a manner that will leave no doubt as to the explicit agreement of the Soviet Union to those provisions. Without such explicit agreement the Treaty will not enter into force. We expect to follow the usual procedure of a Protocol of Exchange of Instruments of Ratification (or its legal equivalent) for this purpose. I can assure you that we will not assume Soviet agreement to the Senate's category 3 provisions on the basis of their inclusion in the United States instrument of ratification.

I hope that the foregoing assurances will be of assistance to the Committee in completing its markup of the Treaty. I am sending Senator Javits a similar reply to your joint letter.

Sincerely,

CYRUS VANCE.

The CHAIRMAN. Now I would like to recognize Senators on the committee who might wish to make a final statement before we proceed to a vote.

Senator McGovern.

SUMMARY STATEMENTS BEFORE VOTE TO REPORT TREATY:
SENATOR MC GOVERN

Senator McGovern. Thank you, Mr. Chairman.

After months of careful thought I have decided that, on balance, the SALT Treaty holds out more hope for the United States and for the world than would rejection of the treaty.

The best description of the treaty was provided by Gen. David Jones, testifying for the Joint Chiefs of Staff, when he described it as "a modest, but useful step."

The treaty is disappointing in that it permits both Russia and the United States to further escalate the arms race after each already is capable of destroying the other several times over. In this sense, the treaty ratifies a balance of nuclear terror with the potential of bankrupting national treasuries, if not destroying civilization.

I vote for the treaty not primarily because of its intrinsic merit, but because it is part of a negotiating process between the two great military powers that holds out the hope of genuine arms reduction in the years immediately ahead.

The Senate Foreign Relations Committee now has adopted unanimously a declaration of policy which I was privileged to sponsor which says, in effect, to the negotiators of the SALT III Treaty, don't bring us another treaty unless it pledges significant and substantial reductions of arms on both sides.

The purpose of that declaration is to begin with the high, but supposedly equivalent, limits set by SALT II and then, as quickly as possible, to scale down those limits mutually and annually. I would expect the reductions to be at least 30 percent below the SALT II levels in all strategic categories and subcategories. Those reductions should average at least 5 percent during each year that SALT II is operative.

With the unanimous approval of this declaration by my colleagues on the Foreign Relations Committee, whom I hold in high esteem, and with the assumption that the full Senate will accept this declaration of policy for SALT III, it is now my intention to vote for the SALT II Treaty and to begin work today for its passage and the implementation of a genuine arms reduction policy in the future.

May I add one note, Mr. Chairman.

I would hope that our European friends would not, as some have suggested, rush ahead with new theater nuclear weapons. To do so could foreclose the possibility of mutual arms reductions in Europe. Soviet officials recently have taken initiatives to reduce troop and tank deployments in Eastern Europe. They have talked of possible reductions in intermediate range missiles. Those initiatives should be weighed carefully and responded to at the diplomatic table, not ignored by a mindless plunge into new theater weapons that are potentially destabilizing and counterproductive.

For our European allies, as for the United States and the Soviet Union, there is no reasonable alternative to détente. Either we all must work to reverse the arms race and learn to live together or we will die together.

Mr. Chairman and members of the committee, these are the considerations that have led me to enlist in the effort to ratify the SALT II Treaty. I want to congratulate President Carter, Secretary Vance, Secretary Brown, General Jones, Ambassadors Warnke and Earle, Mr. Cutler, and their predecessors in the Ford and Nixon administrations for their diligent work and patience in keeping alive the hope that the world may yet be rescued from nuclear catastrophy.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator McGovern.

Senator HAYAKAWA. Mr. Chairman.

The CHAIRMAN. Senators, may we just proceed down the line.

Senator Percy, you are next.

Senator PERCY. I would yield to Senator Hayakawa if he has a time problem.

Senator HAYAKAWA. Thank you very much, but I think I can wait a while longer.

SUMMARY STATEMENT: SENATOR PERCY

Senator PERCY. Mr. Chairman, I shall vote to report favorably to the Senate the SALT II Treaty. I do believe it serves the national interest of the United States. It makes positive gains in limiting nuclear arms for the arms race and reducing the risk of nuclear war.

I think the limits are modest, but I think the limits are measurable.

SALT II will restrict the Soviet buildup in ways important to U.S. national security and it does not prohibit the United States from building those weapon systems essential to our own defense. Those criteria are critical and they have been met, in my view.

Other criteria that I outlined for the treaty also have been met. The committee has recommended that the Senate endorse its understanding to the treaty prohibiting protocol extension without the advice and consent of the Senate; its understanding stating that we continue cooperation with our NATO allies on the usual basis and have no inhibitions whatsoever or restrictions on our transfer of technology necessary for our mutual defense; and the reservation giving the Soviet Backfire statement the same legal, binding status as the treaty itself.

The committee has adopted other measures on the U.S. defense posture, on criteria for SALT II, on verification, and on the use of antisatellite weapons, all which have improved this treaty.

Treaty opponents have been unable to convince me that this treaty contains fatal flaws. Some of their arguments seem persuasive at first glance, but lose their impact upon closer inspection and in weighing achievable alternatives.

Mr. Chairman, let me cite as an example this letter which I received [indicating] addressed to "Dear Friend," which obviously has been sent to hundreds of thousands of people. If I am on the mailing list of this group, which is asking me to contribute to the Conservative Caucus, Inc., to defeat the treaty, there are an awful lot of other people on this list.

In a sense, I think it is a typical overstatement of the case that is contained in the letter. The very fact that a red, white, and blue "Old

Glory" flag and a white flag of surrender are enclosed is absurd. How can the Joint Chiefs of Staff, in any respect, be depicted as in a condition of surrender in this case. It is their logical judgment, after years of study, that this treaty does serve the national interests of the United States, that it does put limits on what the Soviets can do and would do otherwise, and that it puts no real limits on what we intend to do and will realistically do for our own national defense.

I think the arguments used in the letter either are vastly overstated or actually out of date.

Let's consider the first three arguments. The first point reads:

The powerful, new, Soviet strategic bomber, the Backfire, may be produced and deployed without restriction, even though, since Jimmy Carter cancelled the B–1 bomber, America will no longer have a long-range bomber able to penetrate Soviet defenses.

The facts simply do not support that contention, which has been sent out to a great many Americans. The Backfire may not be produced without restriction. The Soviets are limited to 30 per year, according to their own statement, which the committee now has insured has the full force of law. America will have, in the B–52, a long-range bomber able to penetrate Soviet defense well into the next decade. Well before the end of this period we will have a full force of air-launched cruise missiles, numbering more than 3,000, which can be launched from B–52's or other carriers from outside Soviet borders.

Let us take the second point raised in the letter. I will read it exactly as given in the letter. "Soviet SS–20 launchers, capable of sending nuclear warheads into the United States from Asian and European bases will not be limited." Now this simply is not consistent with the facts.

The SS–20 launcher will not be limited; but the SS–20 does not have intercontinental range. The Soviets would have to modify substantially the missile and undertake a flight-test program in order to give the SS–20 missile intercontinental range. If they did so, we easily would be able to detect it and it would be a treaty violation, clearly and without any question, and would be cause for our withdrawal from the treaty.

The third point in the letter is an interesting one. I will read it again exactly as given in the letter.

The treaty would restrict American development and deployment of the cruise missile. We would not be able to share certain types of information with our NATO allies.

Now in this regard the letter has some credibility in that there was some degree of ambiguity. The administration never thought there was, but, because of the possibility of ambiguity, an understanding now has been adopted by this committee. The facts are these: The treaty does not restrict American development at all—it never did—of the cruise missile. We can continue development and testing completely uninhibited. As for restrictions on the deployment of ground- and sea-launched cruise missiles contained in the protocol, the protocol cannot be extended without Senate consent. These restrictions will end finally and completely on December 31, 1981. The United States would not be prepared to deploy ground- or sea-launched cruise missiles before that date, with or without the protocol.

On the issue of sharing information with our allies, this committee has made clear that this treaty restricts nothing. I fully expect the Senate to endorse that position. We can transfer cruise missile technology or even Trident submarines to our allies if we so choose. SALT II does not stand between us and our allies, and we have made that eminently clear.

The point I want to underscore is that all of these so-called "fatal flaws" have been addressed in depth in this committee and, in my view, have been overstated. I feel and believe that it is important that the arms control process be continued. It is beginning to yield some significant, though modest, results. A step-by-step approach can be built to develop confidence necessary to continue the process. We will never get SALT III if we reject SALT II out of hand.

Certainly, all of us agree that cuts are not deep enough, and the next cuts must be much deeper, much more significant. SALT II is only a modest, small step forward, but its defeat could eliminate the prospects for further arms control progress. It is my best judgment that we should take this next step. It is in the best interests of the United States, our allies, and indeed the rest of the world. Indeed, if we do not, we may set off the process and delay it by as much as a decade.

Thank you, Mr. Chairman. I would like to submit a letter to me from the Conservative Caucus and a point-by-point response for the record.

[The information referred to follows:]

THE CONSERVATIVE CAUCUS, INC.,
NATIONAL HEADQUARTERS,
Falls Church, Va.

"It is a law of nature, common to all mankind, which time shall neither annul nor destroy, that *those who have greater strength and power shall bear rule over those who have less.*"
General Douglas MacArthur.

DEAR FRIEND: I think you will appreciate, more than most Americans, what I'm sending you.

I have enclosed two flags: the red, white, and blue of Old Glory—and the white flag of surrender.

I want to show you, by these two flags, what is at stake for America under the SALT II Treaty with Russia.

If the U.S. Senate ratifies SALT II (the Strategic Arms Limitation Treaty negotiated by Kremlin Boss Leonid Brezhnev with Jimmy Carter) it will mean the permanent surrender of the United States of America to the military superiority of the Soviet Union.

You and I must choose—as the Senate must decide—whether we will personally accept the White Flag of Surrender as America's banner.

Or, whether we are prepared to work and sacrifice to keep Old Glory proudly raised on high.

If SALT II is ratified, this is what Russia gets:

(1) The powerful new Soviet strategic bomber—the Backfire—may be produced and deployed without restriction, even though, since Jimmy Carter cancelled the B–1 bomber, America will no longer have a long-range bomber able to penetrate Soviet defenses.

(2) Soviet SS–20 launchers, capable of sending nuclear warheads into the United States from Asian and European bases, *will not be limited.*

(3) The treaty would restrict American development and deployment of the Cruise Missile. We would not be able to share certain types of information with our NATO allies.

(4) The Communists are given a "counterforce" capability with "superheavy" intercontinental missiles, which is *prohibited* for U.S. military forces.

(5) In one of the few areas where America has a weapons advantage over the Russians, with multi-headed missiles (known as MIRVs—Multiple Independently Targeted Reentry Vehicles) the U.S.S.R. is permitted to catch up and produce more "MIRVs" than America.

(6) America is prevented from challenging the *six-to-one advantage* now held by the Russians in the "throw-weight" and destructive capability of their Intercontinental Ballistic Missiles.

(7) The Soviets will have an overwhelming advantage in their ability to determine whether America is complying with treaty restrictions. On the other hand, if the treaty is ratified, there is no way provided for the U.S. to know whether the Russians are cheating.

Clearly every American who loves his country and believes Communist tyranny must be opposed has a duty to help defeat SALT II.

That's why I'm writing to you today.

If SALT II is ratified, not only will the Russians be tempted to destroy us in a nuclear war (top generals say the Soviets would lose "only" 5 or 10 million people, while more than 150 million Americans would die).

But more to the point, they won't need a nuclear war.

The Russians will have the military dominance they need to stare down the President of the United States, to blackmail us, whether in Europe, Asia, Africa, or the Americas.

We will find ourselves increasingly isolated and surrounded—cut off from raw materials, from oil, from trading partners, and from those few overseas friends we still have.

This is why The Conservative Caucus is in the forefront of a nationwide campaign to kill SALT II and to persuade Congress to do all that is necessary to restore American military strength.

But that campaign will not succeed unless you support it.

Your dollars—and, if possible, your time—are needed for TCC to do the job which must be done at the grass roots level. We must deny Jimmy Carter the 67 votes he seeks for SALT II to be ratified in the U.S. Senate.

Jimmy Carter has all the money he needs.

According to the Government Accounting Office (GAO) records, Carter has been using your hard-earned dollars, at the rate of $100,000 per month, to push pro-SALT lobbying efforts all over the country.

We think its wrong for Carter to use taxpayers' funds in this way. But the point is, he's doing it.

So when you add up Carter's ample funding, plus all the other powers of the Presidency, it means we must get the $75,900 we need, above and beyond basic overhead costs, to pay for Phase One of our "Defeat SALT II" campaign.

Here, with your help, is how we plan to defeat SALT II.

Your postcards to your two U.S. Senators will put them on notice that you oppose giving military superiority to the Russians.

I am leading a series of *ten, 5-state grass roots tours* to focus public attention on the arguments against SALT II and to organize local opposition forces.

In all 50 states, "Defeat SALT II" public rallies are being sponsored by The Conservative Caucus, featuring talks by Generals Dan Graham, John K. Singlaub, Al Knight, and other top defense experts.

Paid newspaper ads, radio interviews, and news releases are being used to tell people the facts about SALT II and bring them to our rallies.

Before each rally, a special mailing is sent to members of The Conservative Caucus in the area, giving full details.

"Nuts and bolts" sessions being conducted in each state are very useful in strengthening our state and district-based activities.

At dinner, before each rally, I meet with the leaders of local conservative issue groups, to enlist them in the *"Defeat SALT II" local coalition*, and to get their help in starting a *Conservative Leadership School* for the area.

A mid-day *briefing session and luncheon for key local journalists* is held in each state on the day of the "Defeat SALT II" public rally. Facts presented by TCC leaders and recognized defense experts help bypass the pro-SALT bias of the national media.

As you can see this is an ambitious program. But we can do it. We must do it.

But we need two big items to make it work. Time and Money.

We need the money, and we need it fast. Every day we lose, is one less opportunity to mobilize our grass roots majority before the Senate votes on SALT II.

I personally will spend nearly ten weeks away from my home and family. working to stop SALT II.

I won't ask you to do that, but I must have your financial help.

Please, today, return the reply form I have enclosed for you and let me know if you can contribute $15, $25, $50, $100 or more. And, if you want to help persuade undecided Senators to vote against SALT II, check that space on the form, and I'll send you a "Defeat SALT II" campaign kit.

The campaign kit will give you complete details about SALT and some materials you can share with your friends and neighbors.

Furthermore, I will keep in touch with you through the communications which The Conservative Caucus sends its members, keeping you up to date on what is happening in the treaty fight and what TCC is doing.

But I must have your answer, so I can make my plans.

Please today:

1. Mail your postcards to your two U.S. Senators.
2. Make a contribution of $15, $25, $50, $100 or more.

Remember, this is not just another appeal.

The survival of America is on the line. Please answer me today.

Sincerely,

HOWARD PHILLIPS,
National Director.

P.S. We lost the Panama battle last year by just two votes. The SALT II fight is much more important. And we now have a more conservative Senate (including one of our own TCC State Coordinators, Gordon Humphrey). But we must act fast. Send TCC your contribution today for $15, $25, $50, $100 or more. Put your American Flag on your form. Mail your postcards to your Senators.

ANSWERS TO ISSUES RAISED IN CONSERVATIVE CAUCUS LETTER

Answer to point No. 1

The Backfire may *not* be produced without restriction. The Soviets are limited to 30 per year according to their own statement which the Committee has now ensured has the full force of law.

America will have, in the B–52, a long-range bomber able to penetrate Soviet defenses well into the next decade. Before the end of this period, we will have a full force of air-launched cruise missiles numbering more than 3,000 which can be launched from B–52's or other carriers from well outside Soviet borders.

Answer to point No. 2

SS–20 launchers will not be limited, but the SS–20 missiles does not have intercontinental range. The Soviets would have to substantially modify the missile and undertake a flight-test program in order to give the SS–20 missile intercontinental range. If they did so we would quickly detect them and under the treaty the SS–20 launcher would count as an ICBM launcher.

Answer to point No. 3

The treaty does not restrict American development of the cruise missile. We can continue development and testing completely uninhibited. The protocol does prohibit *deployment* of ground and sea launched cruise missiles with a range greater than 600 kilometers. There are no restrictions on the deployment of air-launcher cruise missiles, except that their carriers are counted in the numerical ceilings of the treaty.

As for restrictions on the deployment of ground and sea-launched cruise missiles contained in the protocol, this committee is making certain that the portocol, and the restrictions it contains cannot be extended by the President without the consent of the Senate beyond the expiration date of the protocol, December 31, 1981.

On the issue of sharing information with our allies, this committee will make certain that this treaty restricts nothing. We have heard in testimony from the Secretary of Defense that we can transfer cruise missile technology or even Trident submarines to our allies, if we so choose. The understanding that we adopted in committee on Monday will, if adopted by the Senate, make clear that our cooperation with NATO will continue unrestricted by SALT II.

Answer to point No. 4

No military analyst appearing before our committee advocated that we build a superheavy missile. Our military places more significance on accuracy and survivability than on weight. The U.S. plans to build the M–X missile which is only ½ the throw-weight but equal or greater in capability to the Soviet "superheavy" missile. The U.S. military decided they did not want to build a heavy mobile M–X ICBM and so mobile heavy ICBMs are banned in the treaty. The U.S. would never want to build a new heavy missile and place it in vulnerable silos, which is the only option permitted the Soviets under the treaty.

Answer to point No. 5

Both sides will be able to continue adding warheads to their arsenals within the ceilings set by the treaty. The U.S. is expected to maintain its advantage in warheads. By the end of the treaty in 1985, the Defense Department estimates that the U.S. will have 12,000 warheads and the Soviets will have 10,000. Without the warhead limits in the treaty, the Soviets would have thousands more by 1985.

Answer to point No. 6

I have already said that we do not consider throw-weight the end-all of strategic capability. Accuracy, survivability, and numbers of warheads are even more important, and the U.S. will maintain an advantage in all of these areas. After all, it is deliverable warheads that cause destruction and the treaty places important restrictions on these.

Answer to point No. 7

I am convinced that we can verify compliance well enough to protect our national interest. Admittedly, this is a judgment call. The facts cannot be brought out in the open because they are classified. However, the Senate Select Committee on Intelligence, with Senator Birch Bayh as Chairman and Senator Barry Goldwater as ranking minority member, has access to all the highly classified material on this subject. That committee has unanimously reported that this treaty will help the U.S. monitor Soviet strategic systems—we must do this with or without the treaty.

The CHAIRMAN. Thank you very much, Senator Percy.

Senator Glenn.

Senator GLENN. Thank you, Mr. Chairman.

SUMMARY STATEMENT: SENATOR GLENN

While I am for the SALT process, I am not in favor of sending the treaty to the full Senate at this time. Since we are to vote on the treaty today, I must, in good conscience, vote against that action.

I have said from the start of this debate that I will vote for the treaty only if we can adequately monitor and verify Soviet compliance with its terms at the time of the vote, not relying on future promises of a capability we may or may not be able to develop. The loss of the U.S. listening posts in Iran earlier this year very gravely damaged American ability to monitor certain very critical aspects of Soviet strategic tests. The administration efforts to recoup that capability elsewhere have not been completely successful yet.

The administration is making a major effort to regain an adequate monitoring capability, and I certainly give it an "A" for effort. But so far we have come up short.

I have said for many months that I will not vote for SALT II unless it is verifiable, and I intend to stick to that pledge.

If and when I am satisfied that we consistently and reliably can monitor Soviet tests, then I will be an eager spokesman for SALT. But, for now, I must oppose sending the treaty to the floor.

This issue has been a key concern of mine for over 2 years. I have read every report cover to cover, attended countless hearings and briefings, and visited the negotiations in Geneva on one occasion, so my concern on verification is not a new-found thing.

Long before the United States and the Soviet Union signed the pact, I urged that our Government go slowly to make sure that SALT II was verifiable when it was sent to the Senate. The administration chose to do otherwise, and I regret that decision.

I generally am satisfied with other provisions of the treaty although we all probably believe that it could be improved in one way or another. I have had some 13 understandings accepted by the committee, for which I am grateful. While I did not agree with some of the categories in which those were placed, I think overall that the committee has very much improved the treaty by closing the ambiguities and loopholes.

I do not buy the theory that we must be the ones to take risks in order to placate the Russians. That approach rarely works when dealing with the Soviet Union. I believe it is possible to have a good treaty, a workable treaty, a treaty that can be verified. Waiting until solid monitoring capability is in place in my view will not hurt the peace process. In fact, it will strengthen it. That capability, on a reliable, continual basis, not just in bits and pieces, may be realized in the near future, although details must remain highly classified. When that occurs, both sides would be in a position to enter SALT III negotiations in a spirit of confidence.

The American people would support SALT III talks because we would know that the terms of SALT II were being met.

One of the greatest problems in dealing with public discussion of verification is the classified nature of specific sources and methods. Much of what I know and what we know on this subject is classified material and, frankly, that makes it very tough to discuss it. Some of the material really is in the category of supersensitive, so far as intelligence goes. So, generating an intelligent debate on verification thus far has been almost impossible. The issues go to the very heart of our intelligence network around the world and must, of course, be secret. Yet, despite that major public relations problem, I think there is a growing awareness that SALT II is no panacea and that verification remains a very serious problem.

I was determined that we not experience some of the mistakes of SALT I all over again. In that treaty we relied too heavily on unilateral statements to resolve contentious issues, only to discover that the Soviets had no intention of abiding by our interpretations. Once we realized that the Soviets were going to exploit ambiguities and loopholes in the treaty, I think we failed to call them to account, at least soon enough, for their actions.

The understandings we have approved here are designed to hold the administration's feet to the fire, as well as the Soviets', making it difficult for the executive branch this time not to enforce the treaty forcefully.

Mr. Chairman, the Intelligence Committee report, which is the basis for much of our information on verification, was based, to a large extent, on a study that I asked for over 2 years ago, which came

to be known as the matrix—the Intelligence Committee report refers to it as the scorecard. The scorecard lists each provision of the treaty, notes what intelligence systems are available to monitor each provision, and indicates our level of confidence that a provision is verifiable. In effect, the scorecard summarizes the key findings of the intelligence community regarding verification.

This scorecard, however, assumes that all present and programed U.S. intelligence collection assets would be available and tasked for SALT monitoring. Let me repeat that: All present and programed U.S. intelligence collection assets would be available and tasked for SALT monitoring.

Mr. Chairman, we know what has happend to some of those planned assets, some of those programed assets have not worked. We have had this dismissed very blithely, as I see it, by administration officials, with the phrase, "It is all taken care of, don't worry about it because we are developing these capabilities," and we are supposed to just accept it. Yet, from the time those statements originally were made, statements which predicted that we would have some of these capabilities well in hand by the end of this year, 1979, this committee knows what has happened to some of those.

When I have raised some of these questions, one of the persons who always has been tossed back to me as an authority on this—and who is, indeed, an authority on it—is the ranking minority member on the Senate Select Committee on Intelligence, Senator Goldwater. I was told that he accepted the verifiability of the treaty when the Intelligence Committee made its report to us.

But Senator Goldwater is now rather disillusioned about some of the developments that have occurred during the interim period. Yesterday, he rose on the floor of the U.S. Senate and made the following statement, and I will quote [reading]:

> Mr. President, a number of months ago I made the statement on the floor of the Senate that I felt that the monitoring and verification procedures called for in SALT II could be accomplished, although I placed limitations with that statement. I was depending, to a great extent, on the availibility of new equipment. This new equipment has not come through, and the chances of it coming through do not look immediate or good to me at this time. Mr. President, I wish to correct my position, that I took at the time I have referred to, and state that I have doubts now of a sufficient nature to cause me to say that I do not feel that we can depend on the verification capabilities of this country and, I might add, those capabilities are not up for criticism where monitoring is needed that are not exactly 100 percent. If any members of the Senate would like a more detailed explanation of my reason, I will be glad to talk with them.

Senator Goldwater's statement obviously indicates that he has very, very serious doubts about our going ahead with this at this time.

I was surprised, as a matter of fact, after Senator Goldwater made his statement yesterday and it was released to the press gallery, to find that it was not even covered in the news reports last night or this morning, I was surprised because the press certainly covered his statement when he came out for the treaty in the Intelligence Committee report and in favor of our ability to verify and monitor. Yet, after his statement of yesterday, I have not seen yet any news mention of this either in print, radio, or television, and this has surprised me somewhat because I thought he made a rather major statement yesterday.

Mr. Chairman, for all of these reasons I will vote against this treaty. As I have said before, I remain committed to the SALT process. I want to be able to support the treaty on the floor. I will only support it, however, if we get the verification capability that we need. I hope we do. I know of a lot of things that are being done right now and hope they work out and become reliable, permanent methods of monitoring what the Soviets are doing. At that time, and at such time as this occurs, I will become an advocate for SALT. Until then, however, I think we are asking for trouble if we go ahead and approve this treaty.

Mr. Chairman, I would urge the committee, which I have done before both in private and public, I would urge that all of the Foreign Relations Committee members, indeed, every Senator, read the Intelligence Committee report and not just accept the summarized versions that we were given in our closed sessions. I know this will take some time. I know it is inconvenient to go over to the Intelligence Committee quarters and sit down and read this lengthy report. I know it is complex and complicated and it does take time. But this is a matter of such grave importance for this country that for us to move ahead and not take a discerning look into the results of the 2 years of efforts that the Intelligence Committee put into this would be shirking our duty as Senators before we approve this on the floor of the U.S. Senate.

I wish every member of the committee had read that report from beginning to end and had studied it thoroughly by now. If that had been the case, I think other members of the committee perhaps would join with Senator Goldwater's view, as I stated it a moment ago.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Glenn.

Senator Baker.

Senator JAVITS. Senator Baker, would you yield to me briefly?

Senator BAKER. I yield.

Mr. Chairman, so that Senator Baker might not be interrupted, I ask unanimous consent that the vote now set to be taken by the committee at 10 be taken at 10:30.

The CHAIRMAN. Is there objection?

[No response.]

The CHAIRMAN. Without objection, it is so ordered.

Senator Baker.

SUMMARY STATEMENT: SENATOR BAKER

Senator BAKER. Mr. Chairman, thank you very much.

Mr. Chairman, may I begin by saying that I believe my first remark should be one of gratitude to you and to Senator Javits for conducting what must be the fairest and the most thorough markup session of any peacetime, legislative endeavor that I have witnessed in the past 13 years of my service to the Senate.

Time after time, you and Senator Javits have accommodated my time requirements and my preferences with respect to the offering of amendments, reservations, and understandings. I have offered them out of sequence on particular days, and sometimes, I am sure, to the

inconvenience of the committee. I would like to begin these brief remarks by paying my respects to you, Mr. Chairman, and expressing my gratitude to both you and Senator Javits for operating not only an efficient committee inquiry and markup, but also for your extraordinary fairness.

The CHAIRMAN. I thank you, Senator, very much.

Senator JAVITS. Thank you.

Senator BAKER. Mr. Chairman, Senator Javits, I believe you both know if for no other reason than the burden of repetition of my statements in the past, that I believe in the SALT process. I believe there is a moral imperative that should require the great nations of the world to try to reach an accord on the limitation of nuclear weapons. I supported SALT I, and the Vladivostok Accords. I would like to support this treaty, but because I think this treaty is unequal and unfair, I cannot.

I think the committee has shown an extraordinary depth of knowledge on complex issues. May I pay the same respects and offer the same congratulations to the members of the committee, for I never have seen a group of Senators who have known in such depth the detail of a complex subject. This markup has been truly extraordinary.

But I think it has disclosed in vote after vote that the committee is divided on the appropriateness of this treaty at this time. The question is not. Do we support a treaty? The question is: Should we support this treaty? I believe, Mr. Chairman, that we should not.

It would be redundant and unnecessary to reexamine fully the inequality that I have tried to suggest in the past. I am concerned, for instance, that the Soviets are entitled to a fleet of heavy missiles, while we are not. It is true that our military experts say we don't want heavy missiles, but this is not an argument for giving the Soviets heavy missiles. I think we got out-traded.

On the question of the Backfire bomber, it is said that the Backfire should not be counted because it is not a strategic system. I believe it is strategic. It is as strategic as anything we have in terms of manned bombers, except the latest of the production series of the B–52.

It is said that we can verify the treaty and therefore we should have no fear of the Soviet Union's violation of any of its terms and provisions. I do not believe we can do that adequately, according to our own means. I do not believe we should enter into a treaty of this sort unless we can do that independent of the good faith and representations of the Soviet Union.

It is my interpretation by a synthesis of several provisions, that, in effect, the treaty says the Russians will let us know anything we need to know about their compliance. I don't think that is a satisfactory answer to the question of verifiability.

Mr. Chairman, I was particularly concerned about the loss of our monitoring facilities in Iran. I will not speak at great length on that except to say that I was alarmed no less when I discovered that a substitute means might include the use of manned aircraft flying from another nation. We found that nation—in this case, Turkey—saying that it would have to check with the Soviets to see if that was all right. Well, that, too, really puts me off. The idea that we have to negotiate among our allies our access for verification of this treaty is a fatal defeat.

Mr. Chairman, this treaty might be a good treaty at another time: After we have remedied the defects in our verification procedure; after we have moved along the development and deployment of our new weapon system; after we are secure in the knowledge that we do, in fact, have a survivable and effective counterforce structure, the ability to retaliate that we are about to lose.

It is not that this treaty is bad, per se, but it is bad at this time. I believe, therefore, Mr. Chairman, that it is important that we send this treaty to the floor, as surely this committee will do, with the clear understanding that it is a divided committee, that there will be strong, contrary views expressed in the report, that the Senate, as a whole, will have the opportunity to act on the amendments which were rejected here, as well as others; and, that finally, after we have concluded the debate on the Senate floor, that we will have done what I expressed the hope that we would do in February of this year, when I said at another meeting that I hope SALT will serve as the focus by which America's attention is concentrated on the relevance of our foreign policy and the adequacy of our national defense. I think to a remarkable degree we already have done that. I believe the debate on the floor of the Senate will complete that. I believe the treaty should be defeated unless it is significantly changed.

The CHAIRMAN. Thank you, Senator Baker.

I want to recognize Senator Hayakawa out of turn because he has a plane to catch.

SUMMARY STATEMENT: SENATOR HAYAKAWA

Senator HAYAKAWA. Thank you, Mr. Chairman.

A few days ago, I drew the attention of my colleagues to the fatal precedent of 1919, when the Treaty of Versailles was defeated because the administration objected to a few substantive changes. In an effort to save SALT II and mindful of this unfortunate development in the past, some of us tried to improve the chances of SALT II for passage on the floor. Therefore, the changes which Senator Baker, Senator Glenn, Senator Lugar, and I have supported would have permitted the United States to build heavy ICBM's similar to those which the Soviet Union possesses. Another change would have permitted a weighted counting of the Soviet Backfire and the American FB–111.

In other words, these changes would have removed some of the inequalities of the Vienna agreement.

Moreover, the last two changes would have strengthened the verification provisions of the treaty.

The committee, with relatively small majorities, has turned down these improvements.

SALT II, as it now stands, codifies Soviet strategic superiority for the 1980's. Also, as Senator Glenn has made so abundantly clear, its provisions for verification are inadequate. I cannot believe the American people want such a treaty.

I am therefore obliged, Mr. Chairman, to cast my vote against reporting SALT II in its present form to the floor. It, nevertheless, remains my fervent hope that the full Senate, in its wisdom, will make the necessary changes so that an improved SALT II will find the two-thirds majority needed for passage.

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I thank the Chair, and I thank the Chair particularly for letting me speak out of turn so that I can catch my plane.

The CHAIRMAN. Thank you, Senator Hayakawa.

Senator Stone.

SUMMARY STATEMENT: SENATOR STONE

Senator STONE. Thank you, Mr. Chairman.

Mr. Chairman, the treaty in its present form should not be ratified because it will not produce genuine arms reductions. It will result in a strategic imbalance that favors the Soviet Union and it will create a new threat to our strategic forces.

The CHAIRMAN. Thank you, Senator Stone.

Senator Helms.

SUMMARY STATEMENT: SENATOR HELMS

Senator HELMS. We had two Republicans heard from in a row, Mr. Chairman, so I would defer to Senator Sarbanes if he wishes to speak.

The CHAIRMAN. Thank you, Senator.

Senator SARBANES. I can wait.

The CHAIRMAN. We would be happy to hear from you at this time, Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

Today, the Soviet Union has an arsenal of nuclear weapons in its strategic force with the combined explosive power of 626,880 Hiroshima bombs. The Soviets have enough weapons to destroy completely the United States 2½ times. They have four weapons for every county in the United States.

Mr. Chairman, one would have thought that any so-called arms limitation treaty would compel the United States to insist upon, as a minimum, a freeze on any further increases in these forces. This is especially true since any overkill in strategic forces causes nuclear instability because the excess forces can be used only as a means of blunting any potential enemy's response to a preemptive strike.

As we pile nuclear weapons on top of nuclear weapons, this nuclear instability increases.

Regretfully, the treaty we are being asked to approve today allows the Soviets to build faster than ever before their nuclear arsenal. Within SALT II limits and in accordance with intelligence estimates, the Soviets can increase their weapons by 42 percent and their megatons by 39 percent during the life of this treaty. And yet, we call it an arms limitation treaty.

This increase in explosive power will be equal to 242,700 Hiroshima bombs, or one Hiroshima bomb every 11 minutes and 18 seconds. The Soviets will have 5.5 weapons for every county in the United States, rather than the four which is now the case. The Soviets can destroy the United States 3½ times, rather than 2½ times. As the Director of the CIA stated in testimony before the Senate, this Strategic Arms Limitation Treaty will require only a reduction in Soviet defense spending by the infinitesimal small amount of two-tenths of 1 percent.

In other words, Mr. Chairman, the Soviet Union is banging at the ceiling of what it could possibly spend without disrupting its economy.

We have been told over and over by the administration that the primary benefits of this treaty are that there will be a cap put on the number of RV's allowed on the various Soviet missiles and a cap of 2,250 put on the number of launchers. If the Soviets can destroy the United States 3½ times, isn't it meaningless to say that without a cap on the launchers and the RV's, they may be able to build to the point where they could do it four times?

Isn't it meaningless to say that the Soviets can kill us only 3½ times with the treaty, whereas they could possibly build to where they could do it four times without the treaty?

When I was talking to a group of students in North Carolina not long ago about this, one of them remarked that he didn't know that it mattered how many times you could be killed after the first time.

Therefore, by what logic can we really believe that the Soviets will build only to the point that our intelligence indicates that they will by 1985 and which SALT II, this Strategic Arms Limitation Treaty, allows them to do, and then, after that, agree to an equitable arms reduction? Who really believes that?

By what logic do we believe that the Soviets will build to the point at which they will be in 1985 and which SALT II allows, where they will have a 3-to-1 advantage in megatons, a 4.6-to-1 advantage in ICBM throw-weight, a 2.5-to-1 advantage in area destructive potential, and more than a 6.1 advantage in time urgent hard target kill capability, and then at that time—at that time—get around to agreeing to an equitable arms reduction?

Mr. Chairman, why not now? Why don't we face reality? Why not now?

The truth is that the Soviets then will simply be in a position to dictate the terms as they please, not in consideration of what the world needs or what the United States wants in terms of SALT III.

It has been 15 years since President Johnson recommended a nuclear weapons freeze for the Soviet Union; it has been 10 years since we began the SALT process; it has been 7 years since President Nixon signed SALT I. During this entire period, the Soviets have built nuclear weapons far beyond what intelligence estimates predicted at that time.

And now we are asked to wait 6 more years, and then maybe we can begin reductions. During this entire time, conditions of greater nuclear instability and greater peril will occur. There is no logical reason that comes to the mind of this Senator why we do not say now let us embark on a true arms reduction treaty and take it to the court of world opinion.

Now is the time for the Senate to exercise leadership and reverse the SALT process and demand arms reduction, and not play around with words about a treaty which is falsely labeled as an "arms limitation treaty."

Mr. Chairman, the world deserves that kind of leadership, and at one time it could expect it from the United States. This may be our last chance.

American public reaction to the recent events in Iran indicates that the American people are sick and tired of being kicked around, tired

of being second and third in the pecking order. When the truths of this treaty are known to the American people, when the truth of what it really provides is known, when the inequities are better appreciated, when the strategic inferiority in which we are being placed is known, when the nuclear instability it legislates are known, I believe the people are going to show their displeasure. I believe the indignation of the American people will be significant.

I concur with my colleague, Senator Baker, that we should all be held directly accountable for our actions on this treaty. Yes, it should be an issue in the coming 12 months because, Mr. Chairman, we are dealing with the question of the survivability of the United States.

Thank you, sir.

The CHAIRMAN. Thank you, Senator Helms.

Senator Sarbanes.

SUMMARY STATEMENT: SENATOR SARBANES

Senator SARBANES. Thank you, Mr. Chairman.

First, I want to join in the comment that was made by Senator Baker in acknowledging and recognizing the extraordinary leadership which you, Mr. Chairman, and which Senator Javits, the ranking minority member, have provided to this committee in the course of the deliberations on this very important matter. I think you have been eminently fair. I think you have guided the work of the committee in a most thorough and comprehensive way. I want to acknowledge what I think is the very important contribution which the first-rate staff which was assembled for this important undertaking has performed for the members of this committee. Others have acknowledged that. I think Senator Glenn yesterday made specific reference to it.

I also want to say that I think the members of this committee have done a fine job of strengthening the treaty submitted to us. What I anticipate we will report from this committee to the Senate is a stronger package than what was submitted to us, and that is reflected in the various understandings and undertakings that have been included in the resolution of ratification.

We have made these changes: agreed statements and common understandings have been made an essential part of the treaty; the Backfire understanding reached between President Carter and President Brezhnev has been incorporated as an essential condition to the treaty and both of those items will go back to the Soviets for their concurrence; the very important list of matters to which we have set out a clear interpretation and of which formal notice will be given to the Soviet Union—matters involving important questions of launch-weight and throw-weight, important questions concerning the mobile ICBM system, the antisatellite weapons, the range and payload questions concerning the Backfire and the joint statement of principles as the basis for future negotiations as we approach SALT III; and committee has added the understandings that involve action by our Government in the future. All of the changes have strengthened the treaty.

There is a tendency by some to downplay or minimize those changes. But they can be extraordinarily important. They run to such questions as our cooperation with our NATO Allies; they run to

issues which we will raise in the Standing Consultative Commission—in other words, a clear indication by the Senate that certain matters, such as impeding telemetry, telemetric information, will be raised, and not "may be" raised; they run to questions of notification to the Congress by the executive on matters of compliance and the fact that the protocol, or any part of it, can only be extended with the advice and consent of the Senate, and, perhaps even more importantly, that the protocol serves no precedential value and has no precedential status. These are extremely important matters.

Mr. Chairman, it is clear that this treaty does, in fact, place important limitations upon the escalation of a strategic arms race. It achieves equal overall ceilings in the number of strategic nuclear delivery systems and important sublimits within those overall limits.

Now to some extent that is difficult to arrive at because the United States and the Soviet Union have asymmetrical systems. Our strategic arsenal is not the mirror image of the Soviet strategic arsenal, and this is for very good reasons. There were different considerations at work as we put together our strategic arsenals. Given the asymmetries, we have negotiated and arrived at equal overall ceilings on the number of launchers, equal important sublimit ceilings within that.

Second, I think the treaty has extremely important provisions concerning fractionation limits, in terms of the number of warheads that can be placed upon these missiles.

This is a very, very important consideration, and the absence of it, of course, would free the Soviets to place an unlimited number of warheads upon these missiles, including the heavy missiles about which Senator Baker is so concerned.

Third, the treaty enhances our ability to monitor because it precludes deception, concealment, and countermeasures which would impede our ability to verify the treaty itself.

It is also clear, from all of the testimony, that the limitations contained in the treaty do not inhibit any plans which American defense planners have with respect to strengthening our own strategic and theater nuclear weapons. Witness after witness has testified to that fact. That question has been put again and again to defense planners. Even the opponents of the treaty who appeared before us could not identify weapon systems which they wished the United States to develop which this treaty would prevent us from developing. The question on the development of the weapon systems is a matter of will on our part, not a matter of preclusion by the treaty.

It is clear that if we exercise the will—and, of course, Senator Zorinsky has included in an understanding a detailed number of weapon systems—the American position will be strengthened, both in terms of our own security in the future and in terms of negotiations for SALT III.

In the end we must ask the question what will the situation be if there is no treaty. There will be no limit on the number of launchers. There will be no fractionation limits that will control the number of warheads that can be placed upon the missiles. Monitoring will be made far more difficult because the Soviets will be free to engage in deliberate concealment, to engage in countermeasures, to engage in deception.

Mr. Chairman, in that situation, without a treaty, we may, in fact, have an arms race which will make clear, once and for all, to everyone, why, in fact, the treaty before us is a limitations treaty. Without the treaty, we would embark upon an escalation of arms that would then enable everyone to see, looking back, why, in fact, the provisions of the treaty before us did, indeed, constitute a limitation upon strategic arms. But at that point it will be too late to achieve the objective. We would have missed the opportunity which this treaty offers.

Secretary Brown said in testimony before us:

> Without SALT, we would lose the greater predictability that is one of the agreement's most important contributions to stability. In my view, it is probable that, without SALT II, we would enter into an era of greater uncertainty in both military and political terms that would result in increase strategic forces on both sides as hedges against that uncertainty.

Yet we know, Mr. Chairman, that such an increase in forces on both sides probably would not mean more security for each country but most likely less security.

Finally, General Ellis, the head of our Strategic Air Command, in the same vein said:

> The SALT Treaty provides some help because it restrains what we know the Soviets can do. It is that simple.

Indeed, it is that simple. The treaty restrains what the Soviets can do. Therefore, it places a limitation upon them. It enables us to make our own plans in the context of that limitation. Our own plans are not impeded by the terms of the treaty. Therefore, it is my judgment that the certainty that this treaty brings with it in terms of the strategic arms context between the United States and the Soviet Union, and the limitations that it contains offer a greater prospect toward developing a secure international environment than the rejection of the treaty would offer.

Therefore, I support the resolution of ratification that is before us.

The CHAIRMAN. Thank you very much, Senator Sarbanes and, on a personal basis, thank you for the generosity of your earlier remarks.

Senator JAVITS. I would thank you, too, Paul.

Senator PERCY. Mr. Chairman, may I make just a brief comment at the suggestion of Senator Helms?

The CHAIRMAN. Yes; Senator Percy.

Senator PERCY. The letter to which I referred yesterday and today is the matter I wish to address.

Yesterday I did mention that Senator Helms serves on the National Advisory Board, along with Congresman Dan Crane, of the organization that wrote that letter. The letter actually was signed by Howard Phillips, National Director, of the Conservative Caucus, Inc. Neither Dan Crane nor Senator Helms signed the letter.

Thank you, Mr. Chairman.

The CHAIRMAN. You're welcome.

Senator Lugar.

SUMMARY STATEMENT: SENATOR LUGAR

Senator LUGAR. Thank you, Mr. Chairman. I would join my other colleagues in complimenting you and the Ranking Minority Member,

Senator Javits, on hearings that I believe have been very important for the country.

Clearly, they have been important with regard to the consideration of this treaty. In my judgment, the treaty has been improved by the action of the committee.

I think, even more importantly, the hearings over the course of 4 months have brought to the fore a searching examination of the defense posture of our country and, in a way, which I hope will be expanded during the coming weeks in an examination of the intelligence capability of our country.

This has been tough sledding because during the time of the 4 months that we have been involved in these hearings and the markup, by and large, Americans have been much more interested in domestic economic issues. Indeed, each one of us from time to time is reminded that, although this has been our preoccupation, it has not necessarily been shared by our fellow citizens.

As a matter of fact, just yesterday, over the United Press wire service, a poll showed that a large majority of Americans could not identify the two countries involved in the SALT process, a large majority of Americans at this point.

Among that small minority who could identify the two countries involved correctly, a fairly large plurality does not favor the treaty.

I think this is significant on both counts. But I suppose it is even more significant that a fairly large majority of Americans now does register, for the first time, really, in a 10-year period of time, a feeling that our defense posture should be strengthened, and a very great unease about our relationship with the Soviet Union, and a great unease about our relationship with anyone, for that matter, and our general diplomatic and military posture in the world.

This is why these hearings have been critically important.

Early on in the hearings, in response to testimony that indicated that from 1962 on the Soviet Union had built and built and built military forces, whereas we had gone in various bits and starts. Senator Javits made the comment that we may have goofed. Now that has been reported in all sorts of ways. Senator Javits certainly has made clear what he meant by that.

But it is clear that we have examined, not necessarily inadvertently, but I would hope as a matter of course, the fact that some changes must be made.

I think we are on the threshold of making those changes. I would hope the momentum of the hearings continues with regard both to defense and the intelligence situation. It would be a distinct turnaround. Maybe it took these hearings to bring that turnaround about. But, the facts of life are that it has not occurred.

As of this moment, we have some promise that there will be a change in our military posture. We are hopeful there will be changes in our intelligence procedures. But those are hopes and not realities.

During the course of this markup, the administration and a majority of the committee could have made changes in the treaty that would have made it equitable. Those could have been made. But those were rejected. Changes could have been made that would have made accounts of the Backfire, for instance, or various other aircraft, or even definitions of these aircraft, realistic. Those accounts and definitions were rejected.

Finally, we could have insisted upon verification and onsite inspection, which I suggested. Others have suggested more modest means. Those could have been adopted, but they were not.

In essence, the strategy of the administration and a majority of the committee was to say that to negotiate further is to take risks. It is to say: I'm afraid that if we negotiate further in our present predicament, we would lose, we would go downhill.

Now that is the bottom line of what we have been talking about. If, in fact, our negotiating posture was in better shape, worldwide, we would enter into renegotiation of these points more confidently. But we do not enter with confidence at all.

In fact, the testimony has been: You'd better lock it up now while you have what you have because if you try it again, you might do worse. In fact, some have predicted confidently that we would do worse.

Now that is too bad. In my judgment, this is not the time to ratify a treaty that is in that kind of shape—while we are in that sort of shape. There will be a better time and a better place.

My vote today will be "No." I would hope that the administration and even a majority of this committee would take another look as we proceed to the floor on the defense posture, the intelligence posture, and a tidying up of some things in this treaty that at least could make it equitable, fair, reasonable, and finally, verifiable.

Thank you.

The CHAIRMAN. Thank you, Senator Lugar.

Senator Muskie.

Senator JAVITS. Would the Senator yield to me?

Senator MUSKIE. Yes; I yield.

Senator JAVITS. I ask unanimous consent that the time for our voting may be at or before 11 a.m.

The CHAIRMAN. Thank you, Senator Javits.

I see that we are proceeding in our usual fashion. We will make another stab at a prediction for an 11 o'clock vote.

Senator Muskie.

SUMMARY STATEMENT: SENATOR MUSKIE

Senator MUSKIE. Mr. Chairman, I would have no objection to voting instead of speaking,

The CHAIRMAN. Senator Muskie, we want to hear you and all other members.

Senator MUSKIE. Thank you, Mr. Chairman.

It is clear that this is not the end of the debate. It is not even the beginning of the end. I am not sure that it is the end of the beginning.

But, in any case, because I, for reasons all members of the committee understand, have not been as fully in attendance as other members, I am as reluctant to spend as much time characterizing my views.

However, I have followed the work of the committee closely, as closely as one can without always being present. I think I have gotten the flavor of the debate and so I do have a position.

Senator Helms outlined in some detail the magnitude of the destructive power which the Soviet Union enjoys, if that is the word. The

point is that we also have the power to destroy the Soviet Union several times over. This, of course, is the reason why arms control and arms limitation are so important.

It is not a one-sided capacity to destroy civilization that exists. It is a two-sided capacity.

There are two strong points of view with respect to this treaty. Lest it be misunderstood, each point of view, if it prevails, would bear a heavy responsibility for the consequences of prevailing.

Those who oppose the treaty, if they prevail and if the result is a destruction of the SALT process, if the result is not renegotiation, but an end to negotiation and an end to the prospect for a treaty, would bear a heavy responsibility for those consequences.

Those who support the treaty, if the treaty is ratified, if it prevails, if it leads to the kind of Soviet superiority which the opponents have described as the basis for their concern and opposition, if the result of that is U.S. vulnerability not only in terms of our survival as a society, a democratic society, and our interests around the world, then they would bear a heavy responsibility.

So, it is no easy vote. To oppose the treaty and prevail is a heavy responsibility; to support the treaty and prevail is a heavy responsibility.

Senator Sarbanes has suggested that the responsibility of negotiating the treaty is a complicated one. We have asymmetrical societies. We find ourselves, the Soviet Union and the United States, in asymmetrical geopolitical situations. We have asymmetrical defense needs, and so, understandably, we have asymmetrical defense systems.

I could suggest that the only way, really, to achieve equality of arms is, first, to negotiate absolute symmetry of arms, an absolute symmetry with respect to these other imperatives, which drive us both. But this, obviously, is impossible.

So, it is not difficult to identify a particular provision of the treaty and say, as to that provision, that the treaty is unequal with respect to the United States and the Soviet Union. And so, one must look at the totality and make a judgment. Those judgments are not easy.

The second point I would like to make is that as I have followed the debate of the committee—and I compliment my colleagues on the quality of that debate and the thoughtfulness and the effectiveness—there are many useful proposals that might well have been included in the treaty. There is no question about that. I cannot conceive of a treaty being negotiated, even if the negotiation were conducted by the opponents of this treaty, which would produce a treaty immune to useful suggestions for improvement. I simply cannot conceive of it. I have been in the legislative process too long to believe that any group of my colleagues is capable of producing a significant, policymaking document, whether it is legislative or a treaty, that would be immune to improvement.

We concluded one last night which was approved by the Senate by an overwhelming vote. I find many flaws in it. There are many things that I would change if I could write it myself.

The fact is, of course, that a treaty of this kind involves tradeoffs. It cannot be otherwise. We cannot expect to produce a treaty totally in our favor, totally negative with respect to the Soviet Union. Surely the Soviets could not expect the reverse.

And so, we are confronted with this question: Is it conceivable that a better set of tradeoffs from our point of view could be negotiated? Considering the nature of this treaty as a step in a process aimed at further reduction, a goal which Senator Helms expressed so eloquently, perhaps the first meaningful reduction in arms, is there a better set of tradeoffs which conceivably could be negotiated if we reject this treaty?

The opponents of this treaty have offered a long list of points, each of which they insist should be a part of the treaty.

Now one looks at the cumulative total of those points which they regard as essential to a treaty, the cumulative total. Really, what is the prospect that one could defeat this treaty, go back to the Soviets, and say we must have not just one of these points, but all of them, included in a new treaty or we will not ratify it?

All of us have been involved in the legislative process. What is the credibility of an argument that we could renegotiate the treaty and get everything that the opponents of this treaty have insisted are essential? They have indicated no willingness to trade off the points that they have advanced, one for the other. They have insisted on all of them. Unless we get all of them, they say that we have been out-traded and our national security interest and our survival are in jeopardy.

I just do not see that as a viable alternative. If that is the case, then it seems to me that we must look at what we have, acknowledging its shortcomings—and each of us may have a different set of them—but we must look at the overall package.

At this point I would like to associate myself with the excellent statement of my colleague, Senator Sarbanes, who covered points that I would cover if I felt disposed to take more time.

So, Mr. Chairman, I am going to vote for this treaty because I think the threat to mankind that is posed by the explosive power so eloquently described by Senator Helms which both sides possess is such that we must take a step now. It may not be the best time, it may not be the best step, but I prefer it to no step at all. I simply believe that whether or not ultimately a new treaty might be negotiated, a new treaty would not develop soon enough in time to prevent another escalation in the arms race that would find us at a higher level, a more complicated level, a more difficult level to develop tradeoffs than the level at which we find ourselves now. I simply do not think we can afford to waste that time.

This does not mean that we should vote for a bad treaty. I will certainly credit my colleagues who oppose the treaty with the highest motivation. They are going to vote against it because they believe it is not in our country's interest. But I happen to believe, with its shortcomings, it is a step we must take at this time.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Muskie.

Senator Zorinsky.

SUMMARY STATEMENT: SENATOR ZORINSKY

Senator ZORINSKY. Thank you, Mr. Chairman.

I want to join with my colleagues on the committee in congratulating you for an outstanding job of conducting these hearings and also for

allowing during the hearings an occasional reversal of the alphabetical process of calling upon the members of the committee. [General laughter.]

Generally, by the time my turn comes to say anything, it all has been said. I would say, to a great degree, that is true also this morning.

However, there are a couple of items that I would like to touch upon briefly.

The fact is that the strategic arms limitation process is one that cannot be turned off by a switch on a wall or the saying of a word. I think for the assurance of the safety of future generations of Americans it has to be, as of necessity, an ongoing process. I feel that the hearings we have had in the Foreign Relations Committee of the U.S. Senate have been part of a process which, as yet, has not reached its total conclusion. Therefore, I, in no way, wish to deny my colleagues in the U.S. Senate the opportunity to further perfect that which I believe we have come a long way in doing but have not completed.

As many people are aware, I have supported in some instances the opponents to this bill, based on what I felt was in the best interests of the United States of America. Coming from a football State, as I do, I know the ball game does not end at halftime if you are behind. Like some of the opponents to this treaty, I agree that the United States is behind concerning parity and equity with regard to nuclear capabilities between the United States of America and the Soviet Union. But I do not think it is the American way to walk off the field at halftime being behind without coming out for the second half. The second half will come on the floor of the U.S. Senate where there will be an opportunity for full debate and for additional amendments to be offered to this treaty in order to create that parity and equity which today are lacking in my estimation.

I feel that we owe it to our future generations to carry on this type of negotiation and to fully pursue this debate.

What has concerned me with regard to the administration's attitude in my short tenure in the U.S. Senate, both in the consideration of this treaty and the Panama Canal Treaty, is the repeated concern as to what the other participant in the treaty will say about our changing anything in a treaty.

I support my colleagues who have attempted in many efforts through these 4 months of hearings to amend this treaty.

I was told during the Panama Canal debates not to offer amendments which would have required a plebescite by the Panamanian people, for fear that would have destroyed that treaty. In this instance I hear that we should not offer amendments to this treaty based on the fear that it may disturb the Soviet Union, that may destroy our efforts to conclude this treaty.

I think the time has come when we must look at how treaties affect the American people, and not the Panamanian people as a priority, and not the Soviets as a priority. Our responsibility is to do what is in the best interests of the United States of America.

This is why I would urge my colleagues on the floor of the U.S. Senate, where it will take but a simple majority to amend this treaty, to look very seriously at some of the amendments that have been proposed in committee during these past 4 months, many of them defeated by

a slim margin, with an eye toward creating a greater degree of parity and equity.

Senator Glenn earlier indicated that there are some concerns about the ability of this Nation to verify this treaty. There are other concerns as well. But, as many of my colleagues on the other side of this issue have said, there are many positive aspects to this treaty.

I believe it is worthy of note that for the first time we will have a data base for the Soviet Union and the United States from which we will pursue future deescalations of armaments.

Mr. Chairman, I am going to support the treaty in committee. I will vote to forward it to the full Senate. But in no way will my vote today predestine my final vote upon ratification, when two-thirds of the U.S. Senate will be required, if at that time the product we have evolved through the debate on the Senate floor has not in some degree and in some manner created the equity which I feel does not exist today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Zorinsky.

I want to recognize Senator Javits. But, before I do so, I want to thank him for the unflagging attention he has given to the treaty and for the cooperation and the support he has given to me as the chairman of this committee. It certainly has been in the best interest of the bipartisan tradition of the Senate Foreign Relations Committee.

Senator JAVITS. Thank you, Mr. Chairman.

Mr. Chairman, may I yield briefly first to Senator Percy?

The CHAIRMAN. Of course.

Senator PERCY. Thank you, Senator Javits.

TELEVISED COVERAGE OF FLOOR DEBATE

Mr. Chairman, I would have liked to have heard Senator Javits first, because I know how concise and eloquent his statement is going to be.

I want to reaffirm once again the strong feeling I have that the carrying on of this debate by the full Senate should be shared with the American public. The debate ought to be opened for simultaneous radio and television coverage.

We have had one hour and a half of discussion today, and I think in that brief time we have succinctly and concisely condensed all of the arguments on both sides and have given the American people a chance to hear this story.

I really do feel that we are faced this time with a problem. Most of our constituents tell us that they do not know enough about the treaty, they have not formed a judgment because they do not know enough of the facts. I don't know any better way to give them the facts than to see that the arguments presented on the floor of the Senate of the United States are opened up to the public. I think this would be one of the best ways to allow the American people to form a judgment on this matter. Today they overwhelmingly say that they have leanings; but most say they really do not have enough information.

I don't know how we can get that information better to the people than to have the U.S. Senate open up this debate for all to hear.

Senator JAVITS. Thank you, Senator Percy.

I join, of course, in the effort to have both radio and television coverage. I hope it will be effective and will do my utmost to see that it is.

SUMMARY STATEMENT: SENATOR JAVITS

Mr. Chairman, let me first mention a few housekeeping matters, and then I shall proceed to state my own views.

First, I would like to thank the chairman for his graciousness and close cooperation, which is in the finest spirit of Arthur Vandenberg, who developed the bipartisan tradition which he followed so ably.

I want to thank my colleagues also. This is a very divided committee. It is very divided on the minority side. Senators Baker, Helms, Hayakawa, and Lugar are opposed to this treaty, and Senator Percy and I will vote to favorably report the resolution of ratification. It is not an easy position for me, as ranking member, but my colleagues have made it easy by the distinction, sensitivity, and taste with which they have handled their opposition. I certainly will do my part, I promise them, in pursuing exactly the same policy on the floor. I hope that because of their restraint and cooperation it will be equally successful. It takes both of us to do it. Without that, it cannot be done.

I deeply appreciate the respect they have had for my views, which, on occasion, have been expressed rather pungently, as have theirs. I hope it continues in that way.

This is especially true of our minority leader, who has much at stake in this debate, even beyond that of any of us, and I want to thank him for the judiciousness with which he has handled the matter.

I want to thank the staffs, too. I think John Glenn set us an excellent example in that. The staff has done marvelous work on both sides and has proven that you can have a minority and a majority staff and that they can work together. That is a good example for other committees, not just our own.

I also want to thank all of the members of the majority for their unfailing friendship and courtesy.

Mr. Chairman, heartbreak is everywhere in this world. We are facing it here. Millions are starving in Cambodia and there is a government there which turns a steely eye to those starving millions for political reasons. Americans are blindfolded, with their hands tied behind their backs, and are paraded before chanting students in Tehran.

Nonetheless, Mr. Chairman, it is this kind of time that shows the mettle and character of a nation.

This is what we are called upon to show now. We are at a great turning point in the road. We are no longer the sole nuclear power and the director of all that goes on around the Earth. But we are still the most important power on Earth, and we still use an enormous amount of the world's resources.

Other nations have a right to look to us to see whether we are dependable trustees of the peace and the tranquillity of the world.

Our people are not yet accustomed to this role, but they are getting on to it gradually. This treaty is a big, big step along the way.

Mr. Chairman, one thing that has been missing, it seems to me, from all of our deliberations before is to look at this whole problem through

Soviet eyes. The Soviets had 20 million of their people killed in World War II; they were invaded after World War I. They have had 50 years of difficult existence. There are great pressures in that country, even from the danger of famine. The Soviets have one of the lowest yields of their agricultural crop this year than they have had in years.

If we did not sell them wheat, I don't know what might happen in the Soviet Union, Mr. Chairman, because there just is not enough wheat obtainable to feed their people.

There are lots of arguments about whether we should make that sale, and I respect them and I join in them. But this happens to be a fact of life.

So, we have to look at things through their eyes. They are paranoic about security. Even a scared soldier—and I have been in this business, unhappily for me, a bit—moving through the woods, when he shoots, even if he is scared, he kills. That is the case with the Soviet Union. We have to remember that.

Now we are giving a new signal to the Soviet Union. We gave the Soviets a signal before that we would restrain our strategic nuclear power. Sure, we had improvements, we have Trident and many other things. But we did not go full speed ahead according to America's industrial capability. But it was full speed ahead with them. They did not accept our signal.

Mr. Chairman, now we are going to give them a new signal. This signal is that they have to face now the industrial power of the United States in rearmament. They have brought it on us. We will do it with tears in our eyes, but it must be done.

Now, Mr. Chairman, I hope very much that the Russians will heed this new signal, that they will now listen. They cannot stop the world and get off any more than we can, and if they want to be a superpower, they have to behave like one. They cannot make mischief in the Middle East; they cannot destroy hopes for democracy and self-government in Africa; they cannot allow millions to starve in Cambodia. This is not being a superpower. This is being an outlaw.

Mr. Chairman, I hope a representative of the Soviet Union is in this room. I hope he hears me. I hope he reports this to his government.

I believe I voice the sentiment of the American people.

I say to the Soviets that we are not anxious to dismember your revolution; not at all. We do not want you to go back to being serfs of the tsar. We want you to live in sunlight and freedom, just like we want to live. But give the world a break if that is what you want to happen.

Finally, Mr. Chairman, as to this measure before us, it puts a cap on nuclear armaments. I am a lawyer, a very trained lawyer, by profession, just like Mr. Lloyd Cutler, the very eminent lawyer who has been of such great help to us. I have watched this case unfold. There has not been a dent made in the fact that there is some cap in this treaty. With all of the disadvantages, with all of the lack of equivalency, with all of its dangers, there is some cap there. It is something, and something is better than nothing in this world.

Mr. Chairman, nothing in the treaty prohibits or impedes the United States from seeking and getting equivalence. For 5 years of the treaty, the only restriction on us is on the cruise missile, land-

and sea-based cruise missiles, and we are not ready to do anything about that deployment until December 31, 1981, anyhow, when the protocol expires, and we have prohibited its extension. So, I can see only a cap without real substance.

Now, if we reject this cap, if we reject this treaty, the future is unpredictable. We do not know how our European allies will react. I believe the speeches will sound the same. But I have a fair acquaintance with Europe, I say to my colleagues, the speeches do not dictate what is done in the chanceries. I rather have a feeling that nation after nation in Europe is going to take this as their signal that they are going to have to begin to make some accommodation with the Soviet Union, small, perhaps, to begin with. But I assure you that the word will be out that that is probably—not yet surely, but probably—the way to go. The effect of that on the social, economic, and political conditions of the world is absolutely unpredictable.

Gentlemen, the rejection of this treaty is not worth it, to leave so open the future. When we have the most awesome, destructive power in strategic nuclear arms that mankind has ever known, the rejection of this treaty just is not worth leaving the world unpredictable.

It is for this reason, Mr. Chairman, that I will vote to report this treaty favorably to the Senate and to work in every way that I can to get the ratification resolution favorably approved by the Senate.

I wish to echo Senator Zorinsky's words, as they are very sound. I have said many times and I will repeat again that I am ready to vote for an amendment—yes, an amendment to the treaty, as I have no fear whatever of an amendment—which will require renegotiation with the Soviet Union, but only if it is worth it. I have not yet been faced with an amendment in this committee that is worth it in terms of undoing what has been done.

My friends, let us remember this: For everything you get, you have to give. We always have to answer this fundamental question: What are we ready to give if we want to get? So far, I have not seen us as ready to give anything, as Ed Muskie says, for what we expect to get.

Mr. Chairman, that is my view. Again, I express the deepest faith in our system and in the ability of the Senate effectively to work its will. I hope that our country—without any fear of renegotiation, if that is dictated—will not let this opportunity slip from its grasp.

The CHAIRMAN. Thank you, Senator Javits. It is now 4 minutes past 11. I ask unanimous consent that the committee vote on the pending treaty at 11:15.

Senator Pell.

SUMMARY STATEMENT: SENATOR PELL

Senator PELL. Thank you, Mr. Chairman.

There have been many words said about this treaty, but I think the best description of it was made by General Jones, when he said that it is a modest, but useful, step in the right direction.

I think, when all is said and done, we should judge whether we are better off with it or without it. My own conclusion, after these hours and hours of hearings, and having been at Geneva several times during the course of this negotiation, is that our national interest is best

served by approving this treaty. For that reason I intend to vote for it.

The CHAIRMAN. Thank you very much, Senator Pell.

Senator JAVITS. Mr. Chairman, as Senator Lugar referred to a survey published in the American press on November 8, made by the New York Times/CBS News survey, I ask unanimous consent that it may be included in the record. I would point out, just for accuracy and without argument, the survey says the following:

Only 45 percent have an opinion on the treaty's merits. They divided five to four in its favor. Five months ago, the margin was three to one in favor but only 36 percent had an opinion. The poll suggests that the treaty's foes have gained some ground among the minority paying attention.

I would ask, Mr. Chairman, that the newspaper articles referred to by Senator Lugar and me be included in the record of this hearing.

The CHAIRMAN. Without objection, it is so ordered.

Thank you.

[The articles referred to follow:]

[From the New York Times, Nov. 8, 1979]

MANY IN POLL FAVOR U.S. NEGOTIATIONS WITH THE P.L.O.

Nearly half the Americans who have heard of the Palestine Liberation Organization believe the United States should negotiate with the group despite the objections of Israel. This conclusion emerges from a New York Times/CBS News survey.

Of those asked, three-fifths said they had some knowledge of the P.L.O. Within this group, 42 percent favored talks and 45 percent opposed them. The rest had no opinion.

The P.L.O., a Beirut-based umbrella organization of Palestinian Arab forces, has been waging a strong campaign to gain acceptance as a legitimate political grouping. President Carter, however, has insisted that there can be no talks with the P.L.O. until it recognizes Israel's right to exist behind secure borders. He restated this position at a news conference as recently as Oct. 10.

SUPPORT FOR TREATY DECLINES

The chief United States delegate to the United Nations, Andrew Young, resigned this summer after he held unauthorized conversations with the P.L.O. representative here. But the Palestinian group has indicated it has had frequent informal contacts with United States aides and hinted that these were aware of the plan to send a P.L.O. mission to Teheran.

The poll also showed some decline in support for the strategic arms treaty with the Soviet Union.

The poll reached 1,385 people, selected at random, by telephone. The question about the P.L.O. was not asked in previous surveys so no basis exists for a comparison of sentiment. It is conceivable, however, that the terror campaign waged against Israelis in the past by the P.L.O. might have produced a much smaller percentage in favor of talks.

NEW STRESS ON DIPLOMACY

In recent months, the P.L.O. has stressed diplomacy rather than guns. It has won wide support throughout the world for its insistence that it is the sole representative of Palestinian Arabs and must be a part of any bargaining over their fate.

In the United States the organization and its backers in Arab states have concentrated particularly on wooing blacks. The poll reflects this. Blacks who had heard of the organization favored talks, 51 percent to 27 percent; whites were opposed, 47 percent to 41 percent. There were no significant differences in view by income or education, between Republicans and Democrats. But 48 percent of the men supported negotiations against only 36 percent of the women.

Among Catholics, 52 percent backed talks compared with 40 percent of Protestants. No breakdown was made for Jewish opinion, almost certainly overwhelmingly opposed, because of the small share of Jews in the population and the sample.

In a related question, a significant minority of those polled, 30 percent, said that they thought Jews had too much influence over United States policy in the Middle East. However, 26 percent thought Jewish influence was the "right amount" and 12 percent said it was "too little." Among those who said that Jews were too influential, there was little difference between the races, parties, income levels, education and other characteristics.

Other questions disclosed hostility, skepticism and ignorance over President Carter's foreign policy. Only 28 percent now approve of his conduct of foreign policy against 53 percent who disapprove. The President has done better; his approval rate was 45 percent in the March survey and 36 percent in June. The latest poll was conducted between Oct. 29 and Nov. 3.

MANY IGNORANT OF TREATY

The centerpiece of the President's program is the treaty with the Soviet Union to limit strategic weapons. The Senate is now considering the pact and newspapers and television have devoted much space and time to the debate. Nevertheless, only 38 percent of those sampled correctly identified the United States and the Soviet Union as the parties to the treaty. This, however, was an improvement over the 30 percent recorded in June.

Only 45 percent have an opinion on the treaty's merits. They divided five to four in its favor. Five months ago, the margin was three to one in favor but only 36 percent had an opinion. The poll suggests that the treaty's foes have gained some ground among the minority paying attention.

The treaty's usefulness is also in question. Only three in ten now believe it will reduce the risk of war with the Soviet Union compared with four in ten who do not. This marks a change in sentiment against the pact; in June, those who thought it would lessen chances of war outnumbered the skeptics, 41 percent to 35 percent.

The belief in the strength of American technology remains largely intact, however. Those who think the United States would detect any Soviet effort to cheat outnumbered those who do not by five to three.

Sentiment toward the treaty has been complicated by the Administrations disclosure that 3,000 Soviet troops, perhaps a combat force, are in Cuba. Mr. Carter has tried to disentangle this question from the arms treaty, but the survey suggests that he has had only limited success. Nearly half of the 77 percent with an opinion, 38 percent, think that the Senate should delay approval of the pact until the troops leave. Some 39 percent would not link the troops to the treaty.

SUMMARY STATEMENT: SENATOR CHURCH, CHAIRMAN

The CHAIRMAN. To sum up briefly, I would observe that we live in a time of paradox. Since the end of the Second World War, the United States and Soviet Union each have spent more than $1 trillion on their strategic arsenals. This huge expenditure, undertaken in the name of security, in fact has made the two countries the least secure in the world.

Oftentimes I have asked myself the question, who is the most powerful man in the world? I have concluded that it is not the President of the United States, and it is not Mr. Brezhnev, because both of them, as a result of this enormous expenditure, only possess a button neither dares push, except in the act of committing national suicide.

As compared to the maneuverability that both countries had before this increasingly irrational nuclear arms race began, both countries are less mobile, less able to act than before.

It is hard for me to see what has been gained; but all of us know the peril posed to civilization.

We are, in a way, like two gladiators locked in some sort of death dance, and finding a way to separate those two gladiators is going to

be not only difficult, as indeed this SALT Treaty, in the 7 years that were required makes plain, but it will take time.

This treaty gives us more time.

Because it keeps alive the SALT process, I believe that the treaty is one of the most important foreign policy commitments to have come before this committee since the NATO treaty in 1949. And so, it has deserved the time and effort that has been devoted to it by this committee.

Since we first opened public hearings on this treaty on July 9, the committee has devoted nearly all of its time to a study of the treaty. We have heard more than 100 expert witnesses in both public and executive sessions. In the course of the month we have spent in the markup of the treaty, the committee has passed on 35 separate proposals, of which 32 were voted upon and 23 were accepted, 14 in category I, 7 in category II, and 2 in category III. Nine proposals were rejected.

Now we come to the end of our work. It would not be right for me to conclude this meeting and call for a vote without first thanking all members of the committee for their diligence, for their patience, for their persistence, and for the hard work that they have devoted to this task.

I would want to thank, too, the members of the staff who, over the last 4 months, have made an extraordinary effort to provide the members of the committee with accurate, complete, and relevant information.

I think the record that the committee has built with the assistance of its staff is a high tribute to the fine professional quality of the staff. In particular, I would like to thank Mr. William Bader, the staff director, Mr. Peter Lakeland, the minority staff director, Mr. Rick Inderfurth, Mr. Harry Sauerwein, Mr. Eric Newsom, Mr. Rich Davis, Mr. Patrick Shea, Mr. Fred Tipson, Mr. Stan Sienkiewicz, Ms. Diana Smith, Mr. Charlie Sorrels, Mr. Clark McFadden, Mr. Steve Hadley, Mr. Alfred Friendly, Jr., Mr. Hans Binnendijk, and each of the personal representatives of the members, along with Mr. Bertie Bowman, Mr. Phil Cook, Ms. Karen Mellinger, Mr. Jerry Ehrenfreund, Mr. Don Clark, Mr. Mel Call, Ms. Joyce McDowell, Mrs. Mary Cameron, Ms. Angie Morris, Ms. Janet Neigh, Mr. John McConnell, Mr. Mark Johnson, Mr. Jerry Hill, and Mr. Will Smith.

Throughout these hearings, I have tried to keep in mind some general principles to serve as guidelines in my own consideration of SALT II. First, I have asked myself does the treaty shift the strategic balance to the detriment of U.S. security? I believe the evidence shows that it does not. The treaty permits us to build the new weapon systems which we need to preserve the nuclear parity that now exists between the United States and the Soviet Union.

Second, does the treaty serve vital American interests? I believe it does.

Third, is it adequately verifiable? From all that I have heard from our intelligence agencies and the Senate Intelligence Committee, I am convinced that it is.

Does the SALT process, this continuing effort to cope with the lethal dangers posed by the strategic nuclear weapons race, help the

United States and the Soviet Union to avoid a final, fatal holocaust? Again, the answer surely is yes.

As a final principle, I have felt that we owed it to the American people to give the treaty an honest vote up or down. Here again, I believe that we have passed the test. We have attached serious and important conditions to our resolution of ratification, making more precise the obligations of both parties to the treaty. But the committee has done this without falling prey to politically attractive proposals that only could kill the treaty in the name of improving it.

This is a dangerous world in which we live. I find the SALT II Treaty makes a useful contribution to the security of this Nation and advances the cause of mutual arms control. To reject it because it does not do more defies all logic.

The Senate again is on the edge of a crucial moment. We can choose to take this opportunity to continue our participation in a process that manifestly serves American interest, or we can choose to absent ourselves from that process.

I will cast my vote today for the SALT Treaty. I believe that the security of the United States and its allies is greater with the treaty than without it. To reject this treaty would be to disrupt, if not shatter, the process of which SALT II is an integral part. Rejection of SALT II will not add to the security of the American people. It only will move us closer to the edge of the last abyss.

Now, it being 11:15 or thereabouts, if members have no further statements to make the clerk will call the roll.

Mr. BADER. Mr. Pell.
Senator PELL. Aye.
Mr. BADER. Mr. McGovern.
Senator MCGOVERN. Aye.
Mr. BADER. Mr. Biden.
The CHAIRMAN. Mr. Biden votes aye, by proxy.
Mr. BADER. Mr. Glenn.
Senator GLENN. No.
Mr. BADER. Mr. Stone.
Senator STONE. No.
Mr. BADER. Mr. Sarbanes.
Senator SARBANES. Aye.
Mr. BADER. Mr. Muskie.
Senator MUSKIE. Aye.
Mr. BADER. Mr. Zorinsky.
Senator ZORINSKY. Aye.
Mr. BADER. Mr. Javits.
Senator JAVITS. Aye.
Mr. BADER. Mr. Percy.
Senator PERCY. Aye.
Mr. BADER. Mr. Baker.
Senator BAKER. No.
Mr. BADER. Mr. Helms.
Senator HELMS. No.
Mr. BADER. Mr. Hayakawa.
Senator LUGAR. Senator Hayakawa votes no, by proxy.
Mr. BADER. Mr. Lugar.

Senator LUGAR. No.

Mr. BADER. Mr. Chairman.

The CHAIRMAN. Aye.

On this vote, the ayes are 9 and the nays are 6. The committee will report favorably the SALT II Treaty to the Senate.

Senators, there is one last item of business I would like to conduct before adjourning this hearing.

There is a Senate resolution, sponsored by Senator Javits and cosponsored by numerous other Senators, including me, relating to the commitment to ease the human suffering in Cambodia, and it is before the committee. Yesterday, we held hearings on the terrible situation existing today in Cambodia, and there have been numerous press accounts of the human tragedy that is occurring in that part of the world.

I would ask that we give our consent to this resolution and submit it to the full body, with our recommendation for passage.

Is there objection?

[No response.]

The CHAIRMAN. There being no objection, the resolution is approved.

There being no further business, this committee is adjourned.

I thank you all, Senators, for your hard work and your attendance.

[Whereupon, at 11:16 a.m., the committee adjourned, subject to call of the Chair.]

APPENDIX

THE SECRETARY OF STATE,
Washington, D.C., November 13, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: This letter is in response to your request of September 27, 1979, on the issue of deliberate denial of telemetry. It summarizes the negotiating history, the agreed language, and states the application of the Treaty to specific questions raised in your letter.

A major negotiating goal for the United States in SALT II was to ensure that it be adequately verifiable. Since compliance with many of the limitations of the SALT II Treaty is verified during testing, the U.S. pressed to make explicit the application of the deliberate concealment provisions to testing in order to ensure that test data used for verification was not concealed.

A major step in attaining our verification goals was achieved soon after the November 1974, Ford-Brezhnev meeting at Vladivostok. Both Delegations tabled verification language similar to that used in the SALT I agreements. The initial U.S. proposal, however, explicitly cited testing practices as an area in which deliberate concealment measures could impede verification. Our objective was to ensure that testing practices such as encryption of telemetry would be covered by the ban on deliberate concealment measures which impede verification. The Soviets resisted our approach initially on the grounds that restrictions on testing would interfere with the sides' rights to carry out weapons modernization according to their own techniques.

In 1976 the Soviets made a proposal which would exempt "current testing practices" and "methods of transmitting information during testing" from the prohibition on deliberate concealment. The U.S. opposed any such exemptions, and the Soviets subsequently accepted the U.S. approach, including withdrawal of their proposed exemption for methods of transmitting telemetry. They also agreed to the U.S.-proposed Common Understanding which explicitly applied the obligation not to use deliberate concealment measures to testing practices.

Later, in 1978, in order to make more explicit the status of telemetry under Article XV, the U.S. proposed a Common Understanding specifically banning the deliberate denial of telemetric information, such as through the use of encryption, which impedes verification of compliance. The Soviets initially rejected this U.S.-proposed Common Understanding. The U.S. Delegation held to the position that telemetry encryption of information contributing to verification would be a violation. We cited the launch-weight limitations as an example of the type of limitations for which telemetry contributes to verification. We also gave the Soviets examples of Soviet ICBM tests on which the telemetry encryption practices would, in the U.S. view, impede verification of the SALT II agreement if extended to a new or modified ICBM.

During a meeting between the Foreign Ministers in December, 1978, the Soviets accepted *ad referendum* and subsequently confirmed the U.S. approach in a Common Understanding:

> The sides agree that the negotiating record reflects the Common Understanding that each Party is free to use various methods of transmitting telemetric information during testing, including its encryption, except that, in accordance with the provisions of paragraph 3 of Article XV of the Treaty, neither Party shall engage in deliberate denial of telemetric information, such as through the use of telemetric encryption, whenever such denial impedes verification of compliance with the provisions of the Treaty.

Although this language represented the substance of the U.S. position, the United States continued to be concerned that the Soviets had not explicitly agreed to the proposition that there did exist telemetric information which was rele-

vant to verification. The question continued to be discussed between the Delegations in Geneva and in diplomatic channels.

This point was eventually clarified at the Summit and satisfactory resolution of the question was achieved. In discussions of the telemetry encryption issue at the Vienna Summit, the U.S. noted that it was its understanding that the sides were in agreement that certain telemetric information was relevant to verification of compliance with the provisions of the agreement, and that the deliberate denial of such telemetric information, such as by encryption, was therefore prohibited. The Soviets indicated that there was an understanding between the sides on this issue. The Soviets stated that there must be no encryption of information involving parameters covered by the Treaty, that there was an understanding between the Parties on this issue, and that if any misunderstandings arose, they could be considered in the Standing Consultative Commission. President Brezhnev explicitly affirmed this statement.

In summary, the ban on deliberate concealment, as agreed in paragraph 3 of Article XV and the associated Agreed Statements and Common Understandings, applies explicitly to testing practices as well as, for example, to construction and deployment practices. Any deliberate concealment measures which impede verification by national technical means of compliance are banned. In particular, encryption of telemetric information during testing is *ipso facto* deemed deliberate denial and thus banned whenever it impedes verification. Any other measures which impede verification by denial of telemetry are banned if deliberate, and (per paragraph 2 of Article XVII) can be raised in the SCC even if the denial of information is unintentional.

These provisions have been formally recorded. Furthermore, the Soviets, including President Brezhnev personally, explicitly acknowledged at the Summit that there must be no denial of telemetry involving parameters covered by the Treaty.

The following are responses to five questions raised by you in your September 27, 1979, letter.

Question 1. Could a party flight test a strategic offensive weapon limited by the Treaty, e.g., a new type of ICBM, without transmitting via radio any telemetric information, e.g., through on-board recording and recovery after the flight, and not be in violation of the SALT II Treaty?

Answer. An approach to collecting missile test data based on encapsulation, besides being less efficient than radio transmission of telemetry, involves the risk of losing such information through catastrophic failure during the missile flight test or the destruction of the capsule during reentry. The loss of all the telemetry transmitted during a flight test would negate the value of the test. It is difficult to imagine any change in Soviet practices whereby encapsulation of this valuable information would be other than for purposes of deliberate concealment. For this reason, the United States would consider such encapsulation of telemetric information on ICBM flight tests as a potential deliberate concealment measure which impedes verification by national technical means of compliance with the provisions of the Treaty, and accordingly would raise the matter with the Soviets in the SCC.

Question 2. Must some unencrypted telemetric information be transmitted via radio on every flight test of a strategic offensive weapon limited by the Treaty in order to avoid violating the Treaty?

Answer. Not every flight test of a strategic ballistic missile uses telemetry. Thus, the answer to your question is no. However, the U.S. can identify those flight tests required for the development of a strategic ballistic missile and on those tests, during which the Soviets transmit telemetric information related to the missile's performance, they may not encrypt or otherwise deliberately deny us access to any telemetric information, the denial of which would impede our ability to monitor those missile characteristics limited by the Treaty. To do so would be a violation of the Treaty.

Question 3. If there is a disagreement between the parties as to whether information being deliberately denied involves parameters covered by the Treaty, how will it be determined which information involves parameters covered by the Treaty?

Answer. Under the Treaty both sides have agreed not to deliberately deny telemetry, by encryption or otherwise, where the effect is to impede the other sides ability to verify. The United States has monitored telemetry from Soviet missile tests for many years. Accordingly, we know what types of data are needed for monitoring the parameters covered by the Treaty, and if those data are denied,

we can make that determination. The Soviets are not free to decide whether or not their actions denying telemetry impede our verification. Only we can make that determination. We have, both in the negotiating record and in the Treaty language, established a clear basis for raising with the Soviets any instance of deliberate denial of telemetry including all encryption which impedes our verification. Should our concerns not be met, we would consider it grounds for appropriate unilateral U.S. action which could include withdrawal from the Treaty.

Question 4. Can telemetric information be unintentionally denied such that there would be no violation of the Treaty? How will intent be determined?

Answer. It is possible that telemetric information could be unintentionally denied. This, of course, does not apply to encryption, any instance of which is considered under the Treaty as deliberate denial of information. We would make a determination of intent on a case-by-case basis in which all possibilities are explored and evaluated. If denial of telemetry impedes our ability to verify the Treaty, we would raise the issue with the Soviets in the SCC even if denial were judged unintentional. Subparagraph 2(c) of Article XVII was drafted, *inter alia*, to handle such matters in the SCC.

Question 5. Can changes in telemetric transmission practices, e.g., reduction of radio signal power, deny telemetric information, but not be judged a violation of the Treaty because they were not deliberate? Might there be reasonable technical grounds upon which to justify such changes so that it would be difficult to argue that such changes must be reversed?

Answer. We expect that the telemetric practices of the Soviets will change over time in accordance with ordinary development of new tehnologies. The same will occur for the United States. Such changes do not necessarily deny telemetry or impede verification.

Paragraph 2 of Article XVII permits us to raise such an issue in the SCC. If Soviet telemetry practices should change in such a way as to impede our ability to verify compliance with the Treaty, we would raise the issue with the Soviets, whether or not the changes were deliberately intended to impede verification.

As my response to your letter indicates, the United States takes very seriously the obligations assumed by the Parties under Article XV and its associated Agreed Statements and Common Understandings. We have a clear agreement with the Soviets on this question. Should any problem arise, we intend to raise the issue quickly and seek prompt resolution.

Sincerely,

CYRUS VANCE.

Comments by Lt. Gen. Edward Rowny (Retired) and the Executive Branch on Proposals Considered During Markup

During the November 8 markup session, the Chairman requested that Lieutenant General Rowny and the Executive Branch provide for the record their views on the SALT II conditions which were considered by the Committee. Their responses appear below along with brief summaries of each proposal. Following these comments are letters from General Rowny and the Executive Branch on other issues associated with the Committee's consideration of the SALT II Treaty.

Comments Submitted by Lieutenant General Rowny and the State Department on the Senate Foreign Relations Committee Markup of the SALT II Treaty

1. Category III Reservation (Senators Church and Javits) considered Monday, October 15

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Helms, Hayakawa, and Lugar.

This reservation states that the Agreed Statements and Common Understandings associated with the Treaty and Protocol are of the same force and effect as the provisions of the Treaty and Protocol.

Lieutenant General Rowny comment

The substance of this Reservation has already been agreed to by both parties and therefore does not need to be re-stated in a reservation. Both the Soviets and the United States have made clear in the official negotiating record that they consider the Agreed Statements and Common Understandings to be integral parts of the Treaty.

Administration comment

It is evident from the text and negotiating history of the Agreed Statements and Common Understandings, as well as the manner in which the comparable SALT I documents were treated, that these provisions are legally binding and are so regarded by the Parties, and that a violation of any of them would constitute a violation of the Treaty itself. The reservation reconfirms and eliminates any possible doubt in light of the importance of these provisions, and in light of concerns expressed by various Senators that this matter should be made completely certain by obtaining the express agreement of the Soviet Union.

2. Category II Undertanding (Senator McGovern) considered Monday, October 15

Recommended 11–2. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Helms. Nays: Hayakawa and Lugar.

This understanding provides that the agreements contained in the Joint Statement of Principles will be the basis for subsequent negotiations.

Lieutenant General Rowny comment

This Understanding reiterates what is already stated in the Joint Statement of Principles (JSP), a part of the official negotiating record, and therefore does not need to be re-stated. According to the JSP: "The Parties shall pursue in the course of these (future) negotiations . . . the following objectives:

(1) significant and substantial reductions in the numbers of strategic offensive arms;

(2) qualitative limitations on strategic offensive arms, including restrictions on the development, testing, and deployment of new types of strategic offensive arms and on the modernization of existing strategic offensive arms;

(3) resolution of the issues included in the Protocol to the Treaty. . . ."

In this connection the third objective of the JSP quoted above should be of concern to the U.S. Senate. It leaves open the possibility that the restrictions on cruise missiles and mobile missiles which exist in the Protocol will be extended or revised to our detriment after the Protocol expires. Approval of this Under-

standing by the U.S. Senate would assist the Soviets in their gambit to begin SALT III negotiations on the basis that the Protocol does in fact establish precedents for future negotiations.

Administration comment

This understanding was designed to confirm and emphasize the central importance of this joint statement of objectives for SALT III, and in particular its strong emphasis on the need for significant and substantial reductions in the numbers of strategic arms, and for further qualitative limits on strategic systems, at the earliest possible date.

The Joint Statement of Principle in no way commits the United States to agree in SALT III to extend the provisions of the Protocol, which expire by their own terms on December 31, 1981, or to treat them as any precedent for future limitations. The fact that the Joint Statement refers to the desirability of resolving issues relating to the Protocol in no way means that they must be resolved in accordance with the Soviet position. We have made this perfectly clear to the Soviets, and the understandings adopted by the Committee reiterate this point. In particular, paragraph I(E)(1) of the resolution of ratification states that nothing in the Treaty or Protocol "establishes a precedent for any limitations which may be proposed in future negotiations relating to the systems limited by the Protocol. . . ." The Soviets can be under no illusions in this regard.

3. Category III Reservation (Senators Church and Javits) considered Tuesday, October 16

Recommended 11–3. Ayes: Senators Church, Pell, McGovern, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker and Hayakawa. Nays: Senators Biden, Helms and Lugar.

This understanding provides that the written and oral statements by President Brezhnev on the Backfire bomber are legally binding on the U.S.S.R.

Lieutenant General Rowny comment

As I pointed out in my October 1st letter to the Senate Foreign Relations Committee (pp. 304–318 of Part 5 of Hearings Before the Committee on Foreign Relations on Ex. Y, 96–1), the Backfire should properly have been dealt with in the Treaty rather than in a subsequent statement. This written Soviet statement was not signed or initialed by either Presidents Carter or Brezhnev, but was initialed only by Secretary Vance.

Importantly, his Soviet statement on Backfire contains a non sequitar which is of critical importance. The phrase in that document which states that the Soviet Union "does not intend to give this airplane the capability of operating at intercontinental distances" is meaningless since the Backfire already has such a capability. This is made clear by the sentence which follows the one previously quoted with respect to intercontinental distances: "In this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the U.S.A." Thus, the Soviets have in effect secured our agreement to their definition that operating at intercontinental distances means operating on radius missions. No modern heavy bomber can operate, unrefueled, on radius missions. Were we to adopt this same rationalization, neither the B–52 nor the B–1 would count in our aggregate ceilings. Further, the Soviets will be permitted significantly to increase the capability of the Backfire so long as it cannot operate on operational radius missions. The Senate should not give legal sanction to this Soviet definition.

The confirmation by Brezhnev that the Backfire production rate will not exceed 30 per year is of little military significance. This statement merely confirms the current plans of the Soviet Union which will allow it to have operational in the inventory by 1985, according to a statement recently made by Dr. Perry, 380 to 400 Backfires. This number of Backfire bombers will exceed the number of aging B–52's which the U.S. will have in its inventory at the expiration of the Treaty in 1985. Military studies indicate that the Backfire could deliver an additional one-third of the already large total throw-weight capability of the U.S.S.R. upon the U.S. It will require us to spend $7–$10 billion to augment our weak air defenses. The statement made by President Carter that the U.S. has a right to aircraft comparable to Backfire has no practical value. Certainly the U.S. has a right to build whatever type of aircraft it needs to further its military objectives. If the airplane built is capable of taking off from the United States and reaching the territory of the Soviet Union on an unrefueled mission, the Soviets would state that it must be counted in the inventory. We would have no grounds for disputing their argument. The implication that we will build an aircraft com-

parable to the Backfire, which the U.S. does not need and which has not been defined, either by mission or capability, will undoubtedly be interpreted by the Soviets as a lame attempt by the U.S. to justify making this monumental concession by whatever arguments it can.

Finally, President Carter's statement "that the U.S. enters into the SALT II agreement on the basis of the commitments contained in the Soviet statement and that it considers the carrying out of these commitments to be essential to the obligations under the Treaty" is of little significance. If the commitments are essential obligations of the Treaty, they should obviously be included in the Treaty. The fact that they are not so included argues that the Soviets interpret them differently and treats them as less binding than commitments in the Treaty. Furthermore, as pointed out above, Brezhnev's promises on the Backfire deal with limitations which have no practical significance.

The Soviets' treatment of the Backfire should be recognized for what it is, an unwillingness to discuss the issue on its merits. The Soviets have successfully excluded an intercontinental system from the Treaty by defining it out of the problem and by an uncontested display of will to adhere to their definition.

Administration comment

The Backfire commitments undertaken by the U.S.S.R. at the Vienna Summit in June 1979 are legally binding upon the U.S.S.R. Nevertheless, Soviet agreement to this reservation will make absolutely clear the legally binding nature of the Soviet Backfire commitments.

Under international law the commitments in President Brezhnev's letter are legally binding regardless of the presence or absence of signatures or initials on the letter. Similarly, it is not necessary for these commitments to be in the Treaty itself in order that they be legally binding.

In order to understand the outcome of the Backfire issue at the Vienna Summit, it should be recognized that the ability to strike the territory of the other side is not the sole criterion for determining whether an airplane is a "heavy bomber" and, thus, subject to the limitations in the SALT II agreement. For example, the U.S. has 66 FB–111's based in the United States which are part of our strategic bomber force and dedicated to attack on the Soviet Union, and are not subject to SALT limitations. We also have over 500 aircraft deployed in the European and Pacific theaters which have the technical capability to strike Soviet territory. The Soviet Union at one time tried to include these latter aircraft in SALT on the grounds that they could strike the Soviet Union. With the firm support of our Allies, we adamantly resisted that position on the grounds that these aircraft, whatever their theoretical capability, are deployed for theater missions and thus are not subject to SALT limitations. The Soviets have used this same argument with respect to the Backfire. The Soviet commitments given at the Vienna Summit are consistent with the U.S. objective of constraining the strategic potential of the Backfire force, while continuing to exclude our own European-based and Pacific-based theater aircraft from SALT.

The characteristics (e.g., length, weight, wing-span, range, and payload) of the Backfire bomber fall between the characteristics generally attributed to existing heavy bombers and those of medium bombers. The Soviet Union is currently deploying Backfire bombers in both their long-range air force and in naval aviation units in a manner which indicates use in theater and naval strike roles and as a replacement for older Soviet medium bombers. Although the Backfire clearly is not optimally designed as a strategic bomber, it does have some intercontinental capability. The Backfire could reach the United States from home bases on a one-way, high-altitude, subsonic, unrefueled mission. With in-flight refueling and Arctic staging, it could probably execute a two-way mission to much of the United States with certain high-altitude flight profiles. However, the Soviets do not have a large tanker aircraft force which could be used with Backfire.

President Carter made it clear to the Soviets at the Vienna Summit that the United States would regard any significant increase in the range/payload capability of the Backfire as inconsistent with the Soviet Backfire commitments. Moreover, limiting the number of Backfires (by limiting production to 30 per year) means that a possible Soviet diversion of Backfire from its theater and naval missions to a strategic role would substantially reduce Soviet strength in those areas, while adding only marginally to overall Soviet strategic capability, particularly in the most threatening scenario involving a first strike.

With respect to the legal status of the Soviet commitments on Backfire, President Carter's statement at the Vienna Summit makes clear that the United

States regards the obligations undertaken by means of these commitments as integral to the Treaty. The United States would view a Soviet violation of these commitments in exactly the same manner as we would view a Soviet violation of the Treaty itself, and would act accordingly.

4. Amendment (Senator Baker) considered Wednesday, October 17

Rejected 6–9. Ayes: Senators Stone, Zorinsky, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Javits, and Percy.

This amendment would have counted the Backfire bomber within SALT II as ¾ of a strategic nuclear delivery vehicle (SNDV) and the FB–111 bomber as ½ an SNDV.

Lieutenant General Rowny comment

This Amendment would have corrected major inequalities of the Treaty by counting in the aggregate by adding some 285 strategic delivery vehicles to their total (¾ of 380) while only counting 35 of our FB–111's (½ of 70) for a net of 250 systems which the Soviets will need to count in their aggregates. These Backfire bombers, which our intelligence community estimates can strike targets in the United States on one-way unrefueled missions, will thus not be counted and will be allowed to run completely free while all our bombers—to include mothballed B–52's and prototype B–1's—will be counted. If the Soviets counted all or part of their Backfires in their aggregate, they would have to reduce the number of ballistic missiles in the aggregate by a like amount. Although the Soviets have never asked us to include FB–111's in our aggregate, the formula suggested by Senator Baker would count three-fourths of their Backfires at a relatively small cost to us. In other words, counting even a portion of their Backfires would give us the opportunity to cut the first strike threat to our land-based forces since the Soviets would have to trade Backfires for SS–17, SS–18, or SS–19 ICBM launchers, or a combination of ICBM's and modern SLBM launchers, depending on the specific formula. It is clear that limiting Backfire would provide us additional ways to limit Soviet missile launchers. And since the SS–17, SS–18, and SS–19 are all "heavies" as defined in SALT I, counting Backfire would improve strategic stability by having the Treaty approach equality. The record shows that the Joint Chiefs of Staff gave consistent advice that the Backfire should be counted in the Soviet aggregate. The principle that all intercontinental systems should be counted in the aggregates is being violated in this Treaty.

The so-called "assurances" on Backfire are militarily worthless. It has been stated that the Backfire would add only a marginal capability to the total Soviet capability for causing destruction in the United States. To add one-third to the already large destructive power that the Soviets can inflict upon the United States can hardly be called a marginal improvement to their strategic capability.

In this connection, some who have argued against including Backfire in the Treaty have asserted that we traded it off for their not counting our forward based systems (FBS). Those unfamiliar with the negotiating record tend to sell the FBS horse again and again and have used it here again as a rationalization for not counting Backfire. The simple fact is that the Soviets dropped their FBS argument because it was in their own self-interest to do so.

If we were to count our FBS the Soviets would be required to count their systems of similar capabilities. The Soviet systems are several times as numerous and an order-of-magnitude greater in destructive power than our FBS and Allied nuclear systems combined. To give credence to the Soviet FBS argument, which is not an issue with the Soviets in this SALT agreement, is to undermine our support to NATO. We are committed by Article V of the NATO Treaty to the principle that an attack on one of our Allies is an attack on all its signatories, including the United States.

Administration comment

Although the Backfire has some intercontinental capability, it is being deployed as a theater system. The Backfire commitments undertaken by the Soviets at the Vienna Summit of June 1979 are legally binding and will inhibit the use of the Backfire force in an intercontinental role. (See the general remarks in the Administration Comment to item number 3 above.)

The FB–111 "sweetener" is unlikely to aid the negotiability of this amendment (even if FB–111's counted equally with Backfire, that is, as ¾), since the U.S. has 66 FB–111's, whereas the Soviets are projected to deploy several hun-

dreds of Backfires in the period to 1985. If the U.S. were to reopen the Backfire issue and make this proposal, the Soviets might well respond in ways not in the U.S. interest (e.g., multiple counting of U.S. cruise missile carriers) or reopen other issues which were settled on terms favorable to the U.S., including the FBS issue. General Jones, JCS chairman, General Ellis, SAC commander, and former Secretary of State Kissinger have all testified that we should not reopen the Backfire issue and thereby jeopardize the whole Treaty.

Counting a portion of the Soviet Backfires would not reduce significantly the Soviet threat against U.S. fixed land-based ICBM silos. Given the accuracy, yield, and fractionation of the current Soviet MIRVed ICBM's and the hardness of our ICBM silos, the principal remaining determinant of that threat is the number of Soviet MIRVed ICBM's. The Soviets would not have to reduce that number even if they agreed to count Backfire; for example, they could take all their reductions in non-MIRVed ICBM's, SLBM's, and heavy bombers.

With respect to the FBS issue, in the early stages of SALT II in 1973 and 1974, the U.S. was pushing for Soviet acceptance of the concepts of equal aggregate ceilings on central systems, with no limits on U.S. so-called "forward-based systems" (FBS). The Soviets were proposing asymmetric limitations on central systems and eventual withdrawal of all U.S. forward-based systems from third countries. President Ford and General Secretary Brezhnev agreed at Vladivostok in November 1974 on the framework for a SALT II Treaty to run to the end of 1985. The Vladivostok framework included provision for an equal aggregate ceiling of 2400, an equal subceiling of 1320 MIRVed systems, no limitations on or account taken of U.S. forward-based systems or Allied nuclear systems, and continuation of the SALT I freeze on the maximum numbers of ICBM launchers and of modern heavy ICBM launchers. Backfire was not explicitly addressed at Vladivostok.

5. Category II Understanding (Senator Glenn) considered Wednesday, October 17

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

This understanding provides that a violation by the Soviet Union of the Treaty provision that the SS–19 is the heaviest light ICBM could be regarded by the United States as a violation affecting fundamental objectives of the SALT process, justifying U.S. withdrawal from the SALT II Treaty.

Lieutenant General Rowny comment

Although the Third Common Understanding to paragraph 5 of Article II states that the SS–19 is the heaviest light ICBM in terms of launch-weight and throw-weight, the Soviets have consistently refused to provide the United States with the figures on the launch-weight and throw-weight of the SS–19. As Department of State Document 12B points out,

> On August 16, 1977, in a plenary statement, the United States informed the Soviet Union that ". . . for planning purposes, with respect to ICBM's it might develop, test or deploy in the future, the United States considers the launch-weight limit on light ICBM's to be 90,000 kilograms and the throw-weight limit to be 3,600 kilograms." These figures are based on our estimates for the SS–19. The Soviet Union did not respond to this statement. The United States will regard these figures as the limits for the one new type of light ICBM permitted to the United States under Paragraph 9 of Article IV.

In essence, therefore, this is another U.S. unilateral statement, since our figures are not binding on the U.S.S.R. A similar situation existed in SALT I when the U.S. declared that a "heavy" ICBM would be any missile larger than the largest "light" ICBM—for the Soviets, the SS–11 and for the U.S., the Minuteman III.

Subsequent Soviet deployment of the SS–17 and SS–19, both of which have launch-weights and throw-weights at least twice that of the SS–11, showed that the Soviets had no intention of being bound by U.S. unilateral statements. Our failure to negotiate stricter limits in SALT I and the Soviet buildup in these heavy missiles have greatly contributed to the vulnerability of our Minutemen, our non-alert bombers, and our submarines in port.

Administration comment

The Soviets have explicitly agreed in the Treaty not to flight-test or deploy light ICBM's with a throw-weight or launch-weight greater than those of the SS–19. We are confident that we can monitor their compliance with this provision. This is fundamentally different from the situation in SALT I, where there was no agreed basis for defining a heavy ICBM.

The U.S. Delegation stated to the Soviet Union that for U.S. planning purposes it considered the launch-weight limit on ICBM's to be 90,000 kilograms and the throw-weight limit to be 3,600 kilograms. This statement was based on our estimates for the SS–19 and was made to clarify our intentions with respect to the size of MX so there would later be no claims by the Soviets that MX was larger than their SS–19 and therefore a violation of the Treaty. The Soviets did not contest this statement nor did they provide specific figures for the launch-weight and throw-weight of the SS–19. Since SALT II's qualitative limits restrict *changes* in missile characteristics, our ability to monitor Soviet compliance with this provision is not dependent on determining the absolute weights of the SS–19 nor would we rely to any great extent on figures the Soviets might provide. The provision as written and, as reinforced by committee action, constrains the Soviets, relies on our ability to monitor missile capabilities, and avoid potential compliance questions concerning the size of MX.

6. Category III Reservation (Senator Stone) considered Thursday, October 18

Rejected 5–10. Ayes: Senators Stone, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Zorinsky, Javits and Percy.

This reservation would have included Soviet *Golf I* and *Golf II* submarines within the SALT II provisions.

Lieutenant General Rowny comment

Currently the Soviets have some 57 SLBM's on *Golf I* and *Golf II* submarines which are uncounted under the terms of SALT II because they are older systems. These strategic systems are capable of striking the United States and have been exempted from the Soviet SALT aggregate without a commensurate *quid pro quo*. When added to the other excluded Soviet systems, a number which exceeds 750 for a total of more than 800 exempted Soviet systems, it is clear that the SALT agreements have failed to address the whole threat to the U.S. or to treat their systems and ours in an evenhanded fashion.

Administration comment

The Soviet G-class submarines and their launchers were exempted from the limitations of the SALT I Interim Agreement of May 26, 1972. The United States accepted this exemption because these submarines were old, short-range systems deployed by the Soviets for a theater role. In particular, the G-class submarine is a diesel-powered submarine first deployed in the late 1950's, and is a vulnerable system of limited capability. The G-class submarines are each equipped with three SLBM's, either SS–N–4's (600 kilometer range) or SS–N–5's (1300 kilometer range); these SLBM's were first deployed in the early 1960's. There have been no G-class submarines on station off the coast of the U.S. since the late 1960's. All the evidence in recent years indicates that the G-class submarines are being deployed for a theater role in Europe and the Far East. In addition, in SALT I these older launchers were omitted from the totals so that they could not be traded in for new SLBM's.

For the above reasons, and because the G-class submarines and their missiles are even older now than in 1972, and have lesser capability relative to newer Soviet SLBM systems introduced since 1972, the U.S. agreed to carry over the G-class SLBM launcher exemption to SALT II. In particular, the Agreed Statement to paragraph 2 of Article II of the SALT II Treaty was taken verbatim from the Procedures for implementing the SALT I agreements, which were signed by Secretary of State Kissinger and Foreign Minister Gromyko in Moscow on July 3, 1974. The G-class SLBM launcher exemption only applies to older SLBM's on these submarines. If the Soviets install on G-class submarines launchers of modern ballistic missiles (missiles first flight-tested since 1965), then those SLBM launchers would count under the SALT II aggregates. Currently there are less than 20 G-class submarines with less than 50 older launchers.

7. Category II Understanding (Senator Glenn) considered Thursday, October 18

Recommended 13–1. Ayes: Senators Church, Pell, McGovern, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar. Nay: Senator Biden.

This understanding provides that the United States will calculate cruise missile range by assuming that all unused fuel is consumed by flying at the same altitude and speed as in the last segment of the cruise missile's flight, and that a violation could be regarded by the United States as affecting fundamental ob-

jectives of the SALT process, justifying U.S. withdrawal from the SALT II Treaty.

Lieutenant General Rowny comment

This Understanding merely restates the U.S. position which was presented to the Soviets during the course of the negotiations. The Soviet response to our position was unsatisfactory. Although the U.S. made repeated attempts to get Soviet agreement to the U.S. definition, the Soviets refused. The Soviet reply ". . . that the cruise missile range definition had already been agreed and no further clarifications were required in this connection" begs the question and simply reinforces the high-handed and intransigent Soviet way of dealing with such issues. The Soviet statement that ". . . if specific questions with regard to this arose in the future, they could be dealt with in a specific way" is representative of the way in which the Soviets refuse to deal with important issues by indicating that they can be dealt with later. Failure to achieve a satisfactory resolution of this issue now is an almost certain guarantee that there can be no satisfactory solution at a later date.

Administration comment

The U.S. raised this issue in Geneva, as a point of clarification, less than two weeks before the Treaty was signed in Vienna. The Soviets typically required much longer to perform analysis on such technically complex issues. Because of the press of time, the minor importance of this issue, and the fact that contentious aspects of the cruise missile issue were being resolved without affecting any U.S. cruise missile programs, we chose not to press the Soviets for formal agreement to this point.

With or without explicit agreement however, any question concerning the range capabilities of cruise missiles could be raised in the SCC. Unsatisfactory resolution of this or any other question would justify withdrawal from the Treaty.

8. Category I Understanding (Senator Glenn) considered Thursday, October 18

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding states that maneuvers of ballistic missile post-boost vehicles shall be defined as including changes in position as well as velocity and orientation.

Lieutenant General Rowny comment

The meaning of the term "maneuvers" is critical to the definition of a new type ICBM. A satisfactory definition would prevent the Soviets from developing the capability to deploy 12 to 14 MIRVs on the SS–18; or a new MIRV "bus."

The U.S. stated for the official negotiating record that such maneuvers include changes in orientation as well as changes in position and velocity. The Soviets specifically objected to the inclusion of language in the agreed statements to paragraphs 10–13 of Article IV which would have stated that changes in orientation as well as changes in position and velocity were involved. Expressed unwillingness of the Soviets to agree to this language resulted in its being omitted from the agreed statements. The Soviets' reasons for this became evident during the negotiating process concerning the definition of a new type ICBM. Adoption of U.S. language would have required the U.S. to have access to unencrypted telemetry during Soviet ICBM tests. To accomplish their objective of assuring that there be no provisions in the Treaty which would require unencrypted telemetry, the Soviets refused to agree to any language which would indicate the contrary. The purpose of the consistent Soviet position favoring encryption of telemetry—the purpose of which can only be to conceal—is clear here and also in the case of the five specific parameters which they insisted not be included. This Soviet position resulted in making meaningless the provision regarding encryption of telemetry contained in the second common understanding to the second agreed statement of Article XV.3. Therefore, this Understanding serves no practical purpose. It is another example of a U.S. unilateral statement.

Perhaps the greatest fault of the Treaty as it emerged is the failure to include meaningful qualitative limitations. Agreement to equal numbers of systems without agreement upon equal limits of strategic capability introduces a fatal flaw into the Treaty which has been described by others as a numbers fallacy. In other words, warheads of ICBM's are lumped with warheads of SLBM's even though the destructive potential of the former is on the order of 40 to 80 times as great as the latter. Only two qualitative limitations survived the negotiating process. The first, a fractionation limit on ICBM's is of temporal value since it

ceases to exist after the Treaty expires in 1985. Although it would be desirable to maintain this limitation it appears there will be no available leverage on our part to force its continuation. The best way to continue the limit of ten warheads per ICBM is to reduce the throw-weight of the SS–18's to 7,500 pounds or to cause the Soviets to eliminate their SS–18's. The second qualitative limitation is the putative one of restricting each side of a single new type ICBM. The Soviets, by refusing to allow the five restrictive parameters to be included in the definition of a new ICBM and by refusing to agree to a strict definition of "maneuver," have kept open the option of testing four or five new types of "light" ICBM's.

I strongly urge the Senate as a whole to give careful attention to amendments which would reintroduce meaningful qualitative limitations into any Treaty before its ratification would be considered.

Administration comment

The Agreed Statements with paragraphs 10, 11, 12, and 13 of Article IV explicitly prohibit the testing of procedures for releasing or dispensing reentry vehicles in excess of the maximum numbers of reentry vehicles permitted on specific types of missiles. The critical point of the Agreed Statements as far as the term "maneuvers" is concerned is that "procedures for releasing or for dispensing" reentry vehicles means maneuvers of a missile associated with targeting and releasing or dispensing its reentry vehicles to aim points, *whether or not a reentry vehicle is actually released or dispensed*. There is no misunderstanding between the sides regarding the force of this agreed provision, and any provision, and any questionable activity would, of course, be an appropriate topic for discussion in the SCC.

There are various ways in which maneuvers of a post boost vehicle could be used to stimulate the release of an RV. The United States, in a plenary statement, pointed out the fairly obvious fact that maneuvers could include changes in orientation, as well as in position and velocity. We never proposed to include this language in an Agreed Statement. Consequently, the Soviets could not and did not object to the inclusion of such language. Although the Soviet Head of Delegation (who is not a technical expert) did not comment on the U.S. remark, the chief Soviet technical expert made it clear, in a post-plenary discussion, that there was no disagreement between the sides on this question. (It should be noted that the new type definition was agreed to *before* the discussion in question here took place.)

Both the Soviets and the U.S. are limited to one new type of ICBM during the Treaty period. The restrictions on the one new type of light ICBM permitted under the Treaty and the agreed interpretations of those restrictions are detailed in paragraph 9 of Article IV of the Treaty, and its associated Agreed Statements and Common Understandings. The Resolution of Ratification proposed by the SFRC provides that the Soviets agree that all such Agreed Statements and Common Understandings have the same legal force as the Treaty.

With regard to telemetry encryption, there are numerous provisions of the treaty, such as the limits on launch weight, which require telemetry for verification. The Second Common Understanding to Article XV prohibits deliberate denial of telemetry, by encryption or any other means, whenever such denial impedes verification of compliance with the provisions of the agreement. Should such activity impede verification of the provision on simulation of releases during the flight testing of reentry vehicles, it would, of course, be prohibited under this agreed provision. The Party carrying out verification would be able to raise the issue of telemetry denial in the SCC. If the issue could not be resolved in that forum, withdrawal from the Treaty would be possible.

With regard to qualitative limitations, fractionation limits are the best means of preventing the Soviets from translating their throw-weight advantage into meaningful gains in strategic capabilities. The limits are important in constraining Soviet modifications of existing ICBM's and their development of the one new type of light ICBM permitted by the Treaty. Those limits provide a basis for similar limitations in SALT III. It seems preculiar that the fractionation limit is criticized on the basis that it expires in 1985, along with the rest of the Treaty.

9. Category II Understanding (Senator Glenn) considered Thursday, October 18

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding provides that the aggregate weight of 10 reentry vehicles on any new type ICBM must be at least 40 percent of the total throw-weight of

the missile, and that a violation could be regarded by the United States as affecting fundamental objectives of the SALT process, justifying U.S. withdrawal from the SALT II Treaty.

Lieutenant General Rowny comment

The substance of this Understanding was conveyed to the Soviets in the course of the negotiations. However, the Soviets refused to accept the 40 percent figure, and therefore this Understanding is not legally binding on the U.S.S.R. The recommendations by the Senate that the Understanding be a Category II reservation merely continues this unsatisfactory situation.

The throw-weight of a missile includes the weight of all the items above the final boot stage. The RV's are but one component of throw-weight which also includes the weight of the bus (the post-boost maneuvering unit), the RV dispensing system, etc. Based on the structural and system weights of ICBM front end systems, 40 percent for RV's is a representative value.

Soviet unwillingness to accept a 40 percent minimum figure can be interpreted as an option for possible circumvention of the Agreement. The only reason to deploy an ICBM with an oversized bus is to give it the potential of carrying more warheads than allowed under the Agreement. This would give them a potential for circumvention and for achieving a breakout capability.

The Senate should make this a Category III reservation, that is, an amendment to the Treaty.

Administration comment

The United States would have preferred explicit Soviet acceptance of the restriction that the total weight of ten reentry vehicles on the one permitted new type of ICBM not be less than 40 percent of the throw-weight. However, in the context of the resolution of other, more important issues, we agreed to the exclusion of this proposed provision. At the same time, we made clear to the Soviets that if a side tested reentry vehicles on the permitted new type of ICBM, for which the total weight of 10 such reentry vehicles was less than 40 percent of the throw-weight, it would raise serious questions as to whether the new system was designed to carry more than 10 reentry vehicles. Further, we told the Soviets that if such a problem arose in the future, it would be an issue for discussion and resolution in the Standing Consultative Commission.

The Soviets would be unlikely to deploy more than 10 RVs on an ICBM without having flight tested it in such a configuration. The Treaty prohibits any such flight tests, including ones in which some of the RV releases are only simulated.

The U.S. statement made during the negotiations, strengthened by this Category II understanding represents a satisfactory and sufficient state of affairs. If we were to raise this issue to a Category III, requiring explicit Soviet concurrence, they would at the very least insist on reopening other provisions for renegotiation. This would not be in our best interest.

10. Category I Understanding (Senators Church, Javits and Percy), considered Monday, October 22

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding provides that nothing in the Treaty or Protocol prevents the U.S. from continuing existing patterns of collaboration with its allies as set forth in the U.S. statement to the NATO North Atlantic Council on June 29, 1979.

The adoption of this understanding was preceded by an amendment proposed by Senator Lugar classifying the understanding in Category III and an amendment proposed by Senator Glenn classifying the understanding in Category II. The first amendment was rejected 5–10. Ayes: Senators Glenn, Stone, Baker, Helms, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Sarbanes, Muskie, Zorinsky, Javits, Percy, and Hayakawa. The second amendment was rejected 7–8. Ayes: Senators Glenn, Stone, Zorinsky, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Sarbanes, Muskie, Javits, and Percy.

Lieutenant General Rowny comment

This understanding attempts to get around the problem of non-circumvention by unilaterally stating that the non-circumvention clause allow the U.S. to continue transferring technology to its NATO Allies. However, it is not clear that the Soviets agree to this, as the issue has been raised in various negotiating ses-

sions. Due to the ambiguity of this provision, the Soviets can be expected to press the U.S. on this issue and to interpret it in ways to suit their purposes. It is clear from the official negotiating record that they are holding such options open and that their agreement to the wording of Article XII permits them to exercise such options.

Insofar as the Treaty is concerned, Article XII simply states that ". . . each Party undertakes not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner." As such, the wording allows for differing interpretations as to what will constitute circumventions in the future. During the lengthy negotiations of this provision the NATO Allies repeatedly expressed concerns that transfers of technology or of weapons systems which are necessary for NATO's defense should not be inhibited by the Treaty.

The Protocol to the Treaty (except for Article I which is even-handed in its treatment of mobile ICBM launchers) serves only to constrain cruise missiles which are of critical importance to the U.S. and its Allies. The problem here is not that the U.S. would necessarily deploy long-range land and sea-based cruise missiles before the expiration date of the Protocol (as well it might if the U.S. chose to accelerate its cruise missible programs). Instead, the problem lies in the precedential effect which the Protocol will have on the treatment of cruise missile once the Protocol expires. It is for this reason that the Joint Chiefs of Staff and a number of Allies expressed their preferences that there be no Protocol at all. To those who argue that the Protocol will not establish a precedent the simplest solution is to eliminate the Protocol inasmuch as there is ample reason to believe that the Protocol will establish precedents. The principal reason supporting this belief is contained in the third objective in the Joint Statement of Principles, to which the U.S. agreed, that following a SALT agreement there will be "resolution of the issues included in the Protocol to the Treaty . . ." Other reasons supporting this belief can be readily adduced from the precedential nature of provisions contained in SALT I which have been carried forward into SALT II. Former Secretary Kissinger has on several occasions indicated that provisions once agreed to with the Soviets tend to be continued. He has flatly stated that the Protocol will establish precedents for SALT III.

In face of the above, the Senate should adopt Senator Lugar's amendment classifying this understanding as a Category III type. To have raised the subject in the Senate Foreign Relations Committee markup and then to have classified it in a Category I status (where it has no binding effect on the Soviets) serves simply to signal to the Soviets a lack of firm resolve on this critical issue.

Administration comment

During the SALT II negotiations, the Soviets proposed a highly restrictive prohibition on transfers to other states of systems covered in SALT II (and related technology). The U.S. refused to accept a non-transfer provision of any kind. Ultimately the Soviets accepted our proposal for general non-circumvention language and dropped their demand for a non-transfer clause.

We have made very clear our view, in a statement to the North Atlantic Council, that, while we would not transfer to our Allies systems prohibited by SALT II, transfer of items numerically limited in the agreement would not necessarily be precluded. This is a major, high-level statement of internal Alliance policy and one which cannot be contravened by Soviet statements. Moreover, we would not want to give the Soviets the opportunity to question this policy or to interfere in or obstruct specific elements of inter-Allied collaboration, as we would if we were to propose to them a Category III amendment. Given their public position on TNF modernization, the Soviets would probably be unable to resist intervening if either a Category II or III reservation were adopted. A Category II could complicate the NATO TNF process by inviting the Soviets to intrude into Allied discussions and decisionmaking. A Category III could compound this problem by making SALT II's entry into force contingent on resolution of any Soviet objections on TNF—an impossible position in which to place the Alliance, which is committed both to modernization and arms control in the TNF area.

The Allies indicated to us that they are satisfied with our assurances that the non-circumvention provision will not affect existing patterns of collaboration and cooperation within the Alliance, nor preclude cooperation in modernization. The Allies agree that this issue should not be taken up with the Soviets.

As to the precedential effect of the Protocol, we have made fully clear that the Protocol constraints will expire at the end of 1981 and that they set no

precedent for SALT III or beyond. Our plans for flight-testing and deployment of M–X in a mobile mode and for deployment of GLCM's in Western Europe following expiration of the Protocol afford clear and concrete evidence of our intent in this regard. The JSP does indeed commit us to resolve the issues treated in the Protocol, but in no respect does it bind us to accept the same solutions embodied in the Protocol.

11. Category III Reservation (Senator Baker), considered Tuesday, October 23

Rejected 7–8. Ayes: Senators Glenn, Stone, Zorinsky, Baker, Helms, Hayakawa and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Sarbanes, Muskie, Javits, and Percy.

This reservation would have given the U.S. the right to convert 308 launchers for light ICBM's into launchers for heavy ICBM's and the right to test and deploy one new type of heavy ICBM.

Lieutenant General Rowny comment

This reservation would have reversed an inequality in principle which now exists in the present Treaty by granting the U.S. the right to heavy ICBM's. Currently the Treaty grants the Soviet Union a unilateral right to 308 launchers for heavy ICBM's. The United States was not compensated for this large asymmetry. The 308 Soviet heavy missiles alone possess more destructive power than all of our ICBM's and SLBM's combined. To say that the Soviets can have heavy missile launchers and we cannot is comparable to having said in the naval disarmament conference in the 1930's: "You can deploy battleships but we agree only to deploy destroyers."

It has been stated that we accepted this inequality in a trade for the Soviets not counting our so-called "forward based systems" (FBS), and the nuclear systems of our Allies. Others stated that we traded the Soviets not counting Backfire for our not counting FBS. Neither of these statements is supportable by the record. What is supportable is that the Soviets abandoned their FBS argument when we insisted that they include their more numerous and more powerful systems.

I clearly recall the days just before Vladivostok when the Soviets sent us signals in Geneva that they would drop their FBS arguments. Once told that by insisting on including our FBS, the Soviets would be required to count their more numerous systems—which could strike our systems and our troops in Europe, as well as our NATO partners—the Soviets realized it was to their advantage to drop the FBS argument.

Giving the Soviets a unilateral right to 308 heavy ICBM launchers is one of the most glaring inequities of the Treaty—an inequity which will have a profound impact on the strategic imbalance between the U.S. and U.S.S.R. and its consequent effect on undermining deterrence and contributing to instability in times of crisis.

The U.S. now has, and will continue to have throughout the period of the Treaty, some 2,000 ICBM warheads. The Soviets are permitted under the Treaty to have over 6,000 ICBM warheads, half of which will be deployed on their heavy missiles. Of all the weapons systems, ICBM's are the most destabilizing. This is so because only ICBM warheads possess the combination of yield and accuracy to give them capabilities of destroying land-based silos and other hardened military targets. Furthermore: (1) ICBM systems are constantly available for deployment (in contrast to SLBM's, half of which are normally in port), (2) ICBM systems possess redundant and relatively secure communications links (in contrast to SLBM's where communications are more tenuous), (3) ICBM systems have short flight times and thus can be used in an immediate second, strike role (in contrast to bomber/ALCM systems), and (4) ICBM's once launched cannot be recalled (in contrast to bomber/ALCM systems).

Because ICBM systems are the most destabilizing systems—a point which is universally accepted among U.S. agencies and has been repeatedly communicated to the Soviets—it behooves the U.S. to take the necessary steps to see that the number of ICBM warheads is reduced. One of the best ways to do this is to insist on equality and to require that the Soviets eliminate their heavy ICBM launchers.

The U.S. attempted to put meaningful constraints on qualitative improvements of strategic offensive arms. One of the best ways to have accomplished this objective would have been to limit throw-weight of ICBM's, that is, their destructive potential. Since the U.S. abandoned this goal in SALT II, one way to limit

ICBM throw-weight is to insist that Soviet launchers of heavy ICBM's be eliminated. This would cut by approximately one-half the Soviet ICBM throw-weight and cut in half their huge asymmetry in the number of ICBM warheads.

There is another important reason why it is essential that we take steps to limit heavy ICBM launchers now. The U.S. is developing a system to deploy its MX in a mobile mode. This system will cost at least $40 billion in today's dollars. This system would not need to be nearly as extensive, or nearly as expensive, if it did not have to cope with the threat of Soviet heavy ICBM's. Moreover, the U.S. problem would be "bounded." As it stands now, the U.S. mobile basing mode will be inadequate, even on paper, to cope with the Soviet threat. Even before the first MX is deployed in a mobile basing mode (estimated to be in 1986) the Soviets will be able to exploit the throw-weight potential of their SS–18's and equip them with at least twenty weapons capable of destroying hard targets.

It has been argued that the U.S. did not opt to build a heavy missile and therefore did not press for the right to deploy heavy ICBM's. This is true. However, this decision was made at a time when the U.S. hoped the U.S.S.R. would follow its lead and not deploy large missiles which are clearly the most destabilizing of all weapons systems. The U.S.S.R. failed to follow our lead. Moreover, U.S. intelligence estimates at that time did not credit the Soviet Union with the ability to approach the accuracy of U.S. systems. Furthermore, our intelligence estimates did not credit the U.S.S.R. with being able to develop miniaturized systems which would permit the Soviets to utilize their throw-weight potential for the purpose of deploying large numbers of warheads on their MIRVed systems. Both of these intelligence estimates proved to be wrong. The Soviets are now credited with equaling our ICBM accuracies by the early 1980's and approaching our ability to utilize throw-weight potential for additional warheads.

It is further argued that the JCS, when asked if they wanted to keep open the option of deploying mobile launchers for heavy ICBM's, declined. This is true. The reason for this has nothing to do with fixed launchers for heavy ICBM's but applies only to mobile launchers. The MX missile, which will, approach in weight the heaviest of the so-called "light" ICBM's of the U.S.S.R., is at the limit of feasibility insofar as making missile systems mobile. The vehicle being designed to haul the MX around the so-called "race track" will weigh 300 tons, six times as heavy as the load permitted on modern U.S. highways and bridges. It would make no sense to attempt to deploy a missile twice as large as the MX in a mobile mode—it is simply infeasible to do so from an engineering standpoint.

Moreover, to extend the argument as it pertains to a mobile launcher to fixed launchers is to foreclose a possible option which should be kept open by the U.S. It is true now, as it has been from the outset, that the U.S. would prefer smaller ICBM's. But just as the U.S. has been forced to develop the MX because of the need to face the growing threat to the U.S. ICBM force, the U.S. may well find it necessary to develop and deploy a heavy ICBM in a fixed mode. In this case, as the Soviets have demonstrated with the SS–18, no formidable engineering problems exist. If the Soviets utilize the throw-weight potential of their SS–18 and further fractionate—and there is no reason to believe they will not do so—and if the MX in a mobile basing mode is determined to be too expensive or otherwise infeasible, or if the Soviets continue to claim that our mobile basing mode is prohibited by the provisions of the agreement—if any of these conditions come about—it is entirely possible that the U.S. may find it in its interest to exercise the option of deploying heavy ICBM's.

The Category III reservation introduced by Senator Baker was designed to keep open the option of deploying heavy ICBM's (and still not proliferate numbers of launchers) by giving the U.S. the right to convert the launchers for light ICBM's into launchers for heavy ICBM's. This reservation was defeated in the Foreign Relations Committee by the narrow vote of seven to eight.

It has also been argued that "we cannot expect to get something for nothing" and would have to pay a price for Soviet agreement to Senator Baker's proposal. This argument, which on the face of it has the appeal of common-sense, fails to recognize the zeal with which the U.S. pursued reaching an agreement. Although I treat this point elsewhere, I believe that if the Senate as a whole carefully reviews the negotiating history of SALT II and prepares a balance sheet of U.S. concessions versus those made by the Soviets (in my view about two to one in number and in importance) that the common-sense approach will be to

insist that the Soviets will, because they need and want a Treaty, agree to Senator Baker's proposal.

I strongly recommend that the Senate in its debate on this issue analyze carefully the arguments pro and con for this proposal. I would urge the Senate to study the reasons why the Joint Chiefs of Staff, from the outset, considered the heavy missiles of the U.S.S.R. to be the root cause of our inability to arrive at an equitable Treaty. An unequal Treaty, especially in this category of weapons systems, would undermine deterrence and prove destabilizing in crisis situations. If such an analysis and study is undertaken I am confident the Senate as a whole will reverse the outcome of the vote in the Senate Foreign Relations Committee and adopt Senator Baker's proposal.

Administration comment

As in SALT I, the Soviets rejected all U.S. attempts to constrain missile throw-weight during the first phases of SALT II. They argued that any Soviet advantage in this regard was balanced by U.S. advantages in bomber throw-weight and particularly by its forward-based systems. At the Vladivostok meeting in November 1974, as part of a compromise which included Soviet agreement to exclude U.S. FBS and the Strategic systems of U.S. Allies from the negotiations, the sides agreed to carry over to SALT II the heavy missile limits negotiated in SALT I. As a consequence, the Soviets would be permitted 308 modern fixed heavy ICBM launchers, while the U.S. would forgo the right to such launchers. Contrary to critics' claims about the negotiations leading up to Vladivostok, the U.S. never proposed that the Soviets include their theater nuclear systems in return for U.S. inclusion. Rather, we insisted that U.S. forward-based systems and the nuclear systems of our Allies should not be limited under the SALT II agreement.

Our principal concern in seeking limitation on throw-weight and heavy ICBM's was the potential for translating throw-weight into MIRV's, and into increasingly larger numbers of RV's. Simply put, if Missile A has twice the throw-weight of Missile B, it can carry twice as many RV's of the same size. The SALT II fractionation limits have diminished to a very large degree the significance of the Soviet advantage in ICBM throw-weight; the Soviets will be limited to at most 10 RV's on their heavy ICBM's. The U.S. MX ICBM, while it will have less throw-weight than the SS–18, will be comparable to the SS–18 in destructive potential against both hard targets and soft targets. The small size of the MX is actually an advantage since it allows us to make this missile mobile and thus far more survivable than the SS–18.

We have no interest in deploying ICBM's (or other missiles) with throw-weight greater than that of the MX. In fact, we could have retained the right to *mobile* heavy ICBM's since this option was still open in mid-1978. Even if we had secured this right in SALT II, we would not have exploited it. It was clearly recognized that it would have been advantageous politically to have this option available in arguments on the significance of the Soviet advantage in *fixed* heavy ICBM's. Instead, on the recommendation of the Joint Chiefs of Staff (who were concerned that the Soviets might exploit such an option), we proposed that the option be closed. In this context, the claim that the MX is at the limit of feasibility in terms of mobile ICBM's is simply wrong; MX was never intended to move on public highways and bridges. We will have to construct special roads for the race track system, and better roads could have been designed and constructed for a large missile if this had been necessary or desirable.

To re-open this issue now to give us an option which we do not intend to exercise is not in the national interest. *Fixed* launchers of heavy ICBM's are not a realistic option for the U.S. since they would involve large sums of money for a new missile system which would be just as vulnerable as Minuteman. To re-open the Treaty to obtain such rights could easily lead the Soviets to insist on U.S. concessions in some other area previously resolved in our favor. In order to give us a real right to heavy ICBM's, we would also have to permit each side a second new ICBM, a right which the Soviets might well exercise, but which the U.S. would not. This would not be in our interest.

The contention that the U.S. did not press hard for the elimination of SS–9's and SS–18's is incorrect. Furthermore, critics imply that any Soviet concession can be obtained if we push hard enough; that, unlike the U.S., the Soviets would be willing to give up almost any strategic program, even a newly deployed system like the SS–18, if the other side demanded it. The Soviets have not been willing to do so despite persistent efforts by the U.S. To refuse to ratify the Treaty, or

to mandate early termination, is more likely to lead to the opposite result—the Soviets having no constraints on heavy ICBM's—than the desired objective.

12. Amendment (Senator Baker), considered Wednesday, October 24

Rejected 6–9. Ayes: Senators Stone, Zorinsky, Baker, Helms, Hayakawa and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Javits, and Percy.

This amendment would have provided for the destruction of all heavy ICBM's and their launchers by December 31, 1981, and for the reduction of the maximum number of MIRVed ICBM launchers permitted each side to 512.

Lieutenant General Rowny comment

Most of the arguments in favor of Senator Baker's proposal on the U.S. right to convert certain launchers for light ICBM's with launchers for heavy ICBM's apply to this amendment as well. Suffice it to say that it was hoped throughout the negotiations that a reduction of, or elimination of, Soviet heavy missiles could be achieved. However, while the Joint Chiefs of Staff recognized from the outset that Soviet heavy missiles would pose the most serious problem to SALT, we did not press hard enough for the elimination of the Soviets' SS–9's and SS–18's. In addition, although the U.S. sought to lower MIRV limits, the Soviets would not agree to limits on MIRVed ICBM launchers lower than the forces they apparently had already programmed. Even under the formulation of this proposal, the Soviets would continue to have an advantage in MIRVed throw-weight, megatonage, equivalent megatonage, and MIRVed ICBM warheads.

Administration comment

See Item 11 above.

13. Amendment (Senator Baker), considered Wednesday October 24

Rejected 6–9. Ayes: Senators Stone, Zorinsky, Baker, Helms, Hayakawa and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Javits, and Percy.

This amendment would have required the U.S. and U.S.S.R. to agree by December 31, 1981 that all heavy ICBM launchers would be dismantled; otherwise the Treaty would expire on that date.

Lieutenant General Rowny comment

Again, this Amendment like the one immediately above would have been desirable for the reasons cited in connecting with Senator Baker's proposal concerning the conversion of certain light ICBM launchers for launchers of heavy ICBM's. As in the preceeding proposal, I recommend that the Senate as a whole carefully consider the pros and cons of this issue. If they do so I am confident they will overturn the narrow margins of the SFRC and adopt Senator Baker's proposal.

Administration comment

See Item 11 above.

14. Category I Understanding (Senator Glenn), considered Wednesday, October 24

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding directs the President to establish a Commission to study and recommend to Congress a long-term plan to enhance U.S. intelligence collection and analysis capabilities, and to report to Congress of verification considerations taken into account in formulating U.S. SALT III negotiating positions including specific proposals for augmenting the effectiveness of NTM.

Lieutenant General Rowny comment

This understanding is a unilateral declaration of intent which does not address itself toward improving the substance of the SALT II Treaty. Although the proposal would improve the Senate's oversight of the SALT process, it is really secondary to the present verification issues. The understanding does, however, serve to focus attention on the concern which the Congress has over the verifiability of current and future agreements. There is no doubt that our intelligence collection and analysis capabilities need to be improved. Better provisions concerning verification in the SALT II agreement would help compensate for current deficiencies. As systems become more sophisticated in the future, we will require agreement by the Soviets that there be cooperative measures which aug-

ment and do not simply improve the effectiveness of NTM. The wording of the provision in the Joint Statement of Principles on this last point is ambiguous.

Administration comment

The Administration supports efforts to improve intelligence collection and analysis capabilities. In fact, the President has already taken a number of steps to improve U.S. intelligence collection and analysis capabilities. One example is Executive Order 12036, issued on January 24, 1978, which assigns control over Intelligence Community resources and analysis to the Director of Central Intelligence. That order for the first time established the basis for long-term, comprehensive planning within the Intelligence Community. The establishment of a Presidential Commission, as set forth in this understanding, could be a valuable adjunct to the Intelligence Community's own efforts. Similarly, the Commission's report to the Congress on verification considerations for the SALT III negotiations will be useful in planning for those negotiations. The Joint Statement of Principles for subsequent negotiations explicitly affirms that further limits must be subject to adequate verification, including the use of cooperative measures contributing to the effectiveness of NTM. The wording of the Joint Statement is sufficiently clear and broad to provide a basis for raising whatever cooperative measures appear appropriate in light of U.S. proposals for a SALT III agreement.

15. Category I Understanding (Senator Glenn), considered Wednesday, October 24

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding requires notification of the Senate Select Committee on Intelligence (SSCI) whenever any issue related to SALT compliance is discussed or agreed upon in the SCC, requires the submission to the SSCI of summaries outlining the status of all outstanding compliance issues at 6-month intervals, and provides that the SSCI will notify the Committees on Foreign Relations and Armed Services of any significant compliance question.

Lieutenant General Rowny comment

This is a unilateral and internal declaration of intent which serves to highlight the concern of the Congress as to the verifiability of the SALT II Agreement. While the outlined in this understanding will undoubtedly prove useful, this understanding skirts the issue of improving the SALT II Treaty.

16. Category I Understanding (Senator Glenn), considered Wednesday, October 24

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding provides that the United States will attempt to negotiate in future strategic arms agreements "cooperative measures" contributing to the effectiveness of NTM.

Lieutenant General Rowny comment

This unilateral declaration of intent is really a restatement of what the U.S. attempted to negotiate throughout SALT II. The Soviet refusal to agree that cooperative measures will augment national technical means (NTM) is a serious flaw in this agreement which should be corrected now and not left to future negotiations.

Administration comment

During the negotiations, the U.S. stated its belief that verification of compliance with the provisions of a future agreement may require that national technical means be supplemented by agreed cooperative measures, and that the sides should hold open the possibility of agreed cooperative measures which go beyond national technical means alone as a method of verification. The language adopted in the Joint Statement of Principles is consistent with this view. It states:

"Further limitations and reductions of strategic arms must be subject to adequate verification by national technical means, using additionally, as appropriate, cooperative measures contributing to the effectiveness of verification by national technical means."

The Soviets stated that agreement on this provision reflected a common view of the sides on verification in the second section of the JSP. It is, therefore, incorrect to assert that the Soviets refused to agree that cooperative measures will augment NTM.

The Category I understanding adopted by the Foreign Relations Committee instructs the Administration to seek to negotiate the inclusion of cooperative measures in future agreements. The principle that cooperative measures may be needed in SALT III has been accepted by the Soviets. Further useful action on this question should be taken in the context of U.S. proposals in SALT III.

17. Amendment (Senator Lugar), considered Thursday, October 25

Rejected 6–9. Ayes: Senators Stone, Zorinsky, Baker, Helms, Hayakawa and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Javits and Percy.

This amendment would have provided for the establishment by each Party of intelligence collection facilities on the territory of the other Party.

Lieutenant General Rowny comment

Approval of this Amendment would have been a positive step in aiding verifiability of the Treaty. It would have provided a tangible basis for negotiating additional cooperative measures of verification and it would have expanded the scope of NTM. The Soviets have consistently rejected proposals for any methodology or network which requires such measures as establishing collection facilities on the territory of the other side.

Administration comment

On-site inspection is not necessary for verifying the provisions of the SALT II agreement. There is no reason to believe that the Soviet position on this matter has changed since the U.S. proposed it in SALT I, and this amendment would open the treaty to renegotiation with little prospect of success. The Soviets can be expected to insist on a very high price on other issues in exchange for their agreement to U.S. intelligence facilities at their test ranges. In addition, this amendment would permit Soviet facilities at U.S. test ranges, which may not be in our interest. It could provide opportunities for Soviet intelligence-gathering against U.S. systems and capabilities not limited under the SALT II Treaty.

18. Category III Understanding (Senator Glenn), considered Thursday, October 25

Rejected 6–9. Ayes: Senators Glenn, Stone, Baker, Helms, Hayakawa and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Sarbanes, Muskie, Zorinsky, Javits and Percy.

This understanding would have provided that any practice which impedes the collection of telemetric information, including the failure to transmit telemetry, would constitute deliberate concealment impeding verification by NTM.

Lieutenant General Rowny comment

The United States attempted to achieve agreement that denial of telemetric information which was relevant to verification of compliance of the provisions of the agreement was prohibited. The Soviet Union attempted—and succeeded—in getting an agreement to a provision which permits them to encrypt telemetry associated with their missile tests and hence allows them to develop several new types of ICBM's.

On December 22, 1978, the Soviets, at Geneva, reinforced their position by insisting that language be incorporated in this provision which would specifically permit encryption of telemetry. In response to the Soviet demand at a time when the U.S. thought agreement to a Treaty was imminent and this was the only remaining obstacle, and even though the U.S. does not encrypt telemetry, we decided to permit the incorporation of language (second common understanding to the second agreed statement of Article XV.3) to the effect that "each Party is free to use various methods of transmitting telemetric information during testing, including its encryption . . ." U.S. agreement to this language, when taken in conjunction with our agreement to other statements, renders meaningless the apparent prohibition on denial or concealment of information. The second portion of the provision is that neither side "shall engage in *deliberate* denial of telemetric information, such as through the use of telemetry encryption," thus making the matter open to subjective judgment whenever its meaning can be used to favor the Soviets. In other words, the Soviets are free to judge when such encryption is deliberate and when it is not. The third portion of the provision states that such deliberate denial is prohibited whenever it "impedes verification of compliance with the provisions of the Treaty." Since the Soviets did not agree to the inclusion of the relevant parameters in the provisions, there are no provisions requiring unencrypted telemetry. Thus the Soviets succeeded in making a non sequitur of the provision on encryption of telemetry in Article XV.3.

In short, the Treaty does not prohibit the Soviets from encrypting crucial telemetry needed to verify the provisions of the Treaty. This is a serious flaw in the SALT agreement which should be corrected by the Senate as a whole.

Administration comment

To understand the nature and significance of the outcome on the telemetry encryption issue, it is important to review the negotiating history on this issue and obtain some perspective on what types of limitations on testing practices are possible within SALT.

When the Soviet Union began encryption of telemetry on ICBM's in the mid-1970's, it became clear that such encryption, if unlimited, could deny information which was needed for verification of compliance with the provisions of the SALT II agreement. At the same time, we did not want to get into a detailed discussion of the encryption issue with the Soviets because of a concern that this could lead to a compromise of intelligence sources and methods. However, to deal with this problem, we sought explicit Soviet agreement that the ban on deliberate concealment measures in paragraph 3 of Article XV applied to deliberate concealment measures associated with testing.

In the summer of 1977, the Soviets agreed to make this clarification explicit and unqualified (First Common Understanding to Article XV.3), and at the same time dropped their proposal that this obligation not apply to methods of transmitting telemetry (which they had advanced on the grounds that telemetry information was not needed for verification of the provisions of the SALT II Treaty).

In late 1977, the U.S. decided to reopen this issue with the Soviets and seek explicit agreement that the deliberate denial of telemetric information related to verification of compliance with the provisions of the Treaty would be a violation of Article XV. This was achieved ad referendum in December of 1978 in the meetings between Secretary Vance and Foreign Minister Gromyko in Geneva, and subsequently confirmed by the Soviets SALT delegation when they accepted the Second Common Understanding to Article XV.3. That understanding divides telemetry into two categories: (1) telemetry whose encryption or denial by other means would impede verification of the provisions of the Treaty and (2) telemetry which is not relevant to the provisions of the Treaty. Denial of telemetry by any means which impedes verification of the provisions of the Treaty is prohibited.

In early 1979, the U.S. was concerned that the Soviets might still at some point claim that even though they had agreed not to encrypt telemetry which was relevant to verification, there was no telemetry in that category. In response to our concerns, the Soviets stated that there must be no encryption of information involving parameters covered by the Treaty, that there was an understanding between the parties on this issue and that, if any misunderstandings arose, they could be considered in the SCC. President Brezhnev explicitly affirmed this statement at the Vienna Summit.

At no time in the course of the negotiations did the U.S. propose a ban on all telemetry encryption.

The U.S. did not insist on an outright ban on all telemetry encryption in SALT because SALT does not provide a basis for access to all telemetry. Rather, under SALT, all we could legitimately justify is a ban on the encryption of that telemetry which is used for verification of the provisions in the SALT agreement. It is important to note that this does not include *all* telemetry as the SALT II Treaty does not justify intelligence gathering unrelated to the provisions of the agreement.

If the Soviets encrypt telemetry and this impeded verification, we will challenge them on such practices in the Standing Consultative Commission (SCC). If we do not obtain satisfaction in that forum, then we have justification for abrogating the Treaty on the grounds that the Soviets have violated the ban on deliberate concealment measures which impede verification of compliance with the provisions of the agreement.

19. Category I Understanding (Senator Biden), considered Thursday, October 25

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding provides that the U.S. will raise in the SCC any practice relevant to the collection of telemetric information which impedes verification by NTM.

Lieutenant General Rowny comment

This understanding has no teeth to it. It merely states that we will raise any compliance questions with the Soviets. In theory we can do this now. In practice, our desire not to give the appearance of doubting or questioning the Soviets unless we can "prove" our case to their satisfaction, has acted to restrain us from raising compliance issues in the SCC. Furthermore, the wording of the provision on telemetric encryption permits the Soviets to encrypt telemetry without any basis for challenge by us. Thus, this understanding does not seek to close loopholes which make it possible for the Soviets to encrypt telemetry which denies us information concerning testing of new types of ICBM's. This understanding demonstrates that the SFRC understands the issue involved and was prepared to look at the symptoms but apparently not prepared to attack the disease.

Administration comment

See comment on item 18 above.

20. Category III Reservation (Senator Glenn), considered Thursday, October 25

Rejected 5–10. Ayes: Senators Glenn, Baker, Helms, Hayakawa and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Stone, Sarbanes, Muskie, Zorinsky, Javits and Percy.

This reservation would have required each side to notify the other well in advance of all planned single ICBM launches, including those that did not extend beyond national territory.

Lieutenant General Rowny comment

The U.S. stated in the official negotiating record its belief that prior notification of all ICBM launches would be a confidence-building measure because it would reduce anxiety when such launches occurred. However, the Soviets were unwilling to agree to such a provision, instead stating that only those of their launches extending beyond their own territory need be reported. Language subsequently agreed upon does require notification when there are multiple launches of ICBM's. However, because of geographical factors, the U.S.S.R. with its huge land mass will in practice be exempted from reporting approximately 80 percent of its launches. The U.S., on the other hand, will give prior notification of all of its launches. The way this issue was negotiated and finally resolved is another example of poor negotiating by the U.S.

It is recommended that the Senate as a whole consider this proposal with a view to approving it as a Category III reservation (amendment) to the end that this confidence-building measure would be renegotiated with the U.S.S.R.

Administration comment

Prenotification of all ICBM launches would not appreciably enhance verification. It would also have limited utility as a confidence-building measure since the likelihood of misinterpreting a single ICBM launch within Soviet national territory is extremely low. Therefore, the potential gains from such a provision do not warrant reopening the Treaty and paying the price the Soviets might demand in exchange for it.

21. Category I Understanding (Senator Glenn), considered Thursday, October 25

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar

This understanding provides that in future negotiations, the U.S. will seek agreement that each side will notify the other before conducting any planned ICBM launch.

Lieutenant General Rowny comment

Unfortunately, this is a unilateral declaration of intent with no binding force and significance as far as SALT II is concerned. It puts off to future negotiations that which should be done now.

Administration comment

It would be appropriate in SALT III to seek to expand the prenotification requirement to all ICBM launches (see also comment to No. 20).

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22. Category II Understanding (Senator Baker), considered Wednesday, October 31

Recommended 12–1. Ayes: Senators Church, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar. No: Senator McGovern.

This understanding provides that the United States plans to develop a mobile ICBM such that: (1) the number of launchers will be verifiable by NTM, (2) the mobile launcher will consist of essentially all equipment required to launch a missile, and (3) shelters for the system will not be used as storage facilities for excess ICBM's and this will be verifiable by NTM.

Lieutenant General Rowny comment

This understanding relates to the controversy over whether a multiple vertical protective shelter system (MVPS) or some variant is permitted under SALT II. As matters now stand, the Soviets have declared our MVPS system as being prohibited by the provisions of SALT II. The Soviets insist that such a system is banned because it involves building additional launchers and also it involves relocating many of them. There also have been references to the presumed verification issue of the MVPS. This understanding apparently is designed to supplement the very weak and imprecise definition of an ICBM launcher. However, since it is a Category II understanding, there is no requirement that the matter be raised with the Soviets.

Administration comment

The SALT II Treaty explicitly permits the flight-testing and deployment of mobile ICBM's after the expiration of the Protocol (which is consistent with U.S. plans for the MX). The various mobile ICBM basing schemes under consideration by the U.S. were known to the Soviets at the time of signature of the SALT II agreement, and they signed the agreement with this knowledge.

The MX mobile basing mode that the U.S. has chosen, as well as the vertical shelter system we considered earlier, are permitted by the Treaty. The shelters in such multiple protective structures (MPS) systems would clearly be incapable of launching an ICBM; rather they provide blast protection to the mobile launchers themselves. The equipment necessary to launch the missile as well as the missile itself will be moved periodically from one shelter to another. This would be the case regardless of the type of shelter used or whether the shelters were vertical or horizontal. Furthermore, the U.S. will ensure that the mobile basing mode for the MX ICBM is adequately verifiable. The U.S. will insist that the Soviets are held to the same high standard, should they choose to deploy a mobile ICBM system in the future.

23. Category I Understanding (Senators Church, Javits and Percy), considered Wednesday, October 31

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding provides that nothing in the SALT II agreement obligates the U.S. to extend any provision in the Protocol nor establishes a precedent for future negotiations, and that any provision of the Protocol may be extended only with the advice and consent of the Senate.

Lieutenant General Rowny comment

The issue of whether or not the Protocol establishes a precedent for the future is discussed elsewhere. However, a unilateral understanding such as this one does not satisfactorily resolve the issue. Whereas the U.S. states in the official negotiating record that the cruise missile definition does not set a precedent for future limits, the Soviets stated that "the entire question of the cruise missiles being limited under the Protocol to the Treaty must be considered in the course of subsequent negotiation . . ." Thus there is no meeting of minds on this critical issue. Moreover, the Soviets were successful in having inserted into the Joint Statement of Principles the statement that "resolution of the issues included in the Protocol . . ." would be pursued "in the course of these (SALT III) negotiations." Therefore the U.S. explicitly agreed with the Soviets in an official document that the Protocol *does* in fact establish a precedent. Foreign Minister Gromyko's statement ". . . that the obligations of the Protocol cease to exist upon the expiration of the Protocol" does not change the fundamental issue involved.

Administration comment

The United States has in no way agreed that the Protocol establishes a precedent for future limitations on strategic arms. The fact that the Joint Statement

of Principles refers to the objective of resolving issues relating to the Protocol in no way means that they must be resolved in accordance with the Soviet position; the fact that the Soviets expect to raise the question of limits on cruise missiles in SALT III does not in any way mean that we will necessarily agree to any such limits or that we are committed, legally or politically, to do so. We have made this perfectly clear to the Soviets, and the Committee's understanding reiterates this point. The Soviets can be under no illusions in this regard.

24. Category I Understanding (Senator Glenn), considered Wednesday, October 31

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa and Lugar.

This understanding provides that the U.S. should seek in future negotiations, agreement to increased access to information on strategic weapons development, including access to telemetric information.

Lieutenant General Rowny comment

This unilateral declaration of statement of intent concerning our future negotiations has no teeth to it as far as SALT II is concerned. As pointed out earlier, the question of unimpeded access to information, including access of telemetry, is an important one which should be renegotiated with the Soviets before any SALT II Treaty is agreed to between the United States and the Soviet Union.

Administration comment

See comment on item 17 above.

25. Category I Understanding (Senators Church and Javits), considered Wednesday, October 31

Recommended 14–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

This understanding provides that the Treaty may be extended, in whole or in part, only with the advice and consent of the Senate.

Lieutenant General Rowny comment

This understanding is not necessary since the ACDA enabling legislation provides for Congressional consent in such arms control matters. The desired objective of the understanding is understandable. However, a point made repeatedly by several Senators, including Chairman Church, is that the Committee's actions cannot in any way bind a future Senate.

Administration comment

See comment on item 23 above.

26. Category I Declaration (Senator McGovern), considered Thursday, November 1

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

This declaration sets forth guidelines for the SALT III negotiations, requests the President to report to the Senate on progress achieved in the negotiations prior to the end of 1981, and expresses the Senate's conviction not to advise and consent to the ratification of any SALT III Treaty that does not comply substantially with the guidelines.

Lieutenant General Rowny comment

While this declaration places the Executive Branch on notice that this Senate has a desire to become more closely involved in future negotiations, it begs the issue of whether or not there will be a SALT III. The main issue is: Would this SALT II Treaty be a stepping stone to future negotiations or, as I believe, would ratifying this unequal and inadequately verifiable Treaty make it less likely, or even impossible, to follow it with a SALT III agreement which would be equal and verifiable?

It is difficult to see how the guidelines for SALT III will be negotiable in SALT III given the inequalities in SALT II and the continuation of adverse trends in the strategic balance. The time to follow such guidelines is now, in SALT II. The precedential nature of SALT II will heavily bias future negotiations. Equally important will be the bargaining positions of both sides. From the U.S. side, we will be forced to abandon or compromise our essential future modernization programs while the Soviets can be expected to trade their older systems for our modernization programs. For example, the Joint Statement of Prin-

ciples makes U.S. cruise missiles, cruise missile carriers, and our mobile ICBM launchers fair game in SALT III, despite the Administration's position that these programs are essential to maintaining the strategic balance. If we expect to achieve an equitable and verifiable SALT III, it will only come because we refused to ratify an unequal and unverifiable SALT II and had the will to remove the inequalities and loopholes in SALT II. It bears repeating that the intentions of the present Senate in no way bind the future Senate. To quote Senator Church: "it is impossible to express an intention that is not ours to make . . . . It is really an expression of futility because we cannot bind some future Senate."

Administration comment

This declaration is a detailed statement from the Senate to the President of U.S. objectives for the SALT III negotiations. We regard these objectives as reasonable and realistic, and have every expectation of pursuing them vigorously in SALT III and achieving them.

The provisions of the SALT II Treaty in no way make these objectives more difficult to achieve. To the contrary, the Treaty establishes an agreed baseline of equal numerical and qualitative restrictions, without which these objectives would be much more difficult to achieve. In fact, the objectives stated in the Committee's declaration build directly upon, and rely heavily on, the provisions of SALT II. In particular, the declaration bases itself directly on the numerical ceilings and subceilings in the Treaty, calling for their progressive reduction in significant and substantial amounts; on the qualitative limits in the Treaty, calling for their enhancement and extension to other systems; and on the verification provisions of the Treaty, calling for additional measures to enhance verification by national technical means or cooperative measures.

The SALT II Treaty in no way establishes unfavorable precedents for SALT III. It is important to remember that the SALT II Treaty is itself a substantial improvement over the SALT I Interim Agreement in that it: establishes equal numercial aggregates for the two Parties; includes all types of strategic offensive systems without including or making allowance for U.S. forward-based systems; limits substantially the degree to which Soviet ICBM's may be enlarged, improved or equipped with greater numbers of warheads; and includes a number of important restrictions to aid verification of Soviet compliance by national technical means. The limitations of the SALT I Agreement in no way established any "precedents" which precluded us from achieving these important goals.

By the same token, the fact that the SALT II Treaty does not immediately achieve all of our objectives with respect to strategic arms limitations, does not in any way establish a "precedent" which precludes their achievement in SALT III. To the contrary, the Treaty and the Joint Statement of Principles explicitly recognize that the SALT II Treaty is only a step toward significant and substantial reductions and qualitative limits in SALT III.

It is certainly not true that the Treaty requires the United States to abandon or compromise essential force modernization programs. Under SALT II we can and will proceed with vigorous modernization efforts, including the Trident, MX and cruise missile programs. In fact, the Treaty in no way limits or precludes any strategic program which we had planned or which we might reasonably wish to undertake during the Treaty period. It does, however, constrain the Soviets from proceeding with improvements and force additions which they are quite capable of accomplishing during the Treaty period, including a dramatic increase in the number of their ICBM's, in their numbers of MIRVed ICBM's and heavy ICBM's, and in the size and numbers of warheads of their ICBM's.

Finally, the Joint Statement of Principles in no way commits us, legally or politically, to agree to further limits on cruise missiles, cruise missile carriers, or mobile ICBM launchers. The fact that the Soviets may expect to raise these questions in SALT III does not mean that they must be resolved in accordance with the Soviet position. We have made this perfectly clear to the Soviets, and the Committee's understandings will reiterate the point. The Soviets can be under no illusions in this regard.

27. Category I Declaration (Senator Zorinsky), considered Friday, November 2

Recommended 13–2. Ayes: Senators Church, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Pell and McGovern.

This declaration asserts the Senate's intention to authorize and fund all nuclear weapons that are necessary to assure essential equivalence with the Soviet Union, including seven specific programs.

The adoption of this declaration was preceded by an amendment proposed by Senator McGovern to delete all reference to spcific programs. The amendment was rejected 2–13. Ayes: Senators Pell and McGovern. Nays: Senators Church, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

Lieutenant General Rowny comment

This understanding of the Senate intention, while espousing a laudable goal, unfortunately is not binding on either the Senate or the Administration. There is no way to bind future Congresses or Administrations to such programs, a fact well understood by the Senate Foreign Relations Committee if one reads the SALT I record.

During the SALT I debate, the Senate, the Joint Chiefs of Staff, and the American people were told that,

> ". . . future negotiations to which we are pledged can only succeed if we are equally successful in implementing such programs as the Trident system, the B–1 bomber, NCA defense, site defense, SLCM—submarine launched cruise missile—and accelerated satellite basing of strategic bombers. We must also initiate certain other measures in areas such as intelligence, verification, command, control, and communications."

The record shows otherwise: delays, deferrals, and outright cancellation. It is clearly the duty of the Congress to provide for the common defense independent of anticipated SALT agreements. Our problems today have been caused to a large extent by our failure to move forward with programs during the SALT negotiating process and by the erroneous assumption that programs funded by one Congress would be funded by successive Congresses. It is clear that statements of intent, and even commitments, which are made by one Congress are not binding on future Congresses or Executives.

Administration comment

This declaration cannot formally bind later Congresses to authorize funding for specific programs. However, it is a clear expression of the views of this Congress with regard to funding of future defense programs. Such funding contributes to maintenance of our strong defense policy. The current FYDP (FY 79 through FY 83) calls for a two-fold increase in real terms in the strategic programs budget. For its part, the Administration has consistently made clear its intention to undertake whatever programs are necessary to maintain essential equivalence with the Soviet Union. However, without SALT II constraints on Soviet systems, maintenance of the essential equivalence in strategic forces would be much more costly. The assertion that the United States has failed to move forward with defense programs during the SALT negotiations is unfounded—MIRVing of the land-based ICBM, force continued through 1975, and MIRVing of Poseidon SLBM's was accomplished during the time frame of the negotiations. Both of these actions resulted in an increase of several thousand nuclear warheads for the United States. Additionally, the Trident submarine program has continued throughout the past few years, and backfitting of the new long-range Trident I missile on Poseidon submarines has begun. The Treaty preserves U.S. options to deploy all of the relevant systems, as well as protecting all U.S. strategic force modernization programs planned through 1985, including the MX missile and cruise missile programs. The basic point of this declaration—that the United States will do whatever is necessary to provide for a strong defense against the Soviet Union—is self-evident.

28. Category I Understanding (Senator Church), considered Friday, November 2

Recommended 13–2. Ayes: Senators Church, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Pell and McGovern.

This understanding provides that prior to ratification the President will affirm that Soviet forces in Cuba are not engaged in a combat role, and that they will not become a threat to any country in the Western Hemisphere.

Lieutenant General Rowny comment

This understanding skirts the basic issue of SALT II and its relationship to the continuation or redressal of the altered strategic balance of the U.S. and the U.S.S.R. Soviet penetration of this hemisphere by definition constitutes a threat,

even under the Administration's formulation that United States-Soviet relations are and will remain competitive. In any competition, there is an implied threat related not only to the competition itself but also to the outcome of that competition.

Assurances or certification regarding the present presumed status and role of Soviet troops in Cuba cannot determine future roles. Such unilateral statements do not alter the status quo. The presence of these troops offers many plausible threats, and while I do not favor "linking" the issue of Soviet combat troops in Cuba to the SALT debate in the Senate, we should not delude ourselves about the effect of either Senate assurances or Presidential ones. The basic point is that the Soviets can be expected to act with greater freedom and less restraint if we accept an unequal SALT Treaty. This will include a more adventuresome and risk-taking attitude by the Soviets whenever there are confrontations between the U.S. and the U.S.S.R., including activities in the Western Hemisphere.

29. Category I Understanding (Senator Biden), considered Friday, November 2

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

This understanding states that any SALT III limitations on U.S. theater nuclear forces must be accompanied by appropriate limitations on Soviet theater nuclear systems.

Lieutenant General Rowny comment

Considered on its own merits, this "sense of the Senate" can provide a useful purpose. However, it is recommended that the Senate study carefully the official negotiating record of SALT II since it will reveal that "appropriate limitations" in SALT III are directly related to the terms of SALT II. Our failure to make the limits in SALT II "more appropriate," that is, limits on U.S. systems without comparable limits on Soviet ones—will have an adverse impact on future negotiations.

As an example of the foregoing, the Protocol's limits on our cruise missiles represent, for the first time, the abandonment of our policy of refusing to negotiate in SALT systems designed for NATO's defense. Limits on our ground and sea-launched cruise missiles are politically and militarily damaging to NATO. And the damage is compounded by the absence of restrictions on Soviet Backfire bombers and SS–20 mobile MIRVed missiles. The very existence of the Protocol contradicts the statement made by an Administration representative that "it is very difficult, if not impossible, to conceive of a situation in which we would accept limitations on U.S. systems primarily for theater use in which similar limitations were not placed on the Soviets."

Administration comment

We did not agree to anything in SALT II that would inhibit implementation of plans for the modernization of NATO theater nuclear forces. The Protocol, which expires at the end of 1981, imposes no real restrictions since we do not plan in any event to deploy GLCM's in Western Europe until 1983. And there are no limits whatsoever on Pershing II.

It is not accurate to maintain as a general proposition that we accepted limits on U.S. systems in SALT II without comparable limits on Soviet systems. In each instance where restrictions were imposed on systems of primary or greater interest to the U.S., corresponding restrictions were placed on systems of predominant interest to the U.S.S.R. ALCM restraints and ballistic missile fractionation limits constitute a case in point. And as far as theater systems are concerned, the inclusion of paper limits on GLCM's and SLCM's in SALT II was more than matched by the long-term limits on Backfire—which the Soviets certainly regard as a theater system.

Both the Administration and the Senate, through this understanding, will have placed the Soviets clearly on notice that in SALT III limitations on U.S. theater nuclear forces must be accompanied by appropriate limitations on Soviet theater nuclear forces.

30. Category III Understanding (Senator Glenn), considered Tuesday, November 6

Rejected 7–8. Ayes: Senators Glenn, Stone, Zorinsky, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Sarbanes, Muskie, Javits, and Percy.

This understanding would have provided that the U.S.S.R. agree not to significantly increase the range/payload of the Backfire bomber, nor to increase its production rate.

An amendment to this understanding was offered by Senator Glenn, classifying the substance of the understanding in Category II and stating that any Soviet action inconsistent with this understanding, or with President Brezhnev's statement on the Backfire would undermine fundamental objectives of the SALT process, justifying U.S. withdrawal from the SALT II Treaty.

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

Lieutenant General Rowny comment

Much has been said about Soviet written and oral statements concerning the Backfire but very little attention has been paid by the Senate thus far to the basic issue involved. The U.S. should not enter into any agreement which violates the principle of equality. The Backfire, by U.S. intelligence estimates and by statements in U.S. official publications (see, for example, p. 60 of Department of State Selected Document 12B), is a bomber capable of performing intercontinental missions. Therefore it should count in the aggregate, a point consistently adhered to by the Joint Chiefs of Staff. Accordingly, the Backfire should properly have been dealt with in the Treaty rather than in a subsequent statement. Further, this written Soviet statement was not signed or initialed by the President and Brezhnev but was initialed only by Secretary Vance. Importantly, but largely overlooked in discussions on the Backfire is the phrase that the Soviet Union "does not intend to give this airplane the capability of operating at intercontinental distances." This statement is a non sequitur since the Backfire already has such a capability. This point is made clear by the sentence which follows the one previously quoted with respect to intercontinental distances: "in this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the U.S.A." Thus, the Soviets have in effect secured our agreement to their definition that operating at intercontinental distances means operating on radius missions. No modern heavy bomber can operate, unrefueled, on radius missions. Were we to adopt this same rationalization, neither the B–52 nor the B–1 would count in the aggregate ceiling for launchers. Further, the Soviets will be permitted significantly to increase the capability of the Backfire so long as it cannot operate on operational radius missions.

The confirmation by Brezhnev that the Backfire production rate will not exceed 30 per year is of little military significance. This statement merely confirms the current plans of the Soviet Union and will allow it to have operational in the inventory by 1985, according to a statement recently made by Dr. Perry, 380 to 400 Backfires. This number of Backfire bombers will exceed the number of aging B–52's which the U.S. will have in its inventory at the expiration of the Treaty in 1985. Furthermore, only the G and H models of the B–52 are more capable than the Backfire. Military studies indicate that the Backfire could deliver an additional one-third of the already large total throw-weight capability of the U.S.S.R. upon the U.S. The fact that President Carter affirmed that the U.S. has a right to aircraft comparable to Backfire has no practical value. Certainly the U.S. has a right to build whatever type of aircraft it needs to further its military objectives. It is significant to note that no plans for such an aircraft exist. Nevertheless, if the airplane built is capable of reaching the territory of the Soviet Union on an unrefueled mission, the Soviets would state that it must be counted in the inventory and we would have no grounds for disputing their argument. The implication that we will build an aircraft comparable to the Backfire, which the U.S. does not need, and at the same time will claim that it should not count, will undoubtedly be interpreted by the Soviets as a lame attempt by the U.S. to justify by whatever arguments it can that the U.S. should have insisted that the Backfires count in the Soviet aggregate.

At Vienna President Carter "made clear that any significant upgrade in range/payload capability would be inconsistent with the Soviet Backfire assurances." The Soviets' response that they would not be bound by U.S. unilateral interpretations of their statement is a clear rebuff to the President's statement and is in total keeping with the way the Soviets have treated both issues: U.S. unilateral statements and the Backfire issue. In January 1976 the U.S. pressed the Soviets for a statement on the profile of the Backfire bomber. When subsequently questioned about this profile, the Soviets submitted another profile

which was at variance with the first profile and which indicated that the Backfire would in fact have intercontinental capabilities. When this was pointed out to the Soviets they simply withdrew their second profit statement and said they would not submit any further ones. Permitting such peremptory and cavalier treatment of an important issue by the Soviets is indicative of the poor U.S. negotiating tactics and the major U.S. concessions made to the U.S.S.R. on a series of major SALT issues.

The Category II understanding merely serves to express the sense of the Senate that a serious problem exists. It does not solve the Backfire issue. I strongly recommend that the Senate as a whole examine all aspects of the Backfire issue carefully and thoroughly; unless it is resolved this Treaty cannot be considered an equal one and should not be ratified.

Administration comment

As a Category II Understanding

As a Category II understanding, this reaffirms what the United States has made clear to the U.S.S.R. during the negotiations, in particular, at the Vienna Summit in June 1979.

As a Category III Reservation

Making this a Category III reservation would require Soviet agreement to a prohibition on significantly increasing the range/payload capability of Backfire.

While the Backfire has some intercontinental capability, it is being deployed as a theater system. The Backfire commitments undertaken by the Soviets at the Vienna Summit on June 1979 are legally binding and will inhibit the use of the Backfire force in an intercontinental role. (See the Administration Comment under item 3 above.)

At the Vienna Summit in June 1979, the principal goal of the United States was to nail down the commitment on Backfire production, and this was achieved. The Soviet Backfire commitments are not a part of the text of the SALT II Treaty, but the Soviets did not demur to President Carter's statement in Vienna that the U.S. enters into the SALT II Treaty on the basis of these commitments. The Category III understanding adopted in the SFRC on the Backfire issue requires the Soviets to confirm that their commitments on Backfire are legally binding.

The chances of obtaining Soviet agreement to the statement on Backfire range/payload capability are extremely low because they regard the Backfire as a theater weapon which should be outside the scope of the SALT II Treaty itself, and they would regard this as an attempt to renegotiate selectively one provision of the agreement reached in Vienna. Even if the Soviets were willing to negotiate on such a Category III proposal, they would likely condition their agreement to comparable constraints on U.S. forward-based aircraft and FB–111's or constraints on the U.S. modernization program for long-range theater missiles. General Jones, General Ellis, and Henry Kissinger have all warned against reopening the Backfire issue. They all agree that we should not jeopardize the entire Treaty over this issue.

The best interests of the U.S. would be served by a strong Category II understanding interpreting the Soviet Backfire statement as barring any significant increase in range/payload capability and making clear that any Soviet action inconsistent with any part of the Backfire statement would entitle the U.S. to withdraw from SALT II.

If the U.S. reopens the Backfire issue in order to obtain a more favorable outcome, it is very likely that the Soviets will reopen other issues which were not resolved in their favor.

31. Category III Understanding (Senator Percy), considered Tuesday, November 6

Rejected 6–9. Ayes: Senators Stone, Percy, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, Zorinsky and Javits.

This understanding would have provided that the use of an anti-satellite weapon to interfere with NTM would be a violation of the Treaty.

An amendment was offered to this understanding by Senator Percy, classifying it in Category II.

Recommended 15–0. Ayes: Senators Church, Pell, McGovern, Biden, Glenn, Stone, Sarbanes, Muskie, Zorinsky, Javits, Percy, Baker, Helms, Hayakawa, and Lugar.

Lieutenant General Rowny comment

I believe that Senator Percy introduced an important subject which deserved more discussion and serious consideration than was afforded it. The very

fact that the Soviets possess an anti-satellite weapon should be considered a serious breach of existing agreements. The ABM Treaty and the Interim Agreement prohibit interference with national technical means (NTM). The purpose of an anti-satellite weapon can only be to interfere with or destroy satellites. Hence the Soviets have the capability of interfering with our satellites and hence by definition can interfere with NTM. The argument used by some that ASATs have missions other than interfering with satellites collecting NTM's is not an argument for banning the capability of interfering with any satellite. In other words, why should we condone a capability for interfering with weather or communications satellites? We are now engaged in an expensive game of catch-up simply because the Soviets have an ASAT capability and apparently feel we can only get them to abandon theirs if we have a similar capability. This makes no sense in the context of arms control.

Throughout the SALT negotiations, the U.S. attempted to establish cooperative measures for verification. The Soviets, for the most part, refused to agree to such measures.

It is difficult to see how the U.S. can enforce unilateral statements given previous compliance issues and the U.S. reaction to those issues. Indeed, this understanding only deals with Soviet intentions whereas it should have addressed their capabilities. We cannot expect to limit or restrict Soviet activity if we are unwilling or unable to get such restrictions in the Treaty. If we are unwilling to engage in hard bargaining in order to improve SALT II, it is difficult to believe the Soviets will be willing to agree to the compromises necessary to arrive at an equitable and verifiable SALT III. Our extreme reluctance to attempt to amend the Treaty's substance is a diplomatically weak signal to the Soviets. All forms of interference with NTM should be banned. This includes ASATS, encryption of telemetry, lower power broadcasts. and encapsulation of data, to name but a few. These restrictions should be part of the Treaty. The argument that ASAT is being considered in another treaty should not inhibit the Senate from inquiring into its status and making its successful conclusion a prerequisite to ratification of SALT II.

I recommend that the Senate as a whole re-examine carefully this issue in the context of the current status of the negotiations of the ASAT Treaty with a view toward prohibiting the capability of the sides to interfere with national technical means.

Administration comment

This understanding is appropriate in Section 2 because it underscores U.S. concern about the potential of Soviet anti-satellite (ASAT) systems against U.S. NTM satellites. The understanding would be undesirable in Section 3 because, by singling out ASAT attack against NTM satellites, it could detract from the force of Article XV, which applies both to other forms of interference with satellites and to any interference with other types of NTM (e.g., radars). Requiring Soviet agreement to this understanding would also be undesirable because it would provide the Soviets with an opportunity to demand U.S. agreement to something they desire, which might not be in our interest.

Article XV prohibits any interference, regardless of means, with any NTM. That prohibition obviously applies to the Soviet ASAT system, since an attack on a satellite used to verify the Treaty would be a most blatant and clearcut case of interference. The Second Common Understanding to Article XV specifies that deliberate denial of telemetric information is prohibited whenever such denial impedes verification of compliance with the provisions of the Treaty.

The U.S. has long been concerned about Soviet development of an ASAT system. This concern led the U.S. to initiate talks aimed at prohibiting Soviet attacks on all U.S. satellites and limiting Soviet ASAT capabilities. The President stated that the U.S. and the Soviet Union have an opportunity to stop an unhealthy arms competition in space by agreeing to effective, adequately verifiable comprehensive limits on ASAT capabilities and use. However, it is incorrect to state that Soviet possession of an ASAT system violates existing agreements. There is at present no agreement which prohibits the possession of anti-satellite capabilities. The U.S. prefers to ban the testing and use of ASAT systems, and we are seeking such an agreement with the Soviets. In the meantime, all forms of interference with NTM, including the use of ASAT systems, is prohibited.

32. Amendment (Senator Helms), considered Wednesday, November 7

Rejected 7–8. Ayes: Senators Stone, Zorinsky, Percy, Baker, Helms, Hayakawa, and Lugar. Nays: Senators Church, Pell, McGovern, Biden, Glenn, Sarbanes, Muskie, and Javits.

This amendment would have limited each side to 200 ICBM's in excess of the number of ICBM launchers reported as of November 1, 1978.

Lieutenant General Rowny comment

This amendment goes to the heart of limiting strategic offensive arms—limiting missiles and warheads. As Mr. Nitze has testified, even in SALT I the U.S. delegation realized that the critical thing to limit was missiles, not launchers. A verfiable limit on missiles is preferable to the approach embodied in SALT II of limiting launchers. Without limits on missiles there can be no limits on warheads. It is difficult to argue cogently that SALT II limits Soviet weapons in any meaningful way or that this Treaty is a solid basis for future negotiations.

It is the Soviet Union which has deployed four, six and ten warheads on each MIRVed ICBM while the U.S. has limited itself to three warheads per MIRVed ICBM. The United States maintains the bare minimum of stored missiles for testing and replacement. It is the Soviet Union which has developed and deployed a "cold launch" technique for firing land-based ICBM's. The United States has not deployed "cold launch" ICBM's. The differences between the U.S. and the Soviet Union reflect a sharp divergence in approach which stems in large measure from our differences in strategic doctrine. Throughout SALT, we have not been able to get the Soviets to endorse our attempts to work toward strategic stability; the types and numbers of Soviet weapons provide proof of their rejection of our efforts. And the next generation of Soviet weapons will definitely widen the gap.

Administration comment

We estimate that the Soviets have some 1000 ICBM's in excess of the number of deployed ICBM launchers. By contrast the United States now has slightly in excess of 200. However, the excess Soviet ICBM's are older ICBM's, SS–7's, SS–8's and SS–9's and older SS–11's, that have been replaced by newer models. Most of these older missiles cannot be launched operationally by existing launchers. None of this class of missiles has been flight-tested since 1976, which strongly suggests that they are not being maintained as an operationally ready force.

There are legitimate reasons to keep retired missiles: for training, for space launch, to cannibalize for spare parts, and for tests. The United States constructed a total of 925 Minuteman I missiles. Nearly all of them were expended for various purposes, including a large number which were cannibalized for parts. There are some 50 remaining. They are used for test vehicles.

With respect to the newer Soviet ICBM's (SS–17's, SS–18's and SS–19's), for which there are existing launchers, there is no evidence that the production of missiles is significantly greater than the number of those launchers, plus the normal number retained for maintenance and training. There are no facilities to store more than a few missiles in the launcher deployment areas. There is space only for perhaps two to four missiles in fields which have 50 to 100 launchers.

We have no evidence that the Soviets have any capability to launch these kinds of missiles from canisters, jeeps, or from anything other than their regular silo launchers. To do this on a large scale, for example to have a force of 500 missiles, would require thousands of vehicles, thousands of trained personnel, and millions of gallons of propellant. This would have to be practiced extensively to be militarily effective and would be observable.

The Treaty deals effectively with the reload problem. If the reload facilities were survivable, then this could be a significant problem, but the Treaty prohibits systems for rapid reload or storage facilities for ICBM's at ICBM launch sites. We can verify this effectively. Therefore, any hardened reload system is effectively banned by the Treaty. Our targeting can prohibit any potential for a soft reload operation. Reload is a complex operation that takes many hours even in totally benign environments. We could target a weapon on every silo making it utterly impractical for crews to carry on this complex reload operation without hardened facilities even if the silos themselves survived.

Both the SALT I and SALT II agreements, with respect to the quantitative limitations, limit the number of launchers, not missiles. This approach has been followed since the early days of SALT. One reason is that the number of launchers deployed can be verified with far greater confidence than the numbers of missiles in existence. A limit on the number of ICBM's that can be verified with high confidence is probably not practical. In any case missiles are not useful militarily unless they can be launched and in order to launch an ICBM, launching equipment is necessary. This launching equipment is the launcher, limited by the Treaty, and its presence is verifiable.

The Soviet excess ICBM's are not of significance militarily and the amendment in question would not be verifiable.

33. Category I Understanding (Senator Javits), considered Wednesday, November 7

Withdrawn from consideration. The Committee agreed to hold hearings on this proposal S. Res. 235. This understanding would have required prior to SALT II ratification the establishment of a Select Committee on Foreign and Defense Policy to assess U.S. foreign and defense policy and objectives through the year 2000.

Lieutenant General Rowny comment

I believe the challenges we will be facing in the 1980's deserve our undivided attention. While I believe both the Senate Foreign Relations Committee and the Senate Armed Services Committee are "select committees" with charters to examine such issues, I would prefer to withhold comment on this proposal until after hearings on its advisability have been held.

ARLINGTON, VA.,
November 21, 1979.

HON. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to the request of November 8, 1979 by the Foreign Relations Committee for my comments on the reservations considered by the Senate Foreign Relations Committee during its markup of SALT II. Specific comments on each of the proposals are contained in the attachment.

In reviewing the Senate Foreign Relations Committee markup of SALT II, I believe it appropriate to recall our experience with SALT I. At that time, the United States made numerous "unilateral statements" concerning our interpretations of various aspects of the agreements. It was the general view of the Executive Branch that our interpretations of certain provisions of the Agreement were binding upon, or at a minimum would influence the conduct of, the Soviet Union. However, the Soviets ignored our unilateral statements. When subsequent controversy expanded to the point of determining whether or not the Soviets were cheating, the Senate was told by the Administration that such statements were not legally binding on the Soviets. Because our experience had shown that unilateral statements were ineffective—and in some instances counterproductive—the United States SALT II Delegation was instructed to eschew unilateral statements. Compliance with these instructions proved impossible, as can be seen in "Detailed Analysis of SALT II Provisions" Department of State Document 12B. Moreover, the policy of avoiding unilateral statements, when coupled with the inability of the United States to get the U.S.S.R. to accept our interpretations, resulted in many of the provisions of the agreement being worded in ways so as to make them ambiguous. In certain cases the wording permits diametrically opposed meanings by the sides.

The Senate Foreign Relations Committee, in adopting treaty ratification procedures designated three categories of "reservations" during its markup. These categories can be summarized as follows:

Category I, reservations which have applicability solely within the United States government;

Category II, reservations which will be communicated to the Soviet Union, and

Category III, reservations which will require agreement by the Soviet Union. The term "amendment", therefore, has been supplanted by the term "Category III reservation". I am mindful that the intent of the Senate Foreign Relations Committee is that Category III reservation proposed by the Senate Foreign Relations Committee will not require amendment of the language of the Treaty itself. In this connection, I believe it appropriate that consideration be given to significance of the differences between the terms "amendment" and "reservation".

Professor Eugene Rostow and his distinguished colleagues have commented on the differences between "amendments" and "reservations". In a letter to Senator Church, dated September 27, 1979, they state:

"Traditionally, both international law and our own practice used different words to identify somewhat different procedures for altering a Treaty during

the ratification process. "Amendment" was the least ambiguous word customarily used. When the Senate consented to ratification with an amendment, it was understood that the President would submit the proposed change in the text of the Treaty to the other party or parties, and obtain his or their consent to the amendment prior to ratification. "Reservation", on the other hand, was a more ambiguous word used in a variety of contexts. Section 124 of the Restatement * defines the word "reservation" as a "formal declaration made by a signatory before it becomes bound by an international agreement that the agreement will not be binding upon it except upon terms that it regards as changing the effect of the agreement under international law."

"International and American usage is, however, less strict than the Restatement definition. Often, the word "reservation" denotes unconditional consent by the Senate to ratification, subject to a proviso which could have different consequences in different settings. It is most often used in connection with multilateral treaties. "Understanding" and "interpretation" have been used in even more fluid ways."

To be sure, the very ambiguity which exists regarding "reservations" has led the Soviet Union to state that they view reservations in the same light as unilateral statements; namely, that they are not binding on the Soviet Union in any way. To quote further from Professor Rostows letter:

"Soviet spokesmen say repeatedly that they do not care what "reservations" we adopt, since "reservations" are entirely internal in their effect."

Upon close observation, therefore, it becomes clear that both Category I and Category II reservations are essentially no more than unilateral statements on the part of the United States since they do not require Soviet agreement. In actuality, to quote Senator Hayakawa, we are with Category I and Category II reservations "talking to ourselves." As many witnesses have testified to the Committee, the Treaty's flaws can only be corrected by amendments which are binding on the Soviet Union.

During my review of the deliberations of the Committee during the markup of SALT II, I was struck by the number of times the argument was made that adoption of Category III reservations would jeopardize prospects for agreement of the Treaty because the Soviets would reject them. Indeed, a number of such Category III reservations were termed "killer amendments". I would like to express my strong view that many of these Category III Reservations considered by the Senate Foreign Relations Committee would be acceptable to the Soviet Union. I base this view on two observations. First, that the Soviets want and need a SALT II Treaty because it is in their own self interest that they enter into such an agreement. I have elaborated on this point in my earlier testimony to this Committee (Hearings Before the Committee on Foreign Relations EX. Y, 96–1, Part I, Page 588). Without going into detail here, the Soviets will want to continue detente (as they define it), using it as a policy to underwrite continued expansion of their hegemony over other States. A SALT II agreement best assures such Soviet expansions since it does not arouse the United States to the point of taking counter-action. Since the Soviets know that SALT II was negotiated in a manner which resulted in a favorable outcome for them, they would want to arrive at a SALT II agreement even if it meant a Treaty somewhat less favorable to them than the one now before the Senate. Furthermore, an agreement enhances their possibility of achieving most favored nation status, getting long term credits on favorable terms, and assuring technology transfers. The fact that the Soviets have concealed quite well their desire and need for a Treaty does not alter the situation.

My second reason for stating that the Soviets will agree to an amended Treaty is based on my experience during the negotiating process in the assumptions as to possible outcomes made by the United States. On a number of occasions the United States did not pursue negotiations because it was assumed that the Soviets would find out propositions unacceptable and that this would jeopardize the possibility of reaching agreement on a Treaty. Yet, on a number of occasions, the United States negotiating team proved such *a priori* assumptions to be wrong. One such case involved the "unacceptable" United States position that the U.S.S.R. would drop its demands for including our so-called Forward Based Systems (FBS). Another involved our "unacceptable" position that the Treaty include an agreed data base. And there are other examples of cases where our assumptions proved wrong. Moreover, since we did

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*(American Law Institute Restatement of the Foreign Relations Law of the United States.)

not sufficiently press the Soviets during the negotiating process agreeing to equality on such critical issues as heavy missile launches and BACKFIRE, the Soviets can now be expected to agree to such positions. They would display no embarrassment in changing positions on the basis that the outcome of the negotiations was discovered by the Senate to be unduly favorable to the U.S.S.R. and that the Senate now simply wants to put things straight and enter into an agreement which is based on the principles of equality and verifiability.

Several other observations bear brief mention. First, as Senator Hayakawa has pointed out, a stand against adopting amendments to the Treaty means repeating the mistake made during the ratification of the Versailles Treaty in 1920 which resulted in the Treaty being turned down. Secondly, it has been argued that amendments to Treaties have been seldom adopted, or that their adoption has resulted in the failure to reach final agreement. Of the 1600-odd treaties which the United States has considered since 1789, a substantial number of Treaties (approximately 250) have been amended by the Senate, most of which have been subsequently agreed. The most recent example is the incorporation of the Carter-Torrijos Joint Statement in the Panama Neutrality Treaty which was adopted in the form of amendments by the Senate. Third, the Senate Foreign Relations Committee has recommended approval of two Category III Reservations. The first of these, which would give the common understandings and agreed statements the status of provisions if the Treaty is unnecessary since the Soviets have already registered their agreement in the official negotiating record. The second, which would provide that the written and oral statements of President Brezhnev on the Backfire are legally binding on the U.S.S.R. is undesirable. Affording these statements legal status has the effect of adopting the Soviet definition of a heavy bomber, that is one which has a two-way or unrefueled radius mission capacity. Such a definition if used by the United States, would mean that we should exclude B–52's and B–1's from our aggregates. Continued use of the definition by the Soviets means that the Backfire could be substantially increased in capability without requiring that it be counted in the Soviet aggregate.

In summary: (1) Category I and Category II reservations are in essence unilateral statements made by the United States insofar as the U.S.S.R. is concerned, and (2) A number of amendments, none of which are termed as "killer amendments", would in fact be agreed to by the U.S.S.R. which wants and needs a SALT II agreement as being in their best interests.

Sincerely,

EDWARD L. ROWNY,
Lieutenant General, USA (Retired).

Department of State,
Washington, D.C., Dec. 18, 1979.

Senator FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate the opportunity to comment upon the issues addressed by Lt. Gen. (Ret.) Edward Rowny in his letter to you of November 21 concerning the markup of the SALT II Treaty by the Committee on Foreign Relations.

First, with regard to "unilateral statements," it is correct that it was United States policy not to rely on unilateral United States interpretations as a sole basis for restraining Soviet actions. We believe this policy was carried out successfully, and that the Treaty, its Protocol, and the associated Agreed Statements and Common Understandings contain sound, *agreed* limitations. However, as Secretary Vance testified at the outset of the Committee's hearings, seven years of negotiation necessarily involved many statements by the Parties about the issues under negotiation, and this negotiating history is relevant to the interpretation of the resulting agreement. It is the responsibility of a negotiator to develop a sound negotiating record as well as to achieve a sound agreement.

During the negotiations, the United States made statements on a number of subjects regarding the interpretation of the Treaty. These statements, which have been furnished to the Committee, were concerned with levels of detail not warranting further provisions in the Treaty or in the Agreed Statements and Common Understandings. The Soviets expressed agreement with some of them, but did not respond to others. Our negotiators were under no illusion that the statements to which the Soviets did not express agreement would place binding constraints on the Soviet Union. Rather, they intended by these statements to

put the Soviets on notice of how the United States would act in the implementation of SALT II. In our view, the United States established a solid negotiating record in SALT II. To criticize this achievement as an undue reliance on "unilateral statements" is comparable to criticizing a legislative body for not including in the text of a long and complex statute every statement made in the legislative history.

An examination of the specific issues addressed in the negotiating record is the only way to evaluate the adequacy of that record. The Committee has conducted such an examination of each issue. As a result, it has concluded that some of the statements made during the negotiations warrant reiteration in the resolution of ratification in order to commit the President to adhere to certain positions in the implementation of the Treaty and also to confirm to the Soviet Union the importance of certain issues. In addition, the Committee has adopted a provision requiring reports to the Congress on compliance issues. We believe these actions will fully protect the interests of the United States.

With regard to the three categories of provisions in the Committee's resolution of ratification, we note that Professor Eugene Rostow's analysis of the difference between "amendments" and "reservations" preceded the adoption by the Committee of the three-category structure for the resolution of ratification. The three-category structure of the Committee's resolution is fully responsive to Professor Rostow's concern. If a provision is included in Category III, Soviet agreement to that provision will be a condition precedent to the Treaty's entry into force, irrespective of whether the provision is called an "amendment" or a "reservation," or is given some other designation.

The Committee's Category I and Category II provisions do not require Soviet agreement; those provisions are not intended to require such agreement, but are designed to achieve other important objectives. Many of these provisions, for example, are instructions to the President about matters entirely internal to the United States to which Soviet agreement would be wholly inappropriate. Others put the Soviets formally on notice of United States positions on matters where further agreement is unnecessary and where it would be disadvantageous for the United States to reopen the negotiations.

More fundamentally, judgments about whether further Soviet concessions are necessary or desirable are, of course, influenced by whether the individual making those judgments believes that the Treaty does or does not serve our national interests. It is not difficult to recommend a reopening of negotiations if one believes that the consequence of failure is only the avoidance of a bad Treaty. But the Treaty must be examined objectively and a judgment made as to whether a modification to the agreement signed by the President is necessary and attainable; an evaluation must be made as to what advantages secured by the present agreement might have to be surrendered in order to secure new advantages desired by the proponents of a modification; and it must be decided what course is best for the United States. This is, indeed, as Senator Muskie observed at the conclusion of the Committee's deliberations, "a heavy responsibility."

We believe the Committee on Foreign Relations has discharged that responsibility with great care, through the most intense scrutiny that has ever been given to the provisions of any treaty, and has produced a sound result. An evaluation of the Committee's decisions can be made only after an examination of each issue that was considered during the markup, and not simply on the basis of general statements that the Soviets have reasons for wanting SALT II or that agreement has been reached on other amendments to other treaties.

Our comments on the specific issues are enclosed. We hope they will be useful to the Committee.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary
for Congressional Relations.

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