
Contrary Maxims: Can We Live With Anarcho-Unilateralism?

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Introduction

In the four months since George W. Bush took the Presidential Oath, he and his Captains have promised new departures in security policy. They have offered scant detail.

The new departures—said to offer enhanced security in a changed world—in every instance indict, challenge, or evade fundamentals of negotiated policy. Can it be that those who navigated the world out of the Cold War, toward expanded democracy, and through decades of technological revolution were so blind and unsound?

We don't know what the full and further thrust of Bush et al. will be, but we cannot ignore signs and speculations. Should these new departures win our support? or leave us profoundly uneasy?

First: National Missile Defense

Imagine a defense of the entire United States against ballistic missiles fired by a 'rogue state' or by accident. What prudential maxims would this violate?

Let's begin by assuming a system to deal with one missile, or just a few. Even in that case these maxims are true:



Maxim 1: Prudent national security planners will not rely on a missile defense system which has not been demonstrated.

Maxim 1 is of compelling importance because *no system even partially successful* against ballistic missile attack has been tested.

All the talk about ‘national missile defense’ concerns a *hypothetical* system. The Captains assert a *presumption* that such a system can be built; there have been technological displays of *elements* of such a system; but key features remain elusive and there is no assurance that a competent system can be constructed.

Maxim 2: A missile defense cannot be tested against an actual attack.

The capacities of a missile defense are always *hypothetical*, since it cannot be known in advance how an attack—from what direction, with what prior warning, employing what decoys, at which targets—will be launched.

As of 2001 there does not exist any proven defense against ballistic missiles. The very idea that there can be such a defense is only a speculation.

Maxim 3: A missile defense susceptible to the loss of even a single city is politically unacceptable.

Partial success is failure. Since the system cannot be realistically tested, no one can say that every city—New York, Los Angeles, Chicago—would be safe.

Now take the view that what’s intended is really to guarantee the United States against more than just ‘one or a few’ missiles. Imagine that Russia is the threat. Just as in 1967 McNamara spoke of a ‘Chinese threat’ in order to sustain the research and development program—knowing full well there was no impending Chinese threat—talk today of ‘rogue states’ and unintended launches is just to camouflage ongoing research and development.

Politically sophisticated observers understand this and therefore don't subject the proposals to scrutiny on their face value. But if this were true, then we are plunged back into the world of Ronald Reagan and the Strategic Defense Initiative, which in its fullest form would certainly have been directed against the Soviet Union. Then we are talking defense against *hundreds* of missiles, *thousands* of warheads.

Maxim 4: A missile defense must be “cost effective at the margin.”

Being “cost effective at the margin” was one of Paul Nitze's criteria applied to the 1983 Reagan Star Wars scheme. That meant simply this: would it be cheaper to add a unit of defense than it cost the ‘enemy’ to offset it? But since the ‘enemy’ could concentrate its missiles on one city, while we would have to build a number of regional anti-missile batteries—each with many more defensive missiles than the number of incoming warheads anticipated—we would bankrupt ourselves. Conclusion: national missile defense which relies on anti-missile missiles cannot be “cost effective at the margin.”

But what if there were another technology to destroy outflying missiles in their boost phase, or incoming warheads? What if, for example, they could be destroyed by energy-packed laser beams? Again, this launches us into the world of imagined systems of which none exists with the capabilities sought. Technological *elements* have been demonstrated, but nothing which approaches a full system.

Maxim 5: A real ‘enemy’ will come at you by a different route.

It applies in both the ‘one or a few’ and large-number cases that if you spend for a defensive system an intending ‘enemy’ can find some other way. It has been said repeatedly—but the Captains seem unpersuaded—that a nuclear weapon can be brought into the

United States in many ways, secreted in a city, and detonated on demand. Perhaps such weapons are already in place.

Given these maxims and their implications, why do the Captains press ahead with ‘national missile defense’? The answer probably does not lie in any rational calculation of likely or possible futures. They have declared that they have three scenarios in mind. But those three scenarios are not enough to explain why the Captains promote NMD so zealously when it is so flawed. We will have to speculate on some further episodes for which they imagine NMD to be decisive.

The three orthodox scenarios are (i) ‘rogue state’ launch, (ii) accidental launch, and (iii) unauthorized launch. Of these, the case for (i) is not made out for any foreseeable future. Both (ii) and (iii) are real possibilities, inherent in the existence of nuclear forces; but is NMD the path to protect from them?

(i) ‘rogue states’. This branch of NMD advocacy requires an ‘enemy’. However, talk about nuclear ballistic missile attack by ‘rogue states’ has to come down to specific states and specific capabilities. Despite the alarmist conclusions of the Rumsfeld Commission [1998], there is simply no evidence of nuclear rocket forces in Iran, Iraq, Libya, North Korea, or any other ‘rogue state’, much less such forces able to attack the United States, and there are no sound empirical reasons to believe that such forces will be created within the time horizon of the present NMD debate.

(ii) accidental launch. This is possible. The solution is to separate warheads from launchers. NMD promises only to *attempt* to bar a detonation on US turf. Even if nuclear managers rejected warhead separation, smart investment in command and control could significantly reduce the likelihood of accidental launch. Although ‘realists’ deride as cosmetic and reversible the decision of nuclear weapon states to assign the default target of nuclear missiles to uninhabited areas, that step—if observed—would remove this argument for NMD.

(iii) unauthorized launch. This too is possible, and may house the greatest danger that nuclear weapons will be used. Again, as with accidental launch, NMD only promises to *attempt* to intercept, and monies spent on securing nuclear weapons would

better address the risk directly. Nonetheless, NMD advocates are correct that unauthorized launch is an ongoing risk, however small the probability may be in any year. The solution is to inventory, destroy, and prohibit nuclear weapons.

Under what further circumstances might the Captains judge NMD to be a prime resource for the national interest? Though this must be speculation, these appear to be possibilities:

(iv) denial of China's deterrent force. Chinese officials and specialists see in NMD/TMD a potential and serious threat to the small Chinese nuclear deterrent missile force. The rhetoric of some NMD advocates, who point explicitly to China as a coming threat, reinforces the view that at least *some* NMD proponents, if not the Captains, have China on their minds. Scenarios in which the United States uses coercive force, but does not wage nuclear war against China, would nonetheless prompt US planners to be much more comfortable if they believed that China could not make credible nuclear threats against US forces in the Pacific or against the US mainland itself. Taiwan is the likely flashpoint in their minds. NMD/TMD, if it worked and if some form of TMD were forward-deployed, could cover US military operations in a Taiwan Straits crisis. The problem with this scenario is that it has China *initiating* the use of nuclear weapons. Or does it?

(v) nuclear war with Russia or China. Perhaps the Captains anticipate nuclear war. They might believe that the United States could be menaced by Russia or China—or France or Britain or India or Israel—and must be prepared to exit from a nuclear war with fewer of its cities destroyed than would otherwise be the case. Deterrence will have failed; since the defense will not be perfect, many cities will be radioactive pyres; but some incoming warheads will have been intercepted and destroyed.

No combination of these five scenarios makes a good case for NMD. Of course there are other classical reasons to proceed:

(vi) maintain research and development. Some day it might be useful. In the meantime it will profit political allies.

(vii) keep lively in people's minds the threat of hostile foreign powers. If others cannot see the reasons for NMD/TMD which

Republicans can see, it is because they are incompetent, or deceitful. In any case, the national defense is not safe in their hands.

(viii) divert funds from domestic purposes, limiting the programs which the elected representatives of the people can undertake.

The Bush II NMD proposals—as seen so far—also turn on strategic contradictions. NMD is pressed as a moral alternative to incinerating cities, but nuclear deterrence remains an axiom of policy.¹ NMD is seen as handmaiden to reduced numbers of nuclear warheads, but the cheapest response by other nuclear states will be to *increase* their missile numbers and put more warheads on each missile. NMD assumes the ‘enemy’ will attack using means NMD is designed to counter, a truly stupid assumption, and that the United States has no other means to prevent launch of nuclear ballistic missiles by ‘rogue states’, an ignorant or deliberately misleading assumption.

Second: ‘Space Control’

On 8 May 2001 Donald Rumsfeld announced his intention to consolidate several military space programs under the Air Force. While—in the words of the *New York Times*—he “stopped short of advocating putting weapons in outer space,” Rumsfeld did quote from a 1996 National Space Policy that the Department of Defense had authority to

develop, operate, and maintain space control capabilities to ensure freedom of action in space, and if directed, deny such freedom of action to adversaries.²

¹ “We must seek security based on more than the grim premise that we can destroy those who seek to destroy us. This is an important opportunity for the world to rethink the unthinkable and to find new ways to keep the peace.” But “Nuclear weapons still have a vital role to play in our security and that of our allies.” George W. Bush, 1 May 2001.

² *The New York Times*, 9 May 2001. On 19 September 1996 the National Science and Technology Council issued as a White House document a ‘fact sheet’ titled National Space Policy. Relevant sections:



The phrase ‘space control’ extends the long-standing naval objective of ‘sea control’: both entice, but the analogy is dangerously misleading and at the same time usefully instructive. Instructive, because it reminds us that navies follow practices and even negotiate agreements with ‘adversaries’ to trade some ‘freedom of action’ for greater safety and stabilities. Misleading, because ‘sea control’ implies warships armed to strike at attackers and at any force impeding their passage. That is: ‘sea control’ implies the *capability* to “deny such freedom of action to adversaries,” and carries an *implicit threat* that one’s force would, under certain circumstances, do so. When the analogy is carried to ‘space control’, it necessarily implies weapons in space.³

Why should we be any more concerned about space weapons than about armed naval vessels? Several more maxims:

Maxim 6: Between two states’ space weapon deployments, the ‘advantage of going first’ would place both forces on hair-trigger alert.

Maxim 7: If the physical principle on which the space weapon system relied centered on a powerful energy beam—for example, a laser or a ‘directed energy weapon’—its action would be near-instantaneous and the ‘advantage of going first’ even more pressing.

National Security Space Guidelines . . .

(6) Defense Space Sector Guidelines:

(a) DoD shall maintain the capability to execute the mission areas of space support, force enhancement, space control, and force application. . .

(g) Consistent with treaty obligations, the United States will develop, operate and maintain space control capabilities to ensure freedom of action in space and, if directed, deny such freedom of action to adversaries. . . .

³ The text of Rumsfeld’s formal response (8 May 2001) to the report of the Commission to Assess U.S. National Security Space Management and Organization, published in January 2001, states that “The Department of the Air Force will be assigned responsibility to organize, train, and equip for prompt and sustained offensive and defensive space operations.” [Source: Office of International Information Programs, U.S. Department of State. Web site: <http://usinfo.state.gov>. Seen 25 May 2001.]



Maxim 8: The effect of the ‘advantage of going first’ between forces relying on beam weapons would require that the decision to fire be automated.

Maxim 9: No leader of government will cede to an automated system the decision to begin war. Therefore, no state will in fact build and deploy a destructive beam-reliant weapon system in Earth orbit.⁴

The effect of Maxims 6 through 9 is to place a large, insistent question-mark around any assertion of ‘space control’. Unless one is entranced by Star Trek and Star Wars notions of ‘force shields’ and ‘escape into hyperspace’, the *vulnerability of space-based platforms* renders fatally inexact the analogy between naval squadrons and militarized space assets. For starters, space based platforms cannot hide. Shielding against near-instantaneous beam weapons is not immune to physical attack. And a space-analog *Aegis* system could, like its sea-surface counterpart, be overwhelmed.

In short, following the path of ‘space control’ seems to assume that no other State or combination of States could mount an assault on US space-based weapon and reconnaissance platforms. That is an implausible view. It is not even necessary that an attack on space assets originate on space-based platforms, or employ special-purpose ‘anti-satellite’ weapons. Any state having missile systems capable of space launch, orbital deployment of satellites, and an inventory of nuclear weapons could improvise an attack on US satellites in space.

The point is not to ignite debates about technical capabilities and military exchanges in Earth orbit. The point is, instead, that the outcome of contests between asymmetric capabilities which have not been—and can never be—subject to realistic test cannot be known, and therefore cannot be a basis of a reasoned security policy centered on the fine edge between peace and large-scale—possibly nuclear—war.

⁴ I am indebted to Herbert York, whose observations are the basis of Maxims 6 through 9.

A safer plan would abandon ‘space control’ as an aim, abandon anti-satellite weapon programs and instead seek an ASAT ban, and use ground-level politics to champion confining military space assets to intelligence and communication. Certainly it’s true that betting the ranch on the integrity in combat of a global satellite-based system of command and control—as the Pentagon appears to be doing—accepts an extraordinary vulnerability. One hopes that the Pentagon understands the need for redundant communications channels, not exposed in space. But to argue that vulnerability of space-based intelligence and communications assets *requires in turn* commitment to NMD/TMD to maintain the viability of US forces turns military planning on its head.

This is not a new insight. Its prudent wisdom resides already in the Outer Space Treaty, to which the United States is a Party:

Article II

Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

The Outer Space Treaty⁵ does not prohibit military activity in space—hence calls for a treaty ban on militarisation of space—and it leaves open the door to those activities which a State may claim are “in the interest of maintaining international peace and security” [Article III] which could extend to reconnaissance, for example. But there is clearly a contradiction between establishing ‘space control’ and the requirement [Article II] that no state Party “appropriate” space “by means of use or occupation, or by any other means.”

The treaty then goes on to reject placing weapons of mass destruction in Earth orbit or in space:

Article IV

⁵ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and other Celestial Bodies. It entered into force in October 1967. The United States is a Party to the treaty.

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

The drafters took care to say “weapons of mass destruction” rather than “weapons,” and with a little imagination we can see how that difference could be exploited. Nonetheless,

Maxim 10: A weapon system lodged in earth orbit and capable of disabling another state’s weapons in space could—dependent, of course, on the physical facts it exploited—be directed just as well at targets on Earth’s surface.

and it is not unreasonable to argue that a weapon which could, for example, be flashed from point to point on the Earth’s surface is a “weapon of mass destruction”: the drafters *explicitly* prohibited not only nuclear weapons but “any other kinds of weapons of mass destruction” in Earth orbit or elsewhere in space.

Of course, the Captains could move against the Outer Space Treaty as easily as against the ABM Treaty. In doing so, however, they would have to consider whether the public was happy with the idea that nuclear weapons or other weapons of mass destruction—not only in US but in other hands—would orbit above them, day in and day out.

Third: Treaties and the Treaty Process

The Captains appear poised to commit—but have not yet committed Government—to the abandonment of the ABM Treaty, throwing into question what a US treaty commitment means. There are signs of a corresponding policy preference to forego the treaty-making process as a useful instrument to achieve US national security objectives.

Let us review the provisions of the ABM Treaty governing amendment and withdrawal:

Article XIV

1. 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.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

Article XV

1. This Treaty shall be of unlimited duration.

2. 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 six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

Article XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

In short, to amend the treaty the Executive must obtain Russian agreement, and then Senate ‘advice and consent’ to ratify the agreed change. But the United States may withdraw upon six months’ notice having given “a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.” Does withdrawal *also* require the ‘advice and consent’ of the Senate? There would be very little logic in making it possible for the Executive to withdraw on its own sole decision from a treaty “of unlimited duration” when even an amendment acceptable to the other Party required the ‘advice and consent’ of the Senate. Contrary arguments will no doubt be made—Jesse Helms has already insisted in extraordinary ignorance of treaty law that the ABM Treaty died when the Soviet Union was dissolved—but in practice no solemn chanting that the ABM Treaty is a ‘dead letter’ or ‘yesterday’s news’ can undo the Executive’s need to win

agreement of two-thirds of the Senate. And in today's Senate that could be very hard to do. Under these circumstances, GW Bush might imitate prior Presidencies and seek some other form of Congressional endorsement of withdrawal, or might simply assert withdrawal as his own unmediated right.

A negotiated proposal to amend the ABM Treaty already exists, in texts agreed by the United States and Russia on 26 September 1997. When the Russian Duma voted its 'ratification' of START II in 2000, it did so with conditions, including the condition that the agreed ABM Treaty adjustments be ratified by the United States. There has been no ratification, despite evident merit of the agreements, because to do so would mark the ABM Treaty as a live and significant obligation.⁶

Those who doubt this might refer to the text which governs the matter. The Constitution of the United States stipulates (in Article II) that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur;" and in Article VI that

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; ...

The arguments against casual abandonment of treaty commitments are well-trod and familiar. After all, that's what treaties are about: arriving at agreed texts which are not merely signed and shared for the moment. Instead, they are subject to a special process—ratification—which solemnizes them, commits to their change *only in accordance with the terms agreed for amendment and withdrawal*, and offers an assurance that subsequent governments must take some extraordinary steps to give up commitments set down in the treaty. In general, states have accepted that the predictability and stability which treaties offer—not, certainly, self-enforcing guarantees, but nonetheless a

⁶ The texts signed on 26 September 1997 are available at the US Department of State web site: http://www.state.gov/www/global/arms/factsheets/missdef/scc_page.html. On the ABM Demarcation Agreement, see the Union of Concerned Scientists: <http://www.ucsusa.org/security/abm.can.html>

markedly greater likelihood that the text will remain effective—are worth the commitment required.

Does the United States wish States Parties to other treaties, dealing with very different subjects, to go their own way whenever they wish? Was it wrong to believe that it served US interests to generate a consensual fabric of commitments?

Now the Captains come forward and complain that their ‘hands are tied’ and that promising technologies cannot be exploited. That, of course, is exactly the purpose of the ABM Treaty. Smart people believed that the *mutual* binding—‘tying of hands’—was important for security and stability. Now of course there could be reasons to adjust the ABM Treaty, in light of changing circumstance, but that would call not for abandonment but for amendment, acceptable to the other Party and to two-thirds of the Senate. The Captains are asking ‘how can we be freed to move hell-bent toward US domination of strategic capabilities, on Earth and in space?’ They should be asking instead ‘how can we further refine and develop the ABM Treaty to reduce dangers and uncertainties?’

This leads to the next maxim:

Maxim 11. Only respecting the ABM Treaty, adjusting it only by the obligatory procedural means, can any US government assure the broad internal US political consensus required for solemn understandings with Russia about strategic stability.

The third issue concerns commitment to the formal arms control and disarmament process. Why would the Captains wish to give that up? They offer a simple answer: that they believe more will be accomplished if the US takes unilateral actions, which Russia will follow—out of perceived interest—with corresponding reductions in strategic forces. A side-effect is to remove these steps from the ratification process; and there are those in both countries understandably impatient with the Duma and the Senate.

But it is possible that the Captains’ strategy runs in a somewhat more subtle vein. Here there are three important arguments:



- If nuclear force level decisions are to be *unilateral*, then the vexing issue of US retention of its ‘hedge’ forces—thousands of undeployed but ultimately deployable strategic nuclear warheads—need not be negotiated with Russia.
- By turning aside from negotiating START III with Russia, the Captains need not resolve internal disputes about optimum and acceptable levels of deployed strategic forces.
- Most importantly, if the Captains insist on *unilateralism* and resist joining other negotiations which could affect US nuclear force levels—such as those around US obligations under the Nuclear Non-Proliferation Treaty (NPT)—they will sidestep any discussion of nuclear abolition and significant steps toward weapon denuclearization.

If these arguments accurately identify the sources of the Captains’ flirtation with unilateralism, it might be helpful to remind them of another old maxim:

Maxim 12. It is rarely possible to find ways in which you and your ‘adversary’ have common interests and common ground if you refuse negotiation from the outset.

Of course, the objection could be lodged that the Captains will pursue conversations with Russia on many lines, with much greater flexibility than their predecessors, abstaining only from formal agreements. In this model, however, lies a difficulty for the other states, deeply interested in how Russia and the United States conduct their business. For it is not simply US security, but global peace and stability, which is at stake, and others are bound to insist on their interests.

In this context, it is useful to remind ourselves of the language of Article VI of the NPT, and the commitment which the United States and other ‘declared’ nuclear powers made in May 2000. Article VI states

Each of the parties to the treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

And §15 ¶6 of the documents agreed at the NPT Review Conference in April-May 2000 included

An unequivocal undertaking by the nuclear weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all States parties are committed under Article VI.

Perhaps it is untrusting to view the Captains' language in this regard not as a signal that imaginative and newly productive measures to reduce reliance on nuclear weapons will be taken, but rather that—behind a smokescreen of seemingly helpful measures—the commitment to nuclear forces, nuclear missions, and long-term retention of nuclear weapons will be forcefully enlarged.

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