WHEN TRUTH IS COUNTER-INTUITIVE POTENTIAL SURVIVAL BENEFITS TO ISRAEL OF WAR WITH IRAN

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VLADIMIR: "Well? What do we do now"? **ESTRAGON**: "Don't let's do anything. It's safer."

Samuel Beckett, Waiting for Godot

The "Theatrical" Background

Understood as genre, there is good reason to identify the writings of Irish playwright Samuel Beckett as "theatre of the absurd." For example, in an oft-cited exchange between principal characters in *Godot*, two eccentric individuals reason that their personal safety requires them to do nothing. If applied to current world politics, such risk-avoidance "logic" could prove lethal to entire countries, especially the State of Israel.

Elucidations and clarifications will be in order. To begin, Israel's current survival vulnerabilities are unprecedented or *sui generis*. Because its Iranian foe is (1) in the final stages of "going nuclear;" and (2) openly genocidal toward Israel (i.e., *mens rea* or determined criminal intent at its most existential extreme), Jerusalem will soon have to decide between military preemptive action and "doing nothing." There will also be assorted intermediary measures available to Israel – military, technological and diplomatic – but only "anticipatory self-defense" could meaningfully rescue the Jewish State. **This beleaguered state, it ought never to be overlooked, is less than half the size of America's Lake Michigan.**

"Credo quia absurdum," says the ancient philosopher Tertullian. "I believe because it is absurd."

For Israel, avoiding all war with Iran ought not to be a gainful strategic objective. Under present and expected circumstances, a conventional war against this recalcitrant and nuclearizing foe could offer Israel its best last chance to avoid an Islamic nuclear adversary. Though conventional war between Israel and Iran could still produce significant casualties and massive destruction, these costs would pale in comparison to a nuclear conflict. This is the case, moreover, even if only "small" (low-yield) nuclear weapons were involved.

For Israel, the axiomatic or first principle of any purposeful Iran strategy should be **nuclear war avoidance.** In any delineated hierarchy of national military objectives, no other national security goal could even come close. Accordingly, for the moment at

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¹ In this connection, it should be understood that a war against a pre-nuclear Iran could still involve the use of Israeli nuclear weapons and/or an Iranian resort to radiation dispersal weapons. Moreover, at some undeterminable point Iran could fire conventional missiles against Israel's nuclear reactor at Dimona or (at least in principle) engage an already-nuclear North Korean ally to act on its behalf.

least, Israel's presumptive nuclear deterrence posture should be oriented toward a non-nuclear Iran.

What are the pertinent particulars? Variously specific adjustments and clarifications of this Israeli deterrence posture should be focused on (a) essential weapons (both offensive and defensive); (b) essential weapon system infrastructures; and (c) essential correlates of threat credibility. Regarding this last requirement, Israel will need to calculate optimal equilibrium points between "escalation dominance" and conflict management. Nonetheless, because certain relevant scenarios would be without precedent, Israeli decision makers could never scientifically determine the accuracy and utility of associated strategic calculations.

There is more. Increasingly specific questions will need to be raised, and answered - sequentially and dialectically.² How should these complex intellectual operations proceed?

In partial reply, a revealing expression of the world's current balance-of-power³ could be best summarized as "Cold War II." This is not because an implicit US-Russian-China dynamic is immediately critical *per se* or more determinative than the still-prevailing structure of global anarchy bequeathed at the Peace of Westphalia

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² Taken from Plato's lexicon of philosophical investigation, dialectic has its root in the Greek verb meaning "to converse," where the objective of any such conversation is to discover "what each thing actually is." (*Republic*.) Speaking through Socrates, Plato regards dialectic as the highest or supreme form of knowledge.

³ Historically, the idea of a *balance of power* - an idea of which the nuclear-age *balance of terror* is a current variant - has never been more than a facile metaphor. In fact, it has never had anything to do with ascertaining any true equilibrium. As such a balance is always a matter of individual and more-or-less subjective perceptions, adversary states can never be sufficiently confident that identifiable strategic circumstances are "balanced" in their favor. In consequence, each side perpetually fears that it will be left behind, and the continual search for balance only produces ever wider patterns of insecurity and disequilibrium.

(1648),⁴ but because such rivalry has become "tri-polar." More exactly, China, with its tangible links to Pakistan, North Korea and Iran, is already a major actor in the dissembling Middle East. Such links, moreover, would also involve certain "peremptory" considerations of authoritative international law.⁵

The Importance of Context

For planners of Israeli nuclear strategy, US-Russia-China antagonisms should be studied as a relevant context for evaluating Israel's major weapon systems and its nuclear threat credibility. In constant flux, such system-defining antagonisms are changing in foreseeable and unforeseeable ways. One obvious and ominous example of these mutations would be adversarial preparations for nuclear warfighting.⁶

See *Treaty of Peace of Munster*, Oct. 1648, 1 *Consol. T.S.* 271; and *Treaty of Peace of Osnabruck*, Oct 1648, 1, *Consol. T.S.* 119. This "Westphalian" *anarchy* stands in stark contrast to the legal assumption of solidarity between all states in the presumably common struggle against aggression and terrorism. Such a *peremptory* expectation (known formally in international law as a *jus cogens* assumption), is already mentioned in Justinian, *Corpus Juris Civilis* (533 C.E.); Hugo Grotius, 2 *De Jure Belli Ac Pacis Libri Tres*, Ch. 20 (Francis W. Kesey, tr., Clarendon Press, 1925 (1690); and Emmerich De Vattel, 1 *Le Droit des Gens*, Ch. 19 (1758).

⁵ According to Article 53 of the *Vienna Convention on the Law of Treaties*: "...a peremptory norm of general international law is a norm accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." See: *Vienna Convention on the Law of Treaties*, Done at Vienna, May 23, 1969. Entered into force, Jan. 27, 1980. U.N. Doc. A/CONF. 39/27 at 289 (1969), 1155 U.N.T.S. 331, *reprinted in* 8 I.L.M. 679 (1969).

⁶ Conspicuous preparations for nuclear war fighting could be conceived not as distinct alternatives to nuclear deterrence, but as essential and even integral *components* of nuclear deterrence. Earlier, Colin Gray, reasoning about U.S.-Soviet nuclear relations, argued that a vital connection exists between "likely net prowess in war and the quality of pre-war deterrent effect." (See: Colin Gray, National Style in Strategy: The American Example," INTERNATIONAL SECURITY, 6, No. 2, fall 1981, p. 35.) Elsewhere, in a published debate with this writer, Gray said essentially the same thing: "Fortunately, there is every reason to believe that probable high proficiency in war-waging yields"

There will be further details. At some point, superpower antagonisms, tempered or buffered by international law, could become vital for Israeli nuclear deterrence. These primary antagonisms could sometime be impacted by a "biological variable" (disease pandemic). In principle, at least, asymmetrical levels of success in dealing with any future pandemic outcomes could render one side or another more or less aggressive.⁷ Accurate recognition of such determinative asymmetries could represent an unexpectedly important part of Israel's calculable "strategic equation."

Much more will need to be examined. Here, a great deal will depend on the precise manner in which a resurrected and China-augmented Cold War rivalry could impact Israel's strategic equation and on the critically underlying foundations of Israel's strategic posture. Ultimately, to the discoverable extent possible, this manner would depend in part on Jerusalem's and Tehran's geopolitical power alignments with Russia, the United States, China or North Korea. Because these particular alignments would be both multiple, overlapping and potentially synergistic, Israel's strategic calculations would be correspondingly complex.

Prior to undertaking any such bewildering considerations, Israel will need to advance informed predictions regarding the expected rationality or non-rationality of each tri-polar nuclear power⁸ and reasonably expected interactions/synergies. About

optimum deterrent effect." (See Gray, "Presidential Directive 59: Flawed but Useful," PARAMETERS, 11, No. 1, March 1981, p. 34. Gray was responding directly to Professor Louis René Beres, "Presidential Directive 59: A Critical Assessment," PARAMETERS, March 1981, pp. 19 - 28.).

⁷ Reciprocally, almost by definition, it could have an opposite effect upon the adversarial state or terror group.

⁸ Expressions of decisional irrationality could take different and overlapping forms. These forms include a disorderly or inconsistent value system; computational errors in calculation; an incapacity to communicate efficiently; random or haphazard influences in the making or transmittal of particular decisions; and the internal dissonance generated by any structure of

the first concern, Israel's strategic planners ought to bear continuously in mind the special wisdom of German philosopher Karl Jaspers' *Reason and Existence* (1935): "The rational is not thinkable without its other, the non-rational, and it never appears in reality without it."

"Everything is very simple in war," counsels Carl von Clausewitz in *On War*, "but even the simplest thing is difficult." This generally useful insight remains persuasively valid not only during periods of active military conflict, but also in those unsteady periods of latent hostility that obtain between certain still-possible or still-impending wars of aggression.⁹

Israeli analysts and decision-makers will also need to take more specific heed of future pandemic prospects, a variable that could prove determinative for several reasons, including its potentially plausible effects upon national decisional rationality. These effects would need to be explored among friends as well as foes and could make each adversarial party (state, sub-state or "hybrid") wary of the others' "pretended irrationality." In essence, therefore, this "pandemic variable" could make "normally" complex decisional calculations even denser and more difficult to decipher.

In such existential matters, history will deserve some conspicuous pride of place. The idea that considerations of operational difficulty may obtain "only" during a "cold war" was already described by seventeenth-century English philosopher, Thomas Hobbes. In his text *Leviathan*, this classical political thinker (and one widely

collective decision-making (i.e., assemblies of pertinent individuals who lack identical value systems and/or whose organizational arrangements impact their willing capacity to act as a single or unitary national decision maker).

⁹ For the specific crime of aggression under international law, see: *Resolution on the Definition of Aggression*, adopted by the U.N. General Assembly, Dec. 14, 1974, U.N.G.A. Res. 3314 (xxix), 29 U.N. GAOR, Supp. (No. 31), 142, U.N. Doc. A/9631 (1975), *reprinted in* 13 I.L.M., 710 (1974).

read by founding fathers of the United States, especially Thomas Jefferson) opines that a condition of war exists not only during periods of "actual fighting," but also when there exists "a known disposition thereto." Today, such a perilous "disposition" is easily recognizable between Israel and Iran.

The Logic of Deterrence

Even during the expansive pre-nuclear era in international law and world politics, a precarious logic of deterrence obtained in the global state of nature. Already, there had been operative a fearful condition of raw competition, corrosive violence and seemingly perpetual anarchy. Despite considerable nuance from century to century, and even from year to year, this so-called "balance of power" has been in continuous existence since the 1648 Peace of Westphalia. Significantly, it has never "worked."

Long before the advent of nuclear weapons, the worst "state of war" (including those without any "actual fighting") would have been characterized by a certain "dreadful equality." In this unsteady condition, world politics would take place in a broadly chaotic *bellum omnium contra omnes*, an always ambiguous structure wherein "the weakest has strength enough to kill the strongest." Expectedly, in such blatantly "opaque" circumstances, all potential sources of decision-making bewilderment would inevitably multiply.

There is more. In any such worst case scenario — one wherein nuclear proliferation would continue without any correlative legal inhibitions - the lives of individual human beings and of entire states would quickly become (per Thomas Hobbes' *Leviathan*) "solitary, poor, nasty, brutish and short." For Israel, the shifting parameters of Cold War II and related issues of Iranian enemy rationality could soon

have both foreseeable and unforeseeable effects upon its presumptive nuclear doctrine. These effects include diverse policy issues surrounding critical decisional choices between "deliberate nuclear ambiguity" and " selective nuclear disclosure." ¹⁰

For Israel, a state altogether lacking in strategic depth,¹¹ a state smaller than America's Lake Michigan, the former posture has managed to prevail without serious challenge. A diminishingly useful stance, it is commonly referred to as Israel's "bomb in the basement."¹² At some point, needed modifications of this nolonger-viable stance could require coinciding Israeli resorts to "anticipatory self-defense."¹³

¹⁰ See, by this writer, Louis René Beres, at INSS Tel-Aviv: https://www.inss.org.il/publication/changing-direction-updating-israels-nuclear-doctrine/

¹¹ A great deal has been written on questions of Israel's "strategic depth." The heart of this issue was addressed as early as June 29, 1967, when a U.S. Joint Chiefs of Staff memorandum specified that returning Israel to pre-1967 boundaries would drastically increase its vulnerability. The then Chairman of the JCS, General Earl Wheeler, concluded that for *minimal* deterrence and defense, Israel must retain Sharm el Sheikh and Wadi El Girali in the Sinai; the entire Gaza Strip; the high ground and plateaus of the mountains in Judea and Samaria; and the Golan Heights, east of Quneitra.

¹² The writer, Professor Louis René Beres, is author of one of the earliest books on this theme, *Security of Armageddon: Israel's Nuclear Strategy* (Lexington Books; 1986).

¹³This permissible option can be found not in the conventional law (art. 51 of the *UN Charter* supports only post-attack expressions of individual or collective self-defense), but in customary international law. The precise origins of *anticipatory self-defense* in such customary law lie in the *Caroline*, a case that concerned the unsuccessful rebellion of 1837 in Upper Canada against British rule. Following this case, the serious threat of armed attack has generally justified certain militarily defensive actions. In an exchange of diplomatic notes between the governments of the United States and Great Britain, then U.S. Secretary of State Daniel Webster outlined a framework for self-defense that did not require an antecedent attack. Here, the jurisprudential framework permitted a military response to a *threat* so long as the danger posed was "instant, overwhelming, leaving no choice of means, and no moment for deliberation." See: Beth M. Polebaum, "National Self-defense in International Law: An Emerging Standard for a Nuclear Age," 59 N.Y.U.L. Rev. 187, 190-91 (1984) (noting that the *Caroline* case had transformed the right of self-defense from an excuse for armed intervention into a legal doctrine). Still earlier, see: Hugo Grotius, *Of the Causes of War, and First of Self-Defense, and Defense of Our Property, reprinted in 2 Classics of International Law,* 168-75 (Carnegie Endowment Trust, 1925) (1625); and Emmerich de Vattel,

Until today, Israel's national nuclear doctrine and posture have remained "deliberately ambiguous." At the same time, traditional ambiguity was already breached at the highest possible levels by two of Israel's prime ministers, Shimon Peres on December 22, 1995 and Ehud Olmert on December 11, 2006. Peres, speaking to a group of Israeli newspaper and magazine editors, had affirmed publicly: "...give me peace, and we'll give up the atom. That's the whole story." When Olmert later offered similarly general but revelatory remarks, they were widely but perhaps wrongly interpreted as "slips of the tongue."

Today, as Moscow and Washington are once again open adversaries - in part because of their different positions and involvements throughout the Middle East and because of Russia's war of aggression against Ukraine - a basic doctrinal question should be raised more systematically in Jerusalem:

Is comprehensive nuclear secrecy actually in the survival interests of the Jewish State?¹⁴

To respond "cost-effectively" to this existential question, Israel should start from the assumption that in any such many-sided strategic matters, "truth" could be counter-intuitive. A full answer to the query should be grounded in the expectations and exigencies of formal strategic doctrine. Whatever else Jerusalem may have in mind

The Right of Self-Protection and the Effects of the Sovereignty and Independence of Nations, reprinted in 3 Classics of International Law, 130 (Carnegie Endowment Trust, 1916) (1758). Also, Samuel Pufendorf, The Two Books on the Duty of Man and Citizen According to Natural Law, 32 (Frank Gardner Moore., tr., 1927 (1682).

¹⁴ The actual security benefits to Israel of any explicit reductions in nuclear secrecy would remain dependent, more or less, upon Clausewitzian "friction." This term refers to the inherently unpredictable effects of errors in knowledge and information concerning intra-Israel (IDF/MOD) strategic uncertainties; on Israeli and Iranian under-estimations or over-estimations of relative power position; and on the unalterably vast and largely irremediable differences between theories of deterrence, and enemy intent "as it actually is." See: Carl von Clausewitz, "Uber das Leben und den Charakter von Scharnhorst," *Historisch-politische Zeitschrift*, 1 (1832); cited in Barry D. Watts, *Clausewitzian Friction and Future War*, McNair Paper No. 52, October, 1996, Institute for National Strategic Studies, National Defense University Washington, D.C. p. 9.

concerning such policy-shaping doctrine, it's response ought never be just a series of incremental off-the-cuff decisions or unreflective seat-of-the-pants observations. Israel could never have any need for strategic postures that are casually invented or reinvented from one crisis to the next.

In essence, fashioning Israeli doctrine ought never to consist of disjointed or narrowly *ad hoc* calculations. Any purposeful loosening of Israeli nuclear ambiguity would need to be subtle, nuanced and indirect. Contrary to the oft-parodied views of such prospective disclosure that may be found in popular news stories, on the web or on television, this loosening would not have to take the provocative form of any openly forthright or otherwise official Israeli policy pronouncements. Instead, it could be allowed to "leak" or "spill out" on its own, thereby making a crucial security point without precipitating an immediate crisis or irremediable misfortune.

Taking Israel's Bomb out of the "Basement"

Among other things, formal Israeli doctrine should represent the conceptual framework from which a more gainfully pragmatic security posture of **selective nuclear disclosure** could be extrapolated. In all military institutions and traditions, such doctrine would describe the tactical or operational manner in which designated national forces could fight in variously plausible combat situations; the prescribed "order of battle;" and all manner of corollary or contingent operations. Appropriately, the literal definition of "doctrine" derives from Middle English, from the Latin *doctrina*, which means teaching, learning and instruction.

The central importance of codified Israeli military doctrine lies not only in the particular way it could animate, unify and optimize national military forces, but also in the efficient manner it could transmit desired "messages" to enemy state Iran, enemy sub-state proxies 15 or state-sub-state "hybrids. 16 Understood in terms of Israel's strategic nuclear policy, any indiscriminate, across-the-board ambiguity could prove net-injurious to the country's national security. Though counter-intuitive, this understanding is likely because any truly effective Israeli deterrence and defense stance would call for a military doctrine that is at least partially recognizable by Iran and by sub-state terrorist foes such as Hamas or Hezbollah.

In any routine military planning, having available options for strategic surprise could prove helpful (if not actually prerequisite) to successful combat operations. But successful nuclear deterrence is another matter entirely. In order to persuade would-be adversaries not to strike first - in these circumstances a manifestly complex effort of dissuasion - projecting too much secrecy could on occasion prove counter-productive.

In the matter of Israel and foreseeably existential enemy Iran, any significant military success must lie in credible deterrence, not in any actual war-fighting.¹⁷

¹⁵ Explicit applications of the law of war to insurgent combatants' dates to the four *Geneva* Conventions of 1949. As more than codified treaties and conventions must comprise the law of war, the obligations of jus in bello (justice in war) are part of "the general principles of law recognized by civilized nations" (from Art. 38 of the Statute of the International Court of Justice) and thereby bind all categories of belligerents. (See Statute of the International Court of Justice, art. 38, June 29, 1945, 59 Stat. 1031, T.S. 993). Further, Hague Convention IV of 1907 declares that even in the absence of a precisely published set of guidelines regarding "unforeseen cases," the operative pre-conventional sources of humanitarian international law obtain and still govern all belligerency. The related Martens Clause is included in the Preamble of the 1899 Hague Conventions, International Convention with Respect to the Laws and Customs of War by Land, July 29, 1899, 187 Consol. T.S. 429, 430.

See https://www.ebooks.com/en-us/book/96178545/israel-s-military-Ehud Eilam, doctrine/ehud-eilam/ The best current example here for Israel is the Iran –Israel hybrid.

¹⁷ This was a major conclusion in this author's *Project Daniel* Report (2003) to then Prime Minister

Examined in terms of ancient Chinese military thought offered by Sun-Tzu in *The Art of War*, "Supreme excellence consists of breaking the enemy's resistance without fighting." With this worthy dictum in mind, there are times for Israel when successful nuclear deterrence policies would require the deliberate "loosening" of information that formerly had been tightly held. Such information would concern Israel's capabilities, its intentions, or both of these qualities together.

Sometimes, strategic truth will be counterintuitive. There are, after all, circumstances wherein ordinary secrecy could be too much secrecy, and would thereby undermine Israel's national security. We may recall, in this connection, a popular Cold War I-era movie in which *Dr. Strangelove*, an "eccentric" strategic advisor to the American president (and name of the film itself) discovers, to his horror, that the existence of America's "doomsday machine" had not been made known in advance to the Soviets: "The whole point of the doomsday machine is lost," complains Dr. Strangelove, "if you keep it a secret."

To have been suitably deterred, the film instructs, the Soviets ought to have been given prior warnings of the "doomsday machine." This device had been designed to ensure the perceived automaticity of America's nuclear retaliatory response. Remembering the commonly-held strategic posture then known as MAD, this response would have been instantly recognizable to the Kremlin as "assuredly destructive."

It follows from all this and also from the general expectations of the laws of war that Israel's nuclear weapons should remain oriented to deterrence *ex ante*, not to war fighting or revenge *ex post*. As designated instruments of a law-based system of deterrence, nuclear weapons can succeed only in their protracted non-use. *Prima facie*,

Ariel Sharon. It was titled *Israel's Strategic Future*. http://www.acpr.org.il/ENGLISH-NATIV/03-ISSUE/daniel-3.htm

once they have been employed for any tangible "battle," deterrence will have failed.¹⁸ And once such weapons were actually used, any traditional meanings of "victory" (especially if both sides were nuclear) would instantly become moot.¹⁹

The Contextual Relevance to Israel of "Cold War II"

Cold War I is over, but Israel's emerging deterrence relationship to a prospectively nuclear Iran is not reasonably analogous or comparable to the historic American-Soviet "balance-of-terror." Still, there are crucial elements of "Cold War II" antagonisms that could substantially impact Israel's nuclear strategic choices concerning Iran. This means, *inter alia*, that Israel should never construct its nuclear

There could also be attendant and possibly unprecedented crimes of war. Moreover, criminal responsibility of leaders under international law is not *limited to* direct personal action or *limited by* official position. On this peremptory principle of "command responsibility," or *respondeat superior*, see: In re Yamashita, 327 U.S. 1 (1945); The High Command Case (The Trial of Wilhelm von Leeb), 12 Law Reports of Trials of War Criminals 1 (United Nations War Crimes Commission Comp., 1949); see Parks, Command Responsibility for War Crimes, 62 MIL.L. REV. 1 (1973); O'Brien, The Law of War, Command Responsibility and Vietnam, 60 GEO. L.J. 605 (1972); U.S. Dept. Of The Army, Army Subject Schedule No. 27 - 1 (Geneva Conventions of 1949 and Hague Convention No. IV of 1907), 10 (1970). The direct individual responsibility of leaders is also unambiguous in view of the London Agreement, which denies defendants the protection of the act of state defense. See AGREEMENT FOR THE PROSECUTION AND PUNISHMENT OF THE MAJOR WAR CRIMINALS OF THE EUROPEAN AXIS, Aug. 8, 1945, 59 Stat. 1544, E.A.S. No. 472, 82 U.N.T.S. 279, art. 7.

On "victory" in a nuclear war, see, by this author: Louis René Beres, https://blog.oup.com/2016/04/war-political-victories/ See also: https://www.israeldefense.co.il/en/node/28931

²⁰ Recalling the Roman Stoic philosopher and statesman, Cicero, in *The Letters to His Friends:* "For what can be done against force, without force?" During the nuclear age, the traditional term, "balance of power" has sometimes been replaced with a more technologically appropriate "balance of terror." For the conceptual origins of this historic replacement, see: Albert Wohlstetter, "The Delicate Balance of Terror," *Foreign Affairs*, Vol. 37, No.2., January 1959, pp. 211-234.

strategic doctrine apart from continuously close assessments of US-Russia-China relations.²¹

Still, there are certain "Cold War I" deterrence lessons to be learned and adapted by Israel during Cold War II. Any unmodified continuance of total nuclear ambiguity concerning Israel's (a) strategic targeting doctrine; (b) secure basing modes; and/or (c) capacity to penetrate a designated enemy's active air defenses, could cause a steadily-nuclearizing Iran to underestimate Israel's retaliatory capacity or resolve. In this connection, Israel should understand that (1) even an Iranian enemy not yet authentically nuclear (i.e., not yet able to combine rockets or missiles with chain-reaction nuclear explosives) could threaten massive attacks against large cities; and (2) even an Iranian enemy still limited in nuclear ordnance to radiation dispersal weapons could be deterred by Israeli nuclear threats. These Israeli threats would likely benefit from (3) visibly antecedent shifts from deliberate nuclear ambiguity to selective nuclear disclosure; and (4) more-or-less coinciding revelations about a "Samson Option." This residual option would be oriented toward enhanced nuclear deterrence, not to any prospectively apocalyptic outcomes drawn from the Biblical Book of Judges.

In all cases, the Samson Option's sole function should be to help Israel "live," not let it "die with the Philistines."

²¹ In this connection, Jerusalem must always ensure that it does not enter into any legal agreements that might threaten its overall physical survival. Thomas Jefferson, third president of the United States, wrote about this core obligation as generic for all nations. Writing in his *Opinion on the French Treaties* (April 28, 1793), Jefferson opined: "The nation itself, bound necessarily to whatever it's preservation and safety require, cannot enter into engagements contrary to its indispensable obligations." See: Merrill D. Peterson, *The Political Writings of Thomas Jefferson*, Monticello Monograph Series, Thomas Jefferson Memorial Foundation, 1993, p. 115.

There is more. As a subsidiary but still-urgent nuclear concern, Israeli planners will need to assess the capability and intentions of Pakistan, an already-nuclear Islamic state and one that has already declared a "nuclear war fighting" concept of national nuclear deterrence. Returning to the formative lexicon of Cold War I, this non-Arab Islamic state has already taken a tangible formal shift from "mutual assured destruction" to "nuclear utilization theory." In the specialized discourse and parlance of orthodox nuclear strategic theory, this represents an overt shift from MAD (mutual assured destruction) to NUT (nuclear utilization theory).²²

By definition, any such shift could have profound legal consequences concerning the presumed likelihood of a nuclear conflict (*probability*) and the presumed injuriousness of such a conflict (*disutility*).

Examined during Cold War II, uncertainties surrounding the presumed components of Israel's nuclear arsenal could lead Iran to reach substantially incorrect conclusions. To some extent, this is because Israel's willingness to make good on any threatened nuclear retaliation could be seen as inversely related to weapon system destructiveness. Ironically, this means that because Israel's nuclear weapons were presumed too-destructive, ²³ they might not deter.

²² Several of this author's earlier books deal expressly with the pertinent distinctions. See, for example, by Louis René Beres: *The Management of World Power: A Theoretical Analysis; Apocalypse: Nuclear Catastrophe in World Politics; Reason and Realpolitik: US Foreign Policy and World Order; Mimicking Sisyphus: America's Countervailing Nuclear Strategy; Security or Armageddon: Israel's Nuclear Strategy;* and *Israel's Nuclear Strategy and US National Security* (Tel Aviv), a 2016 monograph authored by Professor Beres (with special postscript by General (USA/ret.) Barry McCaffrey.

The underlying idea here of some palpable apocalypse seems to have been born in ancient Iran (Persia), specifically, with the Manichaeism of the Zoroastrians. Interestingly, at least one of these documents, *The War of the Sons of Light Against the Sons of Darkness*, found in a Qumran cave, is a comprehensive description of Jewish military tactics and regulations at the end of the Second

Certain derivative inferences should be highlighted. To wit, any continuing policy of complete nuclear ambiguity could cause Iran (whether already nuclear or merely pre-nuclear) to overestimate the first-strike vulnerability of Israel's nuclear forces. In part, such an overestimation could be the result of too-complete silence concerning measures of national protection that had been deployed to safeguard Israeli nuclear weapons. Such silence, in turn, could be the product of Israel's perceived alignments with the United States.

A related problem would reflect Israeli doctrinal obfuscations regarding the country's defense potential, a silence that could be mistakenly taken by Iran as indication of inadequate Ballistic Missile Defense (BMD). To be maximally useful, certain strengths and capabilities of active defense (interrelated and multi-layered) would need to be revealed, perhaps in previously unimaginable operational detail. Any such revelations should always be accompanied by information pertinent to credible Israeli nuclear deterrence.

Immediately, to best understand the utilitarian and legal content of Israel's nuclear posture, designated planners should first clarify the core foundations of the state's nuclear deterrence. These foundations concern prospective Iranian attackers' perceptions of Israel's nuclear capability and its willingness to actually use this capability. Potentially, any selective telegraphing of Israel's strategic nuclear doctrine could enhance Israel's overall nuclear deterrence posture. Jerusalem would accomplish this enhancement by heightening Iranian perceptions of Israel's capable nuclear forces and by an announced willingness to use these forces in reprisal for certain designated

Commonwealth. In essence, the "Sons of Light" were expected to prevail in battle against the "Sons of Darkness" before the "end of days," and the later fight at Masada was widely interpreted as an apocalyptic struggle between a saintly few and the wicked many.

(first-strike and/or retaliatory) attacks.

Core Calculations of Israeli Deterrence

To deter an Iranian attack or an Iranian post-preemption retaliation against Israel,²⁴ Jerusalem must always prevent a rational aggressor, by threat of unacceptably damaging retaliation or counter-retaliation, from deciding to strike. Here, Israel's national security would be sought by convincing a potential and rational Iranian attacker (irrational state enemies would pose an altogether different problem) that the costs to Tehran of any considered attack would always exceed the expected benefits. Assuming that Iran: (1) values national self-preservation most highly; and (2) will always choose rationally between alternative options, Iran will refrain from launching any attack on an Israel that is presumed willing and able to deliver an unacceptably destructive response. It is in such foreseeable circumstances that Israeli nuclear weapons and doctrine would most clearly benefit from **selective nuclear disclosure.**

In particular circumstances, Iran could also be deterred by the plausible prospect of a far more limited Israeli attack, one that would be directed only at the Islamic Republic's national leaders. In usual parlance adopted by both military and intelligence communities, this unpredictable prospect would refer to more-or-less credible threats of "regime targeting." Whether credible or incredible, however, such threats could

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Regarding preemption, the obvious Israeli precedents for any such defensive moves would be *Operation Opera* directed against the *Osiraq* (Iraqi) nuclear reactor on June 7, 1981, and, later (though lesser known) *Operation Orchard* against Syria on September 6, 2007. In April 2011, the U.N.'s International Atomic Energy Agency (IAEA) confirmed that he bombed Syrian site in the Deir ez-Zoe region of Syria had indeed been a developing nuclear reactor. In this writer's judgment, both preemptions were lawful assertions of Israel's "Begin Doctrine."

prove severely problematic in legal terms,²⁵ even when compared to the more tangibly catastrophic consequences of a broad-spectrum military strike.

There would be further nuances and particularities. Always, two factors must combine to communicate **Israel's deterrent credibility**: *capability* and *willingness*. In terms of military *capability*, moreover, there are two component parts, *payload* and *delivery system*. In brief, it must be successfully communicated to any calculating Iranian attacker that Israel's firepower and its available means of delivering that firepower are *invariably capable* of inflicting *unacceptable levels of destruction*. This means that Israel's retaliatory or counter-retaliatory forces should always appear sufficiently *invulnerable* to enemy first-strikes and sufficiently *elusive* to penetrate the prospective Iranian attacker's active defenses.

It may not need to be communicated to Iran that such Israeli firepower and delivery vehicles are in any way superior. Deterrence, Israel's planners should continuously bear in mind, is not about "victory." The capacity to deter may or may

²⁵ Such legal difficulties could bring up the authoritative "Nuremberg Principles." In this connection, the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the Tribunal were affirmed by the U.N. General Assembly as AFFIRMATION OF THE PRINCIPLES OF INTERNATIONAL LAW RECOGNIZED BY THE CHARTER OF THE NUREMBERG TRIBUNAL. Adopted by the U.N. General Assembly, Dec. 11, 1946. U.N.G.A. Res. 95 (I), U.N. Doc. A/236 (1946), at 1144. This AFFIRMATION OF THE PRINCIPLES OF INTERNATIONAL LAW RECOGNIZED BY THE CHARTER OF THE NUREMBERG TRIBUNAL (1946) was followed by General Assembly Resolution 177 (II), adopted November 21, 1947, directing the U.N. International Law Commission to "(a) Formulate the principles of international law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal, and (b) Prepare a draft code of offenses against the peace and security of mankind...." (See U.N. Doc. A/519, p. 112). The principles formulated are known as the PRINCIPLES OF INTERNATIONAL LAW RECOGNIZED IN THE CHARTER AND JUDGMENT OF THE NUREMBERG TRIBUNAL. Report of the International Law Commission, 2nd session, 1950, U.N. G.A.O.R. 5th session, Supp. No. 12, A/1316, p. 11.

not be as great as the capacity to "win."²⁶ In the Israel-Iran matters at hand, "winning" should never represent a primary goal.

For better understanding, Israeli planners could think about North Korea vis-a-vis the United States. In this potentially war-prone dyad of international adversaries, the U.S. is clearly superior to North Korea in all traditional expressions of battle-readiness, but Pyongyang could still bring formidable harms to US armed forces and even to certain American civilian populations. Moreover, this is to say nothing about parallel or corollary damages that could be visited by Kim Jung Un on US allies South Korea or Japan.

With Israel's strategic nuclear forces and doctrine kept "locked" in a metaphoric basement, Iran could sometime conclude, rightly or wrongly, that a first-strike attack or post-preemption reprisal against Israel would be rational and cost-effective. But if relevant Israeli nuclear doctrine were selectively made more obvious to Iran - a disclosure concerning payload and delivery system capacities - Israel's nuclear forces could more reliably serve their existential security functions.

The second element of strategic doctrine concerning Israel's required communication of nuclear deterrent credibility is *willingness*: *How may Israel convince a potential Iranian attacker that it possesses the resolve to deliver an appropriately destructive retaliation and/or counter retaliation?* The core answer to this question should be discoverable in Israeli *doctrine*; that is, in Israel's demonstrated strength of commitment to carry out such an attack and in its operationally "usable" nuclear ordnance.

Here, too, continued across-the-beard ambiguity over nuclear doctrine could

See by this writer, Louis René Beres, at *Jurist:* https://www.jurist.org/commentary/2020/06/louis-beres-winning-war/

wrongfully create the impression of an unwilling Israel. Conversely, any doctrinal movement toward some as-yet-undetermined level of disclosure could gainfully heighten the impression that Israel was actually willing to follow-through on its now-explicit nuclear threats. In such calculations, to be sure, Jerusalem would need to ensure that its perceived "follow through" willingness not be taken by Iran as an incentive for it to strike first.

Persuasive connections would obtain between any incrementally disclosed Israeli nuclear doctrine/strategy and Iranian perceptions of Israeli nuclear deterrence. One such connection would center on the expected relationship between prospectively greater doctrinal openness and the perceived vulnerability of Israeli nuclear forces to preemptive destruction. Another such connection would concern the relationship between greater doctrinal openness and the perceived capacity of Israel's nuclear forces to reliably penetrate Iran's active defenses.

To be deterred by Israel, a newly-nuclear Iran²⁷ or any other newly-nuclear adversary would need to believe that at least a critical number of Israel's retaliatory forces could successfully survive enemy first-strikes and that these forces could not be prevented from hitting pre-designated targets in Iran or elsewhere. Regarding the "presumed survivability" component of such adversarial belief, continued or enhanced sea-basing (submarines) by Israel could become a clarifying case in point.

Carefully reasoned and articulated, expanding doctrinal openness or selective nuclear disclosure would represent a prudent option for Israel, at least to the extent that

²⁷Regarding this issue, see Louis René Beres and John T. Chain (General/USAF/ret.), "Could Israel Safely Deter a Nuclear Iran"? *The Atlantic*, August, 2012; and also: Professor Louis René Beres and General Chain, "Israel and Iran at the Eleventh Hour," *Oxford University Press* (OUP Blog), February 23, 2012. General Chain was Commander-in-Chief, U.S. Strategic Air Command (CINCSAC).

a front-line enemy state like Iran were made aware of Israel's comprehensive and secure nuclear capabilities. The presumed operational benefits of any such expanding doctrinal openness would accrue from certain deliberate flows of information about dispersion, multiplication and hardening of strategic nuclear weapon systems and certain other technical features of these systems. Most important, doctrinally-controlled and orderly flows of information could serve to remove any lingering Iranian doubts about Israel's assorted nuclear force capabilities and intentions. Left unchallenged, such doubts could lethally undermine Israeli nuclear deterrence and (correspondingly) pertinent war-avoidance expectations of international law.

The Problem of "Friction"

A key problem in refining Israeli strategic nuclear policy on deliberate ambiguity issues has to do with what Prussian military thinker Carl von Clausewitz famously called "friction." No military doctrine can ever fully anticipate the actual pace of combat activity, or, as a corollary, the precise reactions of individual human commanders under fire. It follows, *inter alia*, that Israel's nuclear doctrine must be encouraged to combine adequate tactical flexibility with selective doctrinal openness. To understand exactly how such seemingly contradictory objectives could best be reconciled in Jerusalem now presents a primary intellectual challenge to Israel's national military command authority.²⁸

In the end, Israeli planners will need to think about paths to nuclear war that include the risks of an inadvertent or accidental conflagration. Though the risks of a

²⁸ "It must not be forgotten," writes French poet Guillaume Apollinaire in "The New Spirit and the Poets" (1917), "that it is perhaps more dangerous for a nation to allow itself to be conquered intellectually than by arms."

deliberate nuclear war involving Israel and Iran could conceivably be small, the Jewish State would still be vulnerable to conflict occasioned by mechanical/electrical/computer malfunction and/or by assorted decisional errors (i.e., leadership miscalculation).

To properly assess the different but intersecting risks between a deliberate nuclear war and an inadvertent or accidental nuclear war should be regarded as absolutely overriding in Jerusalem. These risks, including various corollary legal implications, could exist independently of one another and/or could be impacted in various ways by Cold War II alignments. Israel, like the much larger United States, will continuously need to prepare for the bewildering scenarios of cyber-attack and cyber-war. Such perplexing scenarios will now need to be considered together with the unpredictably destabilizing growth of various "digital mercenaries."

One more core conceptual distinction warrants prominent mention. This distinction references the difference between an inadvertent and an accidental nuclear war. By definition, any accidental nuclear war would need to be inadvertent. Conversely, however, an inadvertent nuclear war would not necessarily need to be accidental. False warnings, for example, which could be generated by various types of technical malfunction and/or sparked by third-party hacking/digital mercenary interference, would not be included under the causes of an unintentional or inadvertent nuclear war. Instead, they would represent cautionary narratives of an *accidental nuclear war*.

Most critical among the plausible causes of any inadvertent nuclear war would be errors in calculation by one, both or several sides. The most blatant example could involve misjudgments of enemy intent or enemy capacity that would emerge and propagate as any particular crisis escalated. Such consequential misjudgments could stem from an understandably amplified desire by one or several belligerent parties to achieve "escalation dominance." *During any major crisis between Israel and Iran, it would be the mutual desire for "escalation dominance" that could prove unmanageable.*

Calculations of "Escalation Dominance"

There is more. There are variously applicable nuances. In any crisis competition for "escalation dominance," each side, acting rationally, would strive for calculable advantage without incurring too-great a risk of existential harms. But what would be the operative standards for determining rational striving? Plausibly, there would still be "opportunities" for serious misunderstanding and miscalculation. Naturally, where the risk-taking Israeli and Iranian competitors were no longer rational, all once-reassuring deterrence "bets" would be "off."

Other causes of inadvertent nuclear war between Israel and Iran could include flawed interpretations of computer-generated nuclear attack warnings; an unequal willingness between adversaries to risk catastrophic war; overconfidence in deterrence and/or defense capabilities on one or both sides; Iranian regime changes; outright revolution or *coup d'état* in Iran and poorly-conceived pre-delegations of nuclear launch authority by Iran and/or (at least in principle) by Israel.

Serious problems of overconfidence could be aggravated by successful tests of a contending nation's missile-defense operations, whether Israel or Iran. In part, these problems could be encouraged by any too-optimistic assessments of Cold War II alliance guarantees. An example might be intra-crisis judgment in Jerusalem that Washington would stand continuously behind Israel's every crisis move. Reciprocally, Iran could exaggerate the seriousness and commitment of its own preferred Cold War

II guarantor, whether Russia or North Korea. Significantly, North Korea continues to maintain close ties with both Tehran and Damascus and could conceivably act as a still pre-nuclear Iran's nuclear surrogate during intense crises with Israel.

A potential source of inadvertent nuclear war coinciding with Cold War II could be the "backfire" effect from strategies of "pretended irrationality." A rational Iranian enemy of Israel that had managed to convince Jerusalem of its own decisional irrationality could spark an otherwise avoidable Israeli military preemption. Conversely, an Iranian leadership that had begun to take seriously any presumed hint of decisional irrationality in Jerusalem could be frightened into striking first. Regarding this second scenario, it should be remembered that many years back, General Moshe Dayan, then Israel's Minister of Defense, argued: "Israel must be seen as a mad dog, too dangerous to bother."

Though analytic and science-based, Israeli thinkers and planners are facing a unique adversarial "nightmare." According to the etymologists, the root is *niht mare* or *niht maere*, the demon of the night. Dr. Johnson's dictionary says this corresponds to Nordic mythology - which regarded all nightmares as the product of demons. This would make it a play on or a translation of the Greek *ephialtes* or the Latin *incubus*. In all such interpretations of nightmare, the non-rational idea of demonic origin is central and determinative.

But the demons of nuclear strategy and nuclear war take a very different form. For the most part, their mien is not expressly incoherent, but (though often bombastic) "rational." If Iran's leaders are thought to be sinister, it is not that particular quality that should be most strategically or legally worrisome to Israel. While the state of nations

has always been in the "state of nature," at least since the seventeenth century and the historic Peace of Westphalia (1648), current conditions of nuclear capacity and worldwide anarchy portend a *sui generis* amalgam of law-violating circumstances.

Among other things, the reasons behind such dire portents lie in the indispensability of rational decision-making to nuclear deterrence and in the subtly interpenetrating fact that rational decision-making could become subject to singularly corrosive modifications. Though not reassuringly predictable, such impacts upon Iranian enemy rationality could be derived from the ever-changing dynamics of Cold War II. An example of what is being described here would be any future nuclear decisions in Tehran based in whole or in part on that enemy state's subjective interpretations of U.S./Russia/China relations.

The Complexity of Pertinent War Scenarios

With largely unpredictable enlargements of Cold War II in the offing, Israeli decision-makers should systematically prepare for progressively complex war scenarios. To manage these challenging and largely unforeseeable events, these leaders will first have to prepare for unprecedented levels of world-systemic upheaval. In some cases, these decision-maker calculations would have to acknowledge varying levels of prospective Iranian irrationality. What then?

For Israel, ultimate survival will require durable "victories" of "mind over

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²⁹ Says Thomas Hobbes: "But though there had never been any time wherein particular men were in a condition of war one against another, yet in all times, Kings and Persons of Sovereign Authority, because of their Independency, are in continual jealousies, and in the state and posture of Gladiators, having their weapons pointing and their eyes fixed on one another...(*Leviathan*).

mind."³⁰ In turn, these analytic victories will depend on prior Israeli capacities to more fully understand the context-shaping elements of Cold War II. In principle, at least, such antecedent capacities could lead Israel to consider certain ambitious preemption options. Properly, any final decisions on such residual options would be based upon (a) expectations of Iranian rationality or irrationality; (b) expected likelihood of Iranian first-strikes; (c) expected costs or disutilities of Iranian first-strikes; (d) expected schedule of Iranian nuclear or biological weapons deployments; (e) expected efficiencies of Iranian active defenses over time; (f) expected efficiencies of Israel's active defenses over time; (g) expected efficiencies of Israeli hard-target counterforce operations over time; (h) expected reactions of still-unaffected regional enemies; and (i) expected US, Russian, Chinese and world community reactions to Israeli preemptions.³¹

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³⁰ For this term I am indebted to F.E. Adcock, *The Greek and Macedonian Art of War* (1957)

³¹For early scholarly commentary by this author on anticipatory self-defense under international law, with special reference to Israel, see: Louis René Beres and (COL./IDF/Res.) Yoash Tsiddon Chatto, "Reconsidering Israel's Destruction of Iraq's Osiraq Nuclear Reactor," TEMPLE INTERNATIONAL AND COMPARATIVE LAW JOURNAL, Vol. 9., No. 2., 1995, pp. 437 - 449; Louis René Beres, "Preserving the Third Temple: Israel's Right of Anticipatory Self-Defense Under International Law," VANDERBILT JOURNAL OF TRANSNATIONAL LAW, Vol. 26, No. 1., April 1993, pp. 111-148; Louis René Beres, "After the Gulf War: Israel, Preemption and Anticipatory Self-Defense," HOUSTON JOURNAL OF INTERNATIONAL LAW, Vol. 13, No. 2., Spring 1991, pp. 259 -280; Louis René Beres, "Striking `First:' Israel's Post-Gulf War Options Under International LOYOLA OF LOS ANGELES INTERNATIONAL AND COMPARATIVE LAW Law," Vol. 14, Nov. 1991, No. 1., pp. 1 - 24; Louis René Beres, JOURNAL, Anticipatory Self-Defense," ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW, Vol. 8, 1991, pp. 89 - 99; and Louis René Beres, "After the SCUD Attacks: Israel, 'Palestine,' and Anticipatory Self-Defense," EMORY INTERNATIONAL LAW REVIEW, Vol. 6, No. 1., Spring 1992, pp. 71 - 104. For an examination of assassination as a permissible form of anticipatory self-defense by Israel, see, Louis René Beres, "On Assassination as Anticipatory Self-Defense: The Case of Israel," HOFSTRA LAW REVIEW, Vol. 20, No. 2., Winter 1991, pp. 321 - 340. For more general assessments of assassination as anticipatory self-defense under international law by this author, see: Louis René Beres, "The Permissibility of State-

Israel's "ace-in-the-hole" regarding direct military aggression from Iran lies in nuclear deterrence and in its correlative capacity to achieve "escalation dominance" without eliciting uncontrollable conventional war or ultimately a nuclear war. This deterrence objective could represent an existential challenge for Israel even before the Islamic Republic of Iran became an authentic nuclear power. At some point, a still prenuclear Iran, together with various state and sub-state allies/proxies, could push Israel toward the escalatory brink, this leaving Jerusalem with just a binary choice between asymmetrical nuclear weapons use and outright Israeli capitulation. The only way for Jerusalem to prevent or modify such an intolerable choice would be to upgrade its life-saving nuclear deterrent from the specific standpoints of **selective nuclear disclosure** and a tactically-meaningful "Samson Option."

Recalling the Irish Playwright's *Waiting for Godot*, Israel's least reasonable option is to "do nothing." In this matter of national self-preservation, confronting a still pre-nuclear Iran in conventional war would be much more reasonable. Optimally, any such necessary war would be initiated by Iran and would render unnecessary any "bolt-from-the-blue" Israeli preemption. In a next-to-worst case scenario, Israel would be forced to strike certain hard military targets in Iran as a first move of war, and not as a reprisal. A worst-case scenario would be to allow Iran to "become nuclear" and effectively eliminate Israel's previous survival advantage.

In circumstances where competitive risk-taking could no longer be undertaken

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Sponsored Assassination During Peace and War," TEMPLE INTERNATIONAL AND COMPARATIVE LAW JOURNAL, Vol. 5, No. 2, 1991, pp. 231 - 249; and Louis René Beres, "Victims and Executioners: Atrocity, Assassination and International Law," CAMBRIDGE REVIEW OF INTERNATIONAL AFFAIRS, Winter/Spring, 1993.

by Israel with strategic advantage, Jerusalem could no longer count on maintaining intra-crisis "escalation dominance." While it is plausible that Israel would still display nuclear superiority vis-à-vis Iran, such a seemingly advantaged position would still remain subject to a broad variety of enemy misperceptions and miscalculations. Though Jerusalem could incrementally leverage its then-apparent nuclear superiority vis-a-vis Iran, that capacity would be contingent upon a prior Israeli shift from "deliberate nuclear ambiguity" to "selected nuclear disclosure."

All things considered, to avoid having to face a nuclear Iran, Israel's only rational course must be to "do something" and to do it soon. More precisely, Israel should do what it takes to prevent Iran from crossing the nuclear threshold, an unambiguous imperative that could be satisfied within the bounds of authoritative international law. Failing this law-based obligation, Israelis would face not "only" existential missile aggressions from Iran, but also escalating/synergistic assaults from Hamas, Hezbollah and kindred criminal-terrorist groups. Though Israel's record of Iranian missile interceptions during the April attacks was markedly successful, nothing short of 100% interception reliability could be acceptable where launched enemy warheads were nuclear. Foreseeably, at least, no 100% level of interception reliability would be possible.

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