



# National Security Law Report

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## Latin America and New U.S. National Security Concerns for the Year 2000

by John Patrick Quirk

While the rest of Latin America prospers in democracy, significant problems in that region loom for the national security of the United States. The countries at issue are Venezuela, Colombia, Panama and the seemingly ever lasting problem – Castro’s Cuba.

Traditionally, United States national security issues have focused on priority areas of Europe and Asia, and more recently the Middle East. Progress in all of these areas, with possibly the exception of China, seem to be going well for U.S. national security policy. More traditionally, the United States has usually ignored matters south of the border, although FDR’s Good Neighbor Policy and John Kennedy’s Alliance for Democracy were efforts to “pay attention” to our Latin neighbors. These policies were replaced with a harder line against communism as Castro exerted efforts for over 20 years to export revolution all over Latin America. Cuba also assisted Allende in Chile and the Macheteros in Puerto Rico, and ultimately his efforts instigated the war in Nicaragua and El Salvador. These wars and other low-intensity conflicts have always had the United States trying to preserve the status quo by supporting democracy and right-wing governments which were fighting communists.

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## The 21st Century Pirate: Modernity of an Ancient Scourge

by Douglas Kash

Piracy is back; actually, it never left and is on the rise. In fact, pirate attacks against large ships have doubled during the 1990’s to approximately 300 per year with more than 75 percent of such attacks occurring in Asian waters. Since 90 percent of world trade is shipped via maritime commerce, piracy is not a regional issue.

Piracy is defined as robbery or forcible depredation on the high seas, without lawful authority, done *animo furandi* and in the spirit and intention of universal hostility for private ends. Congress has not specifically defined piracy, but provided for the punishment of any person who on the high seas commits a crime of piracy as defined by the law of nations. 18 U.S.C. sec. 1651. In United States v. Smith, 18 U.S. (5 Wheat) 153, 156-57 (1820), the defendant contested his conviction arguing that the Piracy Clause (U.S. Const. Art. I sec. 8, cl.10) compelled Congress to specifically define “piracy.” Justice Story concluded that Congress did not misuse its power to define and punish when it outlawed piracy without specifying the elements of the crime, since international law defined the crime with reasonable certainty. Universally, it is accepted that piracy is a crime against humanity (by *hostis humani generis*), an offense against the law of nations. Hence, neither the nationality of the perpetrators nor victims, nor the national character of the vessel, governs the situs of the trial. However, a person acquitted of piracy in one country might assert the plea of *autrefois acquit* in another country.

Contemporary analysis begins with the Republic of Bolivia v. Indemnity Mutual Marine Assurance Co., (1909) 1 K.B. 785 (Eng. C.A.), which ruled that piracy must be an act on the high seas, within international jurisdiction which is carried out for private gain. The Permanent Court of International Justice refined this definition in 1927 and added that the “distinctive mark of piracy is independence

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## Latin America . . .

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Recent and dramatic changes are taking place now in Venezuela and Colombia, and the specter of another Vietnam is being recalled. What is happening in the *norte* of South America and how does it effect policymakers on U.S. national security? In Colombia, the left wing FARC Army (believed to be anywhere from 20,000 to 50,000 strong) and several much smaller communist groups have seriously damaged the morale of the country, the economy, and the government. Over the next few months some believe they will be able to take over large portions of the country. Recently, these groups have obtained sophisticated weaponry and their alliance with narco-traffickers has accelerated kidnappings of the wealthy and foreigners, assassination of journalists, and prominent government officials – just like the prelude to Vietnam. Large numbers of Colombians are fleeing to the United States, capital flight is increasing, and the economy is in shambles.

Notwithstanding a dramatic class structure and social divisions, Colombia had viable manufacturing, textile, printing, flower, and coffee industries. Class was always a concern, but a democratic government was making progress in developing a middle class although problems of poverty, right-wing militia death squads, and social problems in rural areas remain dramatic. Although Colombia has long been a major cocaine exporter, it appears that the FARC Army is now allied with the wealth of the narco-traffickers and continues to undermine Colombia's democratic government. The FARC Army does not need Castro's support. It is a group of tough dedicated Marxists who have large amounts of money and weapons. It is also well-equipped and trained, and would be a formidable adversary even against the U.S. Army. The Clinton Administration is aware of the problem and seems to be leaning towards giving \$1.5 billion in aid, but is in a dilemma about increasing military advisors – a conundrum Presidents Eisenhower and Kennedy faced decades ago in Indochina.

Venezuela – Latin America's oldest democracy – is also experiencing turbulence in its government. Hugo Chavez, a former military officer, was democratically elected, but after taking office in 1999, he proposed a communist constitution which dismantled the country's Supreme Court and Congress. Chavez is both an admirer of Simon Bolivar and Fidel Castro. He has increased his liaisons with Castro, and has increased his Cuban-style security arrangements in Venezuela. Chavez was once thought of as an anti-corruption revolutionary, and then as an outright communist (his two chief ministers are former Communists), but he is now regarded as a "crazy man" by many Venezuelans. Not to be deterred, Chavez is divesting capitalists of their land and homes, plans on sealing the borders (Adolf Hitler also did this), and has opened nego-

tiations with the left-wing guerrillas of Colombia. Rumors also have it that Venezuelans are being trained in espionage and trade craft in Cuba. Capital investment and the middle class is fast disappearing in this oil rich country. Chavez has signed a deal giving Castro what amounts to be free oil for his energy starved nation, and on a recent visit to Cuba he told Castro he plans to model Venezuela on Castro's Cuba.

Control of the Panama Canal zone has now been returned to Panama, and the Chinese already have economic bases at both ends of the canal manned by cadres of the Chinese Army. Although experts say fears of a Panama Canal problem are exaggerated because of new technology, it will be the first time in almost a century the United States has no stake in the operations, security, or management of the Panama Canal. Problems in Colombia, which once owned Panama, and Venezuela could easily expand into Panama. To start this millennium, the United States will face its first and possibly largest foreign policy challenge and threat to its national security in its own backyard – the expansion of hostile anti-American, left wing governments connected to narco-traffickers and Fidel Castro. Unlike Vietnam which was 15,000 miles away, this threat is geographically much, much closer.

What should the United States do about two major left wing, anti-American countries – one that ships cocaine all over the world and the other a major supplier of oil to the

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## Book Review



*A G-Man's Journal: A Legendary Career  
Inside the FBI — From the Kennedy  
Assassination to the Oklahoma City Bombing*  
by Oliver "Buck" Revell and Dwight Williams  
Pocket Books (Simon & Schuster) (1998)

Pages: 527 Price: \$24.00

Reviewed by Professor Edgar H. Brenner

In telling the story of his distinguished FBI career, Buck Revell gives an insider's account of the Bureau's turbulent history from 1964 to 1994. As a young agent, Revell had his first meeting with Bureau Director J. Edgar Hoover at which the expansive Hoover told him that "it was the Attorney General, Bobby Kennedy, who came up with a memorandum instructing us to undertake an investigation of (Martin Luther) King, including the use of electronic surveillance."

Revell rose to the position of Associate Deputy Director in charge of investigations, a career path that put him in the center of major cases. He masterminded the apprehension of terrorist Fwaz Younis, who had participated in the 1985 hijacking in Beirut of a Royal Jordanian Airliner. The plane was eventually blown up in Beirut after the hijackers were denied permanent asylum in Larnaca, Cyprus, and Palermo, Sicily. Three Americans were on board, thus giving the United States jurisdiction under the Hostage-Taking Act of 1984. The FBI, assisted by the DEA and CIA, lured Younis with expectations of drug trade profits to Cyprus and then on to an FBI-chartered yacht sailing in international waters, slightly more than twelve miles off the coast of Cyprus. Younis was apprehended on the yacht, and read his Miranda rights in Arabic. With the resources of the United States Navy in play, he was transferred to an aircraft carrier and then flown to the United States nonstop to avoid contact with any other country and the legal issues such contact might involve.

Subsequent chapters recount such dramatic events as his involvement in the investigation of the bombing of Pan Am 103, "the FBI's first large-scale cooperative international investigation resulting in indictments being handed

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## Defending Against the Rogue: Deterrence and Building A U.S. National Missile Defense System

by Glenn T. Ware

The National Missile Defense (NMD) system, currently being developed by the Ballistic Missile Defense Organization (BMDO), is intended to serve as an active defense to limited missile attacks<sup>1</sup> against the United States homeland.<sup>2</sup> On January 21, 1999, Secretary Cohen announced a restructuring of this program which now targets deploying an NMD system in the year 2005.<sup>3</sup> However, driving towards deployment does not mean that a deployment will occur. A decision to deploy such a limited NMD system will not be made earlier than July 2000, at which time a technology review will occur to determine if NMD system technology is mature enough to deploy.<sup>4</sup> This then begs the question, what does the United States do until 2005 to defend itself against a growing rogue state threat or an accidental or inadvertent launch from a ballistic missile capable country?

### The Threat

The Rumsfeld Commission stated that "[c]oncerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces and its friends and allies."<sup>5</sup> This finding was driven home by the surprise August 31, 1998 launch of a North Korean three-stage Taepo-Dong 1 missile.<sup>6</sup> With the North Koreans now on the verge or having already acquired the ability to launch an ICBM, the threat is now real and growing to include countries such as Iran and Iraq.<sup>7</sup>

### Options until Deployment of an NMD System

Currently the United States does not have an active defensive system on line to shoot down an incoming ICBM.<sup>8</sup> In fact, the ABM Treaty of 1972 between the United States and the Soviet Union was designed to limit defensive capability as part of the doctrine of mutual assured destruction (MAD). This treaty is still considered a cornerstone of our strategic stability.<sup>9</sup> Accordingly, until an "active defense"<sup>10</sup> system is available, the United States must resort to other means to defend against and deter an attack against its homeland. The rest of this article is a general description of the broad categories of action being undertaken by the United States in response to the growing threat of a ballistic missile attack.

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## Latin America . . .

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United States – and their small stepsister which controls international shipping through the Panama Canal? The specter of Vietnam still haunts policy makers. Do we give aid to Colombia and “hope” for change, or do we get heavily involved and send more military aid to Colombia and “build up our forces in the area?” Castro, the FARC Army, and Hugo Chavez all know the lessons of Vietnam, and will use them to their advantage against the U.S.

Another problematic factor is the U.S. intelligence community. Since the end of the Cold War, both the FBI and CIA have been searching for new missions. The FBI in terms of Latin America collection and domestic terrorism is woefully understaffed, under-financed, and under-trained in Latin American matters. This is ironic as the FBI single handily destroyed Nazi intelligence in Latin America during World War II. The CIA is also constrained because of its former abuses and Iran-Contra involvement. All covert operations must be approved by the President and briefed to Congressional oversight committees, and are subject to frequent leaks to the media. Many third world intelligence services have been trained by CIA, the old KGB, or the Cubans, and are wise to CIA methods of recruitment and trade craft. Castro has also been training Venezuelans in the skills of counterintelligence. Chavez could also learn about counter-insurgency and terrorism from the FARC Army if he continues contact with them.

Finally, the U.S. Southern Command – the Pentagon’s spear tip for Latin America – based in South Florida, is a mere intelligence and logistic base woefully unprepared for major terrorism, refugees, and destabilization, let alone war. Military problems could be exacerbated by large numbers of illegal immigrants from Colombia and Venezuela as well as terrorists that could target Miami, which is considered the “capital” of Latin America. Mexico, a major transit route for drugs to the United States, could also be used as a conduit for terrorism. Any new Administration in the United States will have tough decisions to make. Do we drop the embargo against Cuba and outmaneuver Castro and his brother Raul who is even more anti-American and possibly Castro’s successor? Or, do we keep the embargo in place? Do we start to sanction Venezuela, a longtime friend, or begin to use covert action against Chavez’ communist-leaning government? What policy should the United States develop to protect its national security interests in Panama? Since President Carter signed over the Panama Canal, the U.S. has had a wait and do nothing policy. Colombia poses the biggest problem. Should the United States expand aid and get involved in another Vietnam, or do we take the opportunity to eliminate both the left-wing army there and their drug producing allies? Although there is no Soviet Union to be a foil to us in the region, world opinion would be against the United States if it used or supported military force.

Latin America has had little or no U.N. involvement compared to Somalia, Kosovo, or East Timor. The U.N. would likely continue to stay out of it or criticize the U.S., preferring to side with the third world. The EEC members would welcome an opportunity to trade with Latin America at the expense of long-standing U.S. markets. Other dangers are home grown. Right wing militias in the U.S. are already paranoid about immigration from Latin America, and their cockeyed anti-government views might encourage more domestic terrorism as the militias continue to stockpile weapons and blame the U.S. government for everything. A pro-Communist takeover of the north of Latin America almost on our borders could be the catalyst for more militia activity and domestic terrorism. The U.S. must bring its best and brightest national security strategists together to develop a coherent strategy toward Latin America immediately.

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## Piracy . . .

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or rejection of State or other equivalent authority” with the exclusion of political crimes, leaving those acts committed for personal gain. *S.S. Lotus*, (France v. Turkey), 1927 (ser. A) No. 9, at 70 (Sept. 7). Post-World War II witnessed further attempts to define “piracy” with the 1958 Geneva Convention on the High Seas, which ultimately led to the 1982 United Nations Convention of the Law of the Sea. 21 I.L.M. 1261(LOSC). LOSC confirms the “private ends” element and requires the act to be outside of the jurisdiction of a State by those intending to commit an act of piracy. The LOSC also allows for the seizure of a pirate vessel by warships or other ships clearly marked and identifiable as being authorized to act in the service of a government but only if that ship has a reasonable belief that the suspect vessel is engaged in piracy.

The new breed of pirates consists of well-organized bands of trained mercenaries typically working on behalf of international crime syndicates. According to Arthur Bowring, director of the Hong Kong Shipowners Association, their actions can be classified as high-seas terrorism. Contemporary pirates engage in robbery, hostage taking, and murder. One can foresee threats by pirates who hijack a large container ship loaded with oil and threaten a country with releasing the oil and wreaking environmental havoc on that nation’s coast and economy.

While ships can be valuable targets, the real value lies in the cargo. Since the ownership of cargo may legitimately change many times during a routine transit, bills of lading can be easily forged. Some pirate tactics call for night-time boarding with grappling hooks, by men armed with automatic weapons and grenade launchers,

guided by high-tech radar systems and launched in speed boats from "mother ships." Large tankers make especially tempting targets when stocked with cargo since the space between the waterline and deck, referred to as the "free-board," is at its smallest, making boarding a fairly simple exercise. Other pirate tactics are much more simplified and employ "phantom" ships, which are usually older scrap-destined ships outfitted with fake registration documentation. Unsuspecting distributors, seeking bargain transshipment rates hire these ships to deliver their cargo. Once out to sea, the ship changes its name and the cargo is rerouted for the syndicates' benefit, which can generate more than \$50 million in annual income.

The crime of piracy is not a crime against any specific nation, and consequently, the United States can assert jurisdiction without regard to territorial limits even if the offense was committed on a ship under the flag of a different country. If prosecuted in a federal court, the offender is tried in the district where he was apprehended or where he first entered U. S. territory. It is not necessary for the indictment to identify the location on the high seas at which the crime was committed; rather it is only necessary to assert that the offense occurred on the high seas within the admiralty and maritime jurisdiction of the United States. The "high seas" is generally understood to be greater than three nautical miles from shore, equivalent to a marine league (although in 1988, President Reagan proclaimed an extension of the U.S. territorial sea to twelve miles). Any criminal acts committed within the territorial sea, is typically subject to the criminal jurisdiction of that nation.

Some measures combating piracy have been enacted in recent years. Most notable is the cooperation between the International Chambers of Commerce and the London-based International Maritime Bureau (IMB) which represents international shipping companies. The IMB established the Regional Piracy Center in Malaysia that tracks piracy. Another project comprised of banks, insurers, shipping companies, and the European Union is creating a system to provide electronic bills of lading. Some private companies are offering rapid-response protection teams to shippers worldwide. In addition, training and arming crewmembers along with secreting satellite-tracking devices in the cargo are other safeguards now available. Finally, some suggest the creation and formalization of legislative initiatives and regional "piracy charters" to coordinate government intelligence and enforcement cooperation.

As the sole world superpower, the United States has some unquantified responsibility to maintain the integrity and safety of the world's waterways as it directly affects international seaborne commerce. Industry analysts suggest that the number and nature of pirate attacks are

specifically under-reported for fear of retribution and government investigations (causing delays, increased insurance costs, and fear among crew members). More publicity and vigilance, including international intelligence sharing, enforcement operations, and prosecutions will lead the way in curing this ancient scourge.

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## Defending Against the Rogue . . .

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### A. Diplomatic/Legal Strategy

**1. Economic Sanctions.** The traditional mechanism that is relied upon by the international community to diffuse a crisis or convince a state to change its policies is the use of "economic sanctions." Economic sanctions can be defined as "deliberate government actions to inflict economic deprivation on a target country of customary trade or financial relations."<sup>11</sup> Sanctions can take many forms and have various impacts on target countries.<sup>12</sup> Sanctions can be applied unilaterally or multilaterally, often through an international organization.<sup>13</sup> In the case of North Korea, Iran, Iraq, and Libya, the United States is pursuing a robust sanction regime.<sup>14</sup> These sanctions are designed in part to prevent these target countries from acquiring the resources necessary to produce ballistic missiles and their warheads.<sup>15</sup> The United States also supports U.N. efforts to thwart the ability of a target country from acquiring ballistic missile technology.<sup>16</sup>

**2. Diplomatic pressure backed by the threat of military action.** Nation states can use traditional diplomatic initiatives (backed by the threat of use of force) either unilaterally or through international organizations such as the U.N. to compel a target country to conform its practices. The United States demonstrated this practice recently when attempting to force Iraq to comply with U.N. Security Council resolutions.

**3. Arms Control Measures.** The international community has made wide use of arms control treaties in an effort to stem the proliferation of ballistic missiles. The Nonproliferation Treaty, North Korea Framework Agreement, and the INF Treaty are major international agreements designed to prevent the proliferation of theater ballistic missiles. START I and II are international agreements designed to limit the number of strategic ballistic missiles. Cooperative threat reduction measures such as the Nunn-Lugar program assist the Russian Government in its control of the strategic forces of the former U.S.S.R.

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## Book Review by Brenner . . .

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down against officers of a foreign government engaged in acts of terrorism against the United States." Revell notes that Pan Am 103 was the largest and most extensive investigation in FBI history. In the concluding pages, Revell assesses the serious threat to the United States and world society presented by international crime, particularly terrorism and drug trafficking. His observations are provocative. Particularly troublesome is his assessment of the lack of coordination and strategic planning. Revell states:

Yet the government has no system to carry out its critical duties. What we do have is over one hundred forty Federal agencies in fourteen separate cabinet-level departments or as independent entities exercising some type of law enforcement authority. No one is in charge, no one is responsible, no one is even coordinating the disparate activities of the various agencies. The Attorney General is supposedly the nation's chief law enforcement official, but she has only half a dozen of the agencies within her depart-

ment and no real authority over those in other departments. In Federal law enforcement there is no strategic planning, no shared mission or central coordination. All agencies essentially go their own route to whatever destination they have established as their goal.

Revell proposes the creation of a Presidential Commission to study the current situation and to create "an entirely new and refocused Federal law enforcement establishment." Revell supports the creation of a Federal Department of Law Enforcement entirely separate and detached from the Department of Justice. The new Department would include the FBI, DEA, Marshals Service, BATF, INS, U.S. Customs Service, and the U.S. Secret Service. The mission of the new Department would be focused by repealing federal criminal "statutes that do not represent a true Federal interest of responsibility." Buck Revell's far reaching and important proposals, made as they are by a uniquely qualified law enforcement professional, deserve thorough governmental and public consideration.

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## Defending Against the Rogue . . .

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**4. Legal Regimes.** Critical to the development of the threat posed by ballistic missiles is possession of 'bomb quality' material. Included in this category would be the essential components to construct a ballistic missile and to arm it with a weapon of mass destruction (nuclear, chemical, or biological). Legal scholars have proffered international legal regimes developed with arms control organizations and criminal law enforcement working together to prohibit the flow of the materials to build ballistic missiles.<sup>17</sup> The United States has taken steps through the enactment of both domestic legislation and international treaties to help identify, investigate, apprehend, and prosecute individuals who are supporting the efforts of rogue countries to develop ballistic missile technology.<sup>18</sup>

### **B. Military Action**

The Department of Defense has a robust policy to ensure that the U.S. military is prepared to provide a flexible array of military options to national decision makers should an active threat against the United States or its interests arise.<sup>19</sup> The capability to destroy or disrupt an adversary's ballistic missile infrastructure, and do so with minimal collateral effects, is a top priority of the military Commanders in Chief.<sup>20</sup> In pursuit of this effort, the United States maintains a forward presence which enables

national decision makers the option to react quickly to changing threat scenarios. The benefit of the forward presence of military forces and their ability to project power in Europe and Asia is constantly being demonstrated as a result of changing world events.<sup>21</sup> For example, in Korea, the United States maintains the U.S. 7<sup>th</sup> Air Force, including the 8<sup>th</sup> and 51<sup>st</sup> Fighter Wings, and the 8<sup>th</sup> Army, including the 2<sup>nd</sup> Infantry Division. In Japan, the United States maintains the 5<sup>th</sup> Air Force, the Navy's Seventh Fleet, including the USS KITTY HAWK carrier battle group, an amphibious readiness group, III Marine Expeditionary Force (MEF), 9<sup>th</sup> Army Theater Area Army Command, and the 1<sup>st</sup> U.S. Army Special Forces Battalion.<sup>22</sup> The key to successful early employment of these forces is a robust theater and national intelligence collection systems. These collection systems must provide timely and accurate indicators and warnings that would permit military forces time to act against a potential threat.

In addition to its conventional forces, the United States maintains both active theater and strategic nuclear forces in order to deter a would be aggressor from using weapons of mass destruction against the United States. Put more bluntly, the single most effective weapon the United States possesses to defend itself against a ballistic attack is in fact psychological. Adversaries know that attacking the United States will most assuredly result in a devastating lethal and proportionate response by the United States. Accordingly, until we obtain an active defensive system,



the United States must continue to give 'assurances' to our adversaries that an attack against the United States will never go unanswered.

The call for the use of 'pre-emptive strikes' against a country threatening the United States when other efforts such as legal and diplomatic efforts fail is justified under Article 51 of the U.N. Charter. In the case of North Korea, some have even called for pre-emptive air strikes against facilities manufacturing critical weapons of mass destruction, including nuclear facilities.<sup>23</sup>

### Summary

Defending the United States against a ballistic missile threat requires a multi-functional response. This approach is currently being pursued by the United States in response to the growing ballistic missile threat. The development of an NMD System, while extraordinarily important, it is but one part of this multi-functional response. The United States does not stand defenseless in its ability to defend itself against the threat of ballistic missile attack. We have enacted widespread domestic legislation to stem the flow of technology to rogue nations. We have allied with treaty partners and international organizations to sanction countries attempting to threaten the United States and peaceful nations. Most importantly, we maintain sizeable conventional, special, and nuclear military forces capable of striking any would be aggressor prior or after the launch of a ballistic missile attack. While these defenses have worked to date, the ability to knock down an incoming ballistic missile, both theater and strategic is an active defense the United States must have to defend itself against a country that does not feel deterred by more classical means or which acts irrationally or accidentally.

<sup>1</sup> BMDO, FY 2000-2005 Program Objectives Memo.

<sup>2</sup> Executive Summary of the Report of the Commission to

Assess the Ballistic Missile Threat to the United States (Rumsfeld Commission), July 15, 1998 (unclassified).

<sup>3</sup> Press briefing by Robert Bell, Special Assistant to the President for National Defense and Arms Control, PRESSWIRE, Jan. 22, 1999

<sup>4</sup> *Id.*

<sup>5</sup> *Supra*, note 2.

<sup>6</sup> John Omicinski, *Threats from North Korea prompt action on national missile defense*, Gannett News Service, Jan 20, 1999. Paul Mann, *Rumsfeld Rejected*, Aviation Week & Space Technology, Aug 31, 1998 (Previous to the launch of the Taepo-Dong 1, the Rumsfeld Commission assessment that a outlaw nation such as North Korea could acquire an ICBM capability in a short time was deemed an unlikely development.)

<sup>7</sup> Comments by Mr. R. James Woolsey, former Director, CIA and member of the Rumsfeld Commission at National Security Law forum on the ABM Treaty, Rayburn House Office Building, February 18, 1999.

<sup>8</sup> *Dole, Gingrich Back A System to Prepare for Rogue Attack*, AP Reports, St Louis-Dispatch, Mar. 22, 1996, 9A. Many Americans falsely believe that the United States has a defense system in place to shoot down incoming ICBM.

<sup>9</sup> Comments by Mary E. Hoinkes, General Counsel, Arms Control Disarmament Agency, National Security Law Forum on the ABM Treaty, Rayburn House Building, Feb. 18, 1999.

<sup>10</sup> 1997 Counterproliferation Program Review Committee, Report to Congress 1997 at 5-6.

<sup>11</sup> Joeng Hwa Pires, *North Korean Time Bomb, Can Sanctions Defuse it? A Review of Int'l Economic Sanctions as an Option*, 24 Ga. J. Int'l & Comp L. 307, 310, 1994.

<sup>12</sup> *Id.* A ban on imports from the target state is intended to produce a shortage of foreign exchange and unemployment in export industries; a ban on exports to the target state is intended to deprive it of essential commodities. Financial sanctions can deprive the target of access to foreign capital and money markets. Interference with communication can

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have serious economic effects, as well as producing a psychological feeling of isolation. *Id.* at 311.

<sup>13</sup> *Id.*

<sup>14</sup> The Office of Foreign Access Control, Dept of Treasury, administers and enforces economic and trade sanctions against targeted countries. See their website for a comprehensive listing of sanctions the United States maintains against other nations at [www.treas.gov/ofac](http://www.treas.gov/ofac).

<sup>15</sup> See Emergency Economic Powers Act 50 U.S.C 1701.

<sup>16</sup> For example, UN Security Council Resolution 687 calls for Iraq to eliminate its NBC weapons and missiles and forbids it from developing, producing, or possessing any NBC weapons or missiles. This resolution is actively supported by the United States in its effort to eliminate the threat of ballistic missile attacks by Iraq.

<sup>17</sup> Barry Kellman & David S. Gualtieri, *Barricading the Nuclear Window-A Legal Regime to Curtail Nuclear Smuggling*. 1996 U. Ill. L Rev. 667, 1996.

<sup>18</sup> See generally, 18 U.S.C. 831 (prohibits transactions of

explosives and other dangerous articles); 22 U.S.C.A. 2778 (Military export controls); 22 U.S.C.A. 2799aa-1 (nuclear proliferation controls).

<sup>19</sup> The United States Security Strategy for the East Asia-Pacific Region, 1998, available at [www.defenselink.mil/pubs/easr98/](http://www.defenselink.mil/pubs/easr98/).

<sup>20</sup> 1997 Counterproliferation Program Review Committee, Report to Congress 1997 at 5-6, available on website [www.defenselink.mil.pubs.prolif97/](http://www.defenselink.mil.pubs.prolif97/).

<sup>21</sup> *Surpa*, note 19.

<sup>22</sup> *Surpa*, note 19.

<sup>23</sup> Mark Newcomb, *Non-Proliferation, Self-Defense, and the Korean Crisis*, 27 Vand. J. Transnat'l L. 603, 1994, Thomas E. Ricks, *Nightmare Prospect of Nuclear Rogue State Makes North Korea the Hot Spot that Worries U.S. Most*, Wall St. Journal, Feb. 3, 1999, A24.

*Glenn Ware is an international law attorney currently on active duty with the Judge Advocate General Corps of the United States Navy. ABA*

## James L. Pavitt, CIA Deputy Director for Operations, Addresses the Standing Committee

*During its October 1999 business meeting, the Standing Committee was honored to have as dinner guests James L. Pavitt, the CIA Deputy Director for Operations, and his wife, Carolyn Pavitt. After dinner, Mr. Pavitt addressed the Committee off-the-record. His warm and thought provoking remarks demonstrated his patriotism, dedication to duty, and sincere concern for the welfare of the people within the United States intelligence community who serve under his charge.*

James L. Pavitt was appointed Deputy Director for Operations at the Central Intelligence Agency on August 1, 1999, after serving as Associate Deputy Director for Operations from July 1997 through July 1999.



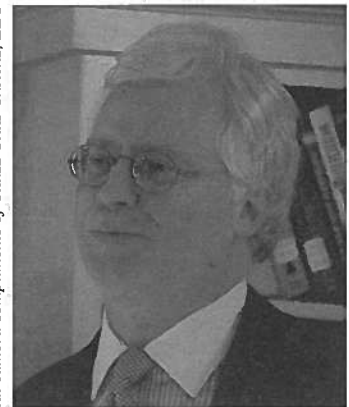
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*James Pavitt, CIA Deputy Director for Operations.*

Mr. Pavitt served previously as Chief of the Counterproliferation Division in the Directorate of Operations. In February 1993, Mr. Pavitt was named Deputy Director of the DCI Nonproliferation Center.

In August 1990, Mr. Pavitt was detailed to the National Security Council as the Director for Intelligence Programs. In this capacity, Mr. Pavitt was responsible for NSC-mandated intelligence programs and served as an advisor on a variety of intelligence issues. In June 1992, President Bush appointed Mr. Pavitt Special Assistant to the President for National Security Affairs and Senior Director at the National Security Council for Intelligence Programs. He joined the Central Intelligence Agency in 1973 as a Career Trainee after serving in the United States Army from 1969-1971 as an intelligence officer. He is a member of the Senior Intelligence Service.

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**James L. Pavitt**