

THE END OF ARMS CONTROL BASHING?

The Reagan Administration now has an unprecedented agreement on reducing strategic nuclear arms within its grasp. However, progress is tied to the future of the Anti-ballistic Missile Treaty.

BY JANE BOULDEN

IN THE EUPHORIA THAT SURROUNDED the signing of the Intermediate-range Nuclear Forces (INF) Treaty in Washington in December, interest focussed on the fact that the Euro-missiles were being dismantled and eliminated. Further, the Treaty was achieved by Reagan "the Cold Warrior," and in circumstances where there is a widespread perception of a new era in Soviet politics. But more importantly, the summit held out the tantalizing possibility of agreement on major cuts in strategic offensive weapons. The stumbling block to that greater achievement, however, is the lack of agreement on the Anti-ballistic Missile (ABM) Treaty.

The Soviet Union and the United States continue to hold fundamentally different views about what this agreement actually means. The way the leaders dealt with the problem in Washington was to agree to ignore it while their negotiators got on with other parts of a strategic weapons deal. The summit final communiqué instructed negotiators on both sides to:

... work out an agreement that would commit the sides to observe the ABM Treaty, as signed in 1972, while conducting their research, development and testing as required, which are permitted by the ABM Treaty, and not to withdraw from the ABM Treaty for a specified period of time.

The language of the communiqué carefully avoided the issue of whose Treaty interpretation was right; as a "senior Administration official" later told the *New York Times*, "We explained our position. They explained their position. We got some fudged language." In the months to come,

therefore, the complex dispute about the meaning of the Treaty terms is likely to be centre stage in Soviet-American arms control negotiations.

The ABM Treaty prohibits each side from building a territorial defence against ballistic missiles and specifies what kind of limited defences are permitted. The Treaty provides for review conferences at five-year intervals; two conferences have been held, one in 1977 and another in 1982. A third must occur, according to the language in the Treaty, by the end of the fifth year or in this case before October 1988. What are the events that have brought us to the point where the ABM Treaty is the key to future reductions in the superpowers' strategic nuclear arsenals? What role could the review conference play in moving towards strategic reductions?

AT THE TIME OF THE FIRST REVIEW conference in 1977, the Soviet Union and the United States were in the midst of negotiating the SALT II treaty. As a result there was little question that both sides wanted to continue to abide by the Treaty's terms and they issued a joint statement emphatically confirming their support for its provisions. A different atmosphere surrounded the 1982 review. The new Reagan administration had come to power with an anti-Soviet, anti-arms control attitude, raising questions about Soviet arms control compliance. Although the 1982 statement was somewhat less enthusiastic than its predecessor, both parties "... reaffirmed [their] commitment to the aims and objectives of the Treaty ..."

In October 1985, unilaterally and two years ahead of schedule, the Reagan administration undertook its own review of the Treaty's provisions. The review claimed that, contrary to general belief, the ABM Treaty allowed development and testing of ABM technologies based on new physical principles (those that would form the base for the "Star Wars" shield). Only deployment of such systems was prohibited.

Under the US Constitution international treaties must be ratified by a two-thirds majority of the US Senate. When the Senate ratified the Treaty in 1972, it did so based upon the understanding, communicated to it by Administration officials of the day, that the Treaty restrictions applied in a way that is now known as the traditional or narrow interpretation. With the announcement that its own "broad" interpretation of the Treaty was legally valid and that the US had the right to act on that interpretation, the Reagan administration effectively overrode the Senate's constitutional role.

Two extensive reports have been released as part of the internal battle that has ensued between Congress and the Administration. State Department legal advisor Judge Abraham Sofaer has released previously classified sections of the negotiating record to prove the legality of the Administration's position. Senator Sam Nunn has had access to the negotiating record and has led the counter-attack. In response to the Sofaer report he stated: "... the Reagan administration is in serious error on its position ... wrong in its analysis of the Senate ratification debate; wrong in its analysis of the record of subsequent practice, ... and

wrong in its analysis of the negotiating record itself."

The Senate Foreign Relations Committee has taken the issue further. In a report issued in September 1987 the Committee reiterated that the reinterpretation was a challenge to the Senate's constitutional role. It warned Reagan that if he continued to hold to the broad interpretation it would delay ratification of the INF treaty. And in November, after efforts by Congress to legislate its narrow interpretation of the Treaty, the Administration and Congress reached a compromise on future testing of Star Wars technologies which effectively restricts testing in the near-term (fiscal year ending October 1988) to that which falls strictly within the traditional, narrow interpretation of the Treaty.

After the reinterpretation announcement, the US was quick to reassure nervous allies. The Strategic Defense Initiative (SDI) would continue within the "traditional" interpretation of the Treaty. Changes would only be implemented after consultation with the allies. Canada and the Western European allies have always made it clear that they want the narrow interpretation to be maintained. However, in late February 1987 the Soviets announced that the US had put the broad interpretation on the table at Geneva. In a seemingly half-hearted response to NATO indignation over the announcement, President Reagan sent two of his arms control envoys on tours of "consultation" with the allies.

Arms control advisor Paul Nitze visited Canada and a statement released by Secretary of State for External Affairs Joe Clark after the meeting reflected Canadian