

all types of so-called 'futuristic' or 'exotic' ABM systems — those based on new technologies not available at the time of signing, such as the laser and particle-beam weapons envisioned in the SDI — was limited to fixed, land-based sites, with deployment subject to further negotiation. By contrast, the new 'permissive' or 'broad' interpretation, offered by State Department Legal Adviser Abraham Sofaer, maintained that the only restriction on 'exotic' systems was that their actual *deployment* be negotiated; in other words, that research, development and testing could all proceed unconstrained.

Three specific provisions of the Treaty are most relevant to the issue. Article II defines an "ABM system" as "a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: (a) ABM interceptor missiles . . . ; (b) ABM launchers . . . ; and (c) ABM radars" By Article V(1), each Party agrees "not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." Finally, Agreed Statement 'D' requires that "in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with" the articles setting up the SCC and providing for amendments to the Treaty.

Briefly put, supporters of the traditional interpretation argue that the definition of an ABM system in Article II, being a functional one, in terms of "counter[ing] strategic ballistic missiles or their elements in flight trajectory," was clearly meant to cover all conceivable types of ABM systems, regardless of technology. The enumeration of interceptor missiles, launchers, and radars, in describing the then current 'state of the art,' was for illustrative purposes only, as evidenced by the phrase "*currently* consisting of" (emphasis added). Thus, 'exotic' systems of the type envisioned in SDI would fall under Article V's prohibition against development, testing, or deployment of sea-, air-, space-, or mobile land-based systems, and be confined to fixed, land-based sites only. Agreed Statement 'D', according to this view, merely reflected the fact that specific limitations on such systems, insofar as they would incorporate unconventional components, would necessarily involve some rewriting of Treaty terms.

By contrast, supporters of the 'broad' interpretation argue that Agreed Statement 'D' constitutes the only restriction on 'exotic' systems, however based, and applies only to actual deployment. The listing of interceptor missiles, launchers, and radars in Article II, they suggest, is all-inclusive, indicating that the main body of the Treaty text is concerned with systems based

on conventional technologies only. The restrictions of Article V on basing mode, in their view, apply only to these conventional components of an ABM system.

The Reagan Administration's reinterpretation brought forth howls of protest from arms control specialists including the original drafters and negotiators of the Treaty, the Allies, and Congressmen. It represented such a drastic revision of the Treaty as customarily understood, and appeared so patently designed to justify planned SDI activities, that its legitimacy was immediately questioned. Every one of the former high Government officials involved in the actual negotiation of the Treaty on the American side, with the single exception of Paul Nitze, a current Reagan Administration adviser, denounced the new interpretation as absurd and baseless.

Although the Administration persists in describing the 'broad' interpretation of the Treaty as the 'legally correct' one, it has pledged to continue abiding by the traditional reading for the time being. Likewise, the legality of planned SDI tests over the next few years continues to be justified in terms of the traditional interpretation, albeit with the 'looseness' noted in the previous section. However, the damage to the Reagan Administration's credibility in regard to Treaty adherence has in a sense already been done, and the Administration considers itself free to invoke the 'broad' interpretation of the Treaty at any time in the future.

CURRENT NEGOTIATIONS

As noted at the outset, the future of the ABM Treaty has figured prominently in the current negotiations on nuclear and space arms going on in Geneva. The Soviet position on restricting the Strategic Defense Initiative has evolved considerably since the beginning of the talks. At first they demanded a ban on all research and development of 'space-strike' weapons, rejected in the West as unverifiable. Later, they appeared willing to allow research, development, and testing limited to the laboratory. Most recently, they have hinted that some degree of testing outside the laboratory — even in space itself — would be permitted. However, throughout the talks, the Soviets have maintained an indissoluble 'linkage' between space arms, on the one hand, and strategic offensive arms, on the other. That is, they have refused to begin the agreed 50 per cent reduction in strategic offensive arms until an agreement has been reached on space arms — in effect, on SDI.

In May 1986 Moscow proposed that the two sides abide by a strict interpretation of the Treaty for a period of 15-20 years. In the meantime, agreed definitions of 'develop' and 'prototype' would permit some degree of SDI research to continue. President Reagan responded in a letter to Gorbachev in July 1986 by proposing a seven-year period of adherence to the Treaty — five