FROM: Phyllis Schlafly

68 FAIRMOUNT, ALTON, ILLINOIS 62002 / (618) 462-5415

RELEASE: APRIL 26, 1985

DOES SALT PROHIBIT STAR WARS?

The opponents of Ronald Reagan's Strategic Defense Initiative (SDI), his so-called Star Wars program, having lost all their other arguments against it, now claim that it would violate the SALT I ABM Treaty of 1972. That's just as false as saying that it won't work (after the June 10, 1984 test in the South Pacific proved otherwise).

If the drafters of the SALT I ABM Treaty had wanted to prohibit future defensive systems, they knew exactly how to do it with no ifs, buts, or whereases. Article V of the Treaty provides that "each party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

If the treaty drafters had intended to prohibit future "exotic" ABM systems (using more advanced principles), they could simply have added: "or which are based on other physical principles and include components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars." But they did not add those words.

It is a universally accepted principle of legal interpretation of documents that, where certain things are prohibited, the failure of an express inclusion must be interpreted as an intent to exclude that prohibition so long as the draftsmen of the document demonstrated that they knew how to accomplish that result if it were desired.

Why, then, is there any argument as to whether the Treaty does or does not prohibit the Star Wars system? The answer is that the SALT Treaty was written with brilliant ambiguity, thereby allowing scholars and diplomats to argue forever over its meaning.

John Newhouse's "Cold Dawn: The Story of SALT" claims that SALT's "banning exotic future defensive systems was an enormous contribution." Two recognized experts on nuclear strategy, Dr. William Kintner and Robert L. Pfaltzgraff, Jr., flatly contradict this, saying, "The Treaty applies only to the current state of the art ABM, namely, phased-array radars and short-range and long-range interception. Innovations in missile defense, for example, those based on a new principle such as the laser, are not proscribed."

How much does it matter whether we build or don't build a defensive system? It's the

difference between life and death, between freedom and slavery, that's all. If the Soviet Union becomes the first to develop a defensive system that would provide a total or near-total defense against enemy missiles, the Soviets would be invulnerable to U.S. retaliatory attack and would be entirely free to engage in nuclear blackmail, and even to launch a genocidal missile attack against the United States and get off scot-free.

The SALT I Treaty, in this as in other portions, provides the Soviets with a typical one-way loophole. On its face, it appears to apply to both sides but, in actual practice, it is an escape hatch open only to the Soviet side.

Here is how the matter of new defensive systems was clouded up in the SALT I Treaty. Under Article I, "each party undertakes not to deploy ABM systems" except as expressly permitted in Article III of the Treaty; this would appear to prohibit future defensive systems. But Article II defines an ABM system, for the purposes of the treaty, as a "system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: (a) ABM interceptor missiles... (b) ABM launchers... (c) ABM radars..." What is the effect of the word "currently"?

SALT Agreed Interpretation E, which was initialed by both sides, is a masterpiece in compounding the ambiguity. It says that, if "ABM systems based on other physical principles ... are created in the future, specific limitations on such systems and their components would be subject to discussion." If limits on future defensive systems require "discussion," then obviously they are not prohibited by the Treaty.

The Soviets know that it cannot be convincingly proved that future defensive systems are barred by the SALT I Treaty. So, they are free to interpret the Treaty in the sense most favorable to them (and indeed have been going steadily forward with their own "Star Wars" program), while the usual claque in the United States claims that we are strictly bound to the interpretation most unfavorable to us and to U.S. strategic power.

The Reagan Administration has the obligation to interpret the Treaty in the most favorable way for U.S. security and to proceed immediately with its Star Wars (High Frontier) program. If anyone objects, then we should use Article XV which gives each party the right to withdraw "if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests." Our "supreme interests" are certainly jeopardized by the Soviets building a defensive system when we are not.