

battle over the judiciary, especially compared with the extensive press coverage leading up to—and following—last year's elections. Instead all we get from the mainstream media are one-shot stories that have much more to do with how the nomination battles are waged than what's really at stake.

And appellate judges don't merely exert their power over Congress by overturning laws. They also police the federal regulatory state. Congress, after all, delegates a significant part of its lawmaking mandate to regulatory bodies like the Environmental Protection Agency. Indeed, Congress regularly sets up entire new agencies, like the Department of Homeland Security, to implement its wishes. But when these expert agencies try to carry out their mandates, they frequently find their actions challenged in federal court. Once again, appellate judges make the difference when it comes to whether a regulation will be allowed. They often second-guess laboriously prepared administrative rules, but rarely have their actions reviewed by the Supreme Court.

For precisely this reason, the appellate court most responsible for ruling on federal agency decisions, the U.S. Court of Appeals for the District of Columbia Circuit, is also considered the second most powerful court in the nation. Many Senate Democrats know this. That's why they're having such a tough time weighing the pluses and minuses of filibustering Estrada's nomination. The Wall Street Journal editorial page, which rallies the right's troops on judicial nominations, recently wrote that Democrats "have no reason to oppose Mr. Estrada other than the fact that he is a conservative who also happens to be Hispanic." Well, what about the fact that Estrada could be in a position to gut laws Democrats pass?

Take a closer look at the sort of cases Estrada will be deciding if he makes it to the D.C. Circuit. One well known D.C. Circuit environmental case was 1994's Sweet Home Chapter of Communities for a Great Oregon v. Babbitt, a case over applications of the Endangered Species Act. In this case, a conservative-leaning panel of the D.C. Circuit overturned a Department of the Interior regulation protecting species habitat, ruling that the Department couldn't consider "significant habitat modification that leads to an injury to an endangered species" as "harm" under the act. The ruling stood for over a year before being overruled by the Supreme Court. But then, most D.C. Circuit rulings are never reviewed at all—Sweet Home v. Babbitt was exceptional in that respect. In other cases, the D.C. Circuit has rolled back regulations to protect wetlands, corporate average fuel economy (CAFE) standards, and much more. And that's just in the environmental arena.

The D.C. Circuit has recently regained a degree of ideological balance. But that won't last if Bush's nominees reach the court. And with a conservative D.C. Circuit prepared to upend regulatory actions as it sees fit, legislators would be foolhardy to assume that administrative agencies will actually be able to implement the laws they pass intact.

Of course, some will inevitably object to the power comparison between appellate judges and members of Congress, and perhaps even consider it demeaning to the judiciary. They will point out that appellate judges have a duty to apply Supreme Court precedent, and in many or most cases these judges probably do just that. But even the majority of judges, acting in good faith, have considerable wiggle room under the "broad contours" laid out by the Supreme Court. That's what Sen. Joe Biden seems to have figured out, anyway.

Moreover, it has become increasingly clear just how often appellate judges are com-

pletely on their own—and how willing they are to use their powers. In the past decade we have witnessed an unprecedented push among conservative judges to invalidate acts of Congress on the basis of a radical reinterpretation of the constitutional relationship between the states and the federal government, sometimes called the "New Federalism" (though it has its origins in the philosophy of the original opponents of the U.S. Constitution, the anti-Federalists). This push has had plenty of legal cover, of course, but in effect it has been a clear attempt to wrest power away from Congress. Why shouldn't Senators try to wrest some of that power back?

They can start with Miguel Estrada.

[From the Oregonian, Mar. 3, 2003]

#### JUDICIAL POWER TRIP

The partisan battle in the Senate over one of President Bush's nominees to a federal judgeship escalated last week with the addition of three more conservative nominees.

This is a high-stakes contest that encompasses more than a handful of judicial appointments; it represents a naked grab at power and an attempt to stack the federal courts in favor of an ultra-conservative ideology.

For nearly three weeks, Democrats have delayed a vote on Miguel Estrada, Bush's nominee to the U.S. Court of Appeals, District of Columbia Circuit. In Senate Judiciary Committee hearings, Estrada simply refused to answer many of Democrats' questions.

The battle has led to ugly name-calling, including the charge that Democrats are treating Estrada differently because he is Latino. That's simply preposterous. Eight of the 10 Latino appellate judges currently seated in the federal courts were appointed during the Clinton administration.

Republicans should be more careful using the ethnic card. They had no trouble holding up hearings on Latino candidates who were nominated by President Clinton. They used every tactic available to stall scads of Clinton nominees, including anonymous holds on Judge Sonia Sotomayor to the Second Circuit and a four-year delay on Judge Richard Paez to the Ninth Circuit.

Some critics have charged the Democrats are trying to extract payback. Of course, they may have overlooked that the Senate has confirmed 100 of Bush's judicial nominees.

Raising the stakes late last week, Senator Orrin Hatch, R-Utah, chairman of the Judiciary Committee forced committee approval of three more of Bush's controversial nominees. While the tactic seems designed to get some of the president's conservative nominees approved, this isn't a fight about one nominee or three or four.

The fight shows a majority trying to install one point of view and a president who has shown himself to be more doctrinaire than he gave any inkling of before his narrow success in the 2000 election.

In the case of Estrada, it is hard to know what he believes or how he would behave as a judge. He is a graduate of Harvard Law School and was a clerk for U.S. Supreme Court Justice Anthony Kennedy, but little is known about his views. He has an obligation to explain himself.

Ironically, Hatch was outspoken about the need for inquiry into nominees' view when Clinton was in office.

In the best of all possible worlds, it is better to have a judiciary of nonpartisan independent thinkers. But the process of nominating and confirming court appointments has always been far from ideal.

Democrats mustn't cave on this. The fairness and credibility of the nation's courts de-

pend on senators finding a reasonable compromise. Moderates within the president's party should also reconsider their lockstep loyalty.

The balance of power between the executive and the legislative branches is being tested. As Senator Ted Kennedy pointed out last week, the Founding Fathers "did not intend for the Senate to be a rubber stamp."

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

#### MOSCOW TREATY

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now proceed to the consideration of Executive Calendar No. 1, which the clerk will report.

The senior assistant bill clerk read as follows:

Resolution of Ratification to Accompany Treaty Document 107-8, Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, the treaty we consider today, known officially as the treaty between the United States of America and the Russian Federation on strategic reductions, is truly remarkable in many respects.

The treaty is, of course, remarkable because it encompasses the most dramatic reductions in strategic nuclear weapons ever envisioned between two nuclear powers. It is also worth noting that not since 1954 have the two parties held such a low number of strategic nuclear weapons as that which will be enforced by the agreed numerical limits of this treaty.

Many have observed the extraordinary ease by which this treaty was negotiated and compare its three short pages—indeed, it is just three short pages—to the many thousands of pages of documents negotiated between the United States and the Soviet Union during the cold war.

This last point is, for me, the most significant of all, for as important as the substance of this treaty is, it is the form—the trust between the United States and Russia—that most shines through.

Perhaps this treaty should be known by the epitaph: "Cold War RIP," for it is not unreasonable to hope that this treaty represents and indeed reflects the close of a long era of hostility between these two nations.

In the past few weeks, I and many of my colleagues have had the opportunity to meet with a variety of Russian Government officials who have become regular and welcome visitors in

Washington, DC. I am struck with the degree to which these meetings are about routine matters. We do not agree on everything, but what is most remarkable to me is we do not disagree on everything.

The United States and Russia are entering a new era of relations. Our two nations confront many of the same challenges in today's world, and we have found common cause in responding to the immediate threat of international terrorism. Intelligence sharing and joint action between our two governments has made both of our countries much safer. We seek broader cooperation between our institutions of government, and to that end, I am hopeful the Senate will be able to enter into a deep and longstanding relationship with the upper House of the Russian legislature, the Federation Council. This indeed will build on the excellent work that was initiated and done by my distinguished colleague in the Senate, Senator LOTT from Mississippi.

Finally, we seek to advance the growing economic relationship between our two countries. Toward that end, I will strongly support legislation to permanently remove the Russian Federation from the Jackson-Vanik agreement.

I thank Senators LUGAR and BIDEN for their fine efforts to bring this treaty to the Senate floor in a timely manner. When this treaty was submitted to the Senate, the administration set the not unreasonable expectation that the resolution of ratification not exceed the treaty in length. The committee has indeed met that goal in providing the Senate with a well-crafted resolution of ratification that nonetheless addresses several key elements of Senate prerogative.

I congratulate Chairman LUGAR and Senator BIDEN for their fine work.

Finally, I trust that all Senators have indeed had time to review the committee report on the treaty. It is my hope those who wish to discuss it will do the managers the courtesy of coming forth to speak. Although amendments are in order, I think it would be a worthy tribute to the work of the Foreign Relations Committee to support this resolution in its current form. I look forward to its approval.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the distinguished majority leader for his thoughtful commendation of the work of our committee. I appreciate especially the strong endorsement he has given to the treaty and to the procedures that have brought us to this day.

On behalf of the Committee on Foreign Relations, I am honored to bring the Treaty on Strategic Offensive Reductions, better known as the Moscow Treaty, to the floor for Senate consideration and ratification. The treaty was signed on May 24, 2002, and was transmitted by President Bush to the Senate on June 20, 2002. It reduces

operational deployed strategic nuclear warheads to a level of between 1,700 and 2,200 by December 31, 2012.

This is truly a tremendous accomplishment and deserves the full support of the Senate and the Russian Duma. I believe this treaty is an important step toward a safer world.

The Foreign Relations Committee held four hearings and numerous briefings on the treaty, starting in July of last year, under the chairmanship of Senator JOE BIDEN. I thank Senator BIDEN and his staff for the timely consideration the treaty received and for the many opportunities provided to members of the committee to hear testimony and to engage in conversation with experts from the administration and from the private sector.

Moreover, during the last 2 months, Senator BIDEN has been an indispensable partner in constructing this resolution of ratification. Its provisions reflect our mutual efforts to construct a bipartisan resolution that could be broadly supported by the Senate.

The resolution, in fact, was approved unanimously by the Foreign Relations Committee. We are hopeful of a very strong vote on the Senate floor.

During the course of the committee's consideration of the Moscow Treaty, we received testimony from Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, and the Chairman of the Joint Chiefs of Staff, Richard Myers. Each expressed a strong desire for an overwhelming vote of approval. In addition to administration witnesses, we heard from the Director of the Arms Control and Disarmament Agency, Ken Adelman; from the former commander in chief of U.S. Strategic Command, GEN Gene Habiger; and our former colleague, Sam Nunn; as well as numerous representatives of think tanks and interest groups.

In addition to efforts undertaken in the Foreign Relations Committee, Senators LEVIN and WARNER and the Committee on Armed Services conducted two hearings examining the military implications of the treaty and shared analysis of their findings with us. These letters have been made a part of the record and our committee report.

Furthermore, the Intelligence Committee conducted a thorough review of the treaty's verification procedures through numerous members only and staff briefings. The Committee on Foreign Relations appreciates the expertise of our colleagues on the Intelligence Committee and what they have lent to this process.

President Bush and President Putin have assigned a high priority to the timely ratification of the Moscow Treaty. Both point to the treaty as evidence that the U.S.-Russian relationship has turned the corner. Areas of disagreement clearly remain, but we are attempting to develop a partnership in the war against terrorism, and both Russians and Americans believe that political and economic cooperation can increase dramatically in the coming decade.

On May 1, 2001, in a speech at the National Defense University, President Bush called for a new strategic framework to transform our relationship with Russia "from one based on a nuclear balance of terror to one based on common responsibilities and common interests."

Less than 8 months later, President Bush announced his intention to reduce our nuclear levels unilaterally and invited President Putin to implement similar reductions. This was the beginning of a process that led to a treaty signing during the summit in Moscow last year.

The Moscow Treaty is unlike arms control agreements we have considered in the past. I remember vividly, as do many of our colleagues, visiting the START I and START II treaty negotiations. The United States and the Soviet Union faced off against each other, against conference tables. They met for years. These negotiations produced extensive treaties and verification annexes that described in detail the requirements mandated by the treaties.

To be sure, the treaty before us today could have been more expansive, rigid, and demanding. The negotiators could have followed the cold war template for arms control negotiations and entered into a multiyear discussion process. That procedure did not serve the best interest of either side. Both sides, Americans and Russians, wanted to move quickly to capitalize on the opportunity to sharply reduce strategic weaponry.

The agreement benefits not only the cause of arms control, but also the broader United States-Russia relationship. In my opinion, President Bush was wise to conclude the treaty quickly in this form rather than enter into a more lengthy and uncertain negotiation process.

Russian strategic and nuclear forces are declining. Russian leaders have indicated they would prefer warhead levels to be less than 2,200 by 2012. In fact, Moscow pushed for a limit of 1,500 nuclear warheads and settled for a range of 1,700 to 2,200. It would appear that Moscow is reluctant to accept the resource tradeoffs necessary to maintain a larger force. President Putin inherited a force structure that already was moving toward the deep reductions necessary for START II implementation. Faced with continued resource constraints, he decided to limit further spending on strategic forces while seeking a new treaty to limit the United States and Russian forces in a predictable manner.

In the past, most critics of strategic arms control treaties objected to the constraints these treaties placed on U.S. forces. They often alleged the treaties would expose U.S. security to unnecessary risk. Critics of the Moscow Treaty, however, have made the opposite complaint. They have said the treaty's constraints do not go far enough. Various analysts have suggested the treaty should include a

verification system requirement to dismantle warheads, a specific reduction schedule, and provisions dealing with tactical nuclear weapons.

I share some of the concerns expressed by these critics, but the treaty is an important step forward because it maintains the momentum of an arms control process that has been successful.

The treaty provides a mutual framework for continuing the destruction of offensive nuclear weapons whose purpose was to target the United States of America. It also underscores the importance of the United States-Russia relationship at a time when we are depending on Russian support for the war on terrorism.

Nevertheless, important questions remain and will be discussed during this debate. What happens to the nuclear warheads taken from dismantled Russian delivery systems? I have confidence in the United States storage procedures and appreciate the flexibility the treaty permits in our strategic systems, but I am concerned with the parallel Russian process. We must work with Russia to make certain that these dangerous weapons do not fall into the wrong hands. However, there are readily available means to address these deficiencies.

The primary vehicle for cooperation in reducing warheads to levels set by the Moscow Treaty and addressing the threat posed by warhead security is the Nunn-Lugar cooperative threat reduction program. Without Nunn-Lugar, it is unlikely that the benefits of the treaty will be realized.

During consideration of the treaty, the committee heard testimony from Secretary Powell asserting that increased Nunn-Lugar assistance would serve as a foundation for the cooperation necessary to meet Russian obligations under the treaty and as additional means of verifying that those obligations are met.

My concerns about treaty implementation are compounded by the impasse we experienced over the Nunn-Lugar certification process last year. Each year, our President is required by law to certify that Russia is "committed to the goals of arms control." In 2002, the administration requested a waiver to this condition, pointing out that unresolved concerns in the chemical and biological arenas made this difficult. Meanwhile, existing Nunn-Lugar activities and projects were permitted to continue, but no new projects were initiated and no new contracts were finalized.

President Bush requested a permanent annual waiver to the Nunn-Lugar legislation so we could continue with important work. But some in Congress preferred just a 1-year waiver or no waiver at all. Without a permanent waiver, the President would be forced to suspend dismantling assistance each year pending congressional action to waive the requirement. This could lead to delays of up to 6 months or more, just as we experienced last year.

Let me assure my colleagues, this is not a hypothetical situation. It just happened to us. For more than 6 months, submarines on the Kola Peninsula awaited destruction. Regiments of SS-18 missiles loaded with 10 nuclear warheads apiece were left standing in Siberia, and almost 2 million rounds of chemical weapons in relatively transportable shells awaited elimination at Shchuch'ye. But the Nunn-Lugar program was powerless to address these threats because of congressional conditions drafted over a decade ago.

American dismantlement experts in Russia were forced to wait and watch as these dangerous weapons systems sat in their silos, docks, or warehouses while the conference committee process between the two Houses of Congress dragged on through the summer.

Without the changing of congressional conditions on the legislation or the granting of a permanent Presidential waiver, the current situation could reoccur in the years ahead. To say the least, this would delay full implementation of the Moscow Treaty far beyond the envisioned 10-year time period; namely, 2012.

Let me be clear. The Moscow Treaty alone is insufficient to meet our security needs. The treaty is part of the answer, but without cooperative threat reduction, dismantlement, and warhead security projects, the agreement will not reach its potential in a timely manner.

Critics of the Moscow Treaty suggest this lack of a new verification regime is a weakness that must be rectified. Some have gone so far as to suggest the treaty be shelved until verification is strengthened. But this point of view sees the treaty through a cold war prism when cooperative threat reduction programs did not exist and both sides were trying to maximize strategic nuclear force levels.

The Bush administration has been forthright in its recognition of the lack of a verification provision in the Moscow Treaty, including statements in the President's letter of transmittal and the testimony of Secretary Powell before the Foreign Relations Committee.

The administration's views on verification of the treaty are based upon three basic assumptions: First, the United States and Russia have moved beyond cold war tensions, and the United States would have undertaken these reductions of nuclear warheads regardless of Russia's view—unilateral disarmament. Second, the national security interests of the United States are better served through the flexibility of the Moscow Treaty. And third, Russia is unlikely to have the means or the incentives to violate or withdraw from this agreement.

I believe the level of verification of the Moscow Treaty is sufficient. American verification experts will have the START I treaty verification procedures in place throughout at least 2009. But perhaps more importantly, the Nunn-

Lugar program has placed American dismantlement teams and equipment on the ground in Russia now. These teams work on a daily basis with their Russian counterparts to safely dismantle weapons systems. For example, at Surovatika, U.S.-provided equipment is routinely dismantling four ICBMs per month. It is hard to imagine a more complete means by which to verify the dismantlement of weapons than the systematic work occurring under cooperative threat reduction at Surovatika.

Senator BIDEN and I met with President Bush last June to discuss Senate consideration of the treaty, just after the President returned from his visit at the Moscow Summit. We committed to moving the treaty forward in a responsible, bi-partisan, and expeditious manner. The resolution before us today is a product of close cooperation and consultation. I am pleased to report that it enjoys the strong support of the administration.

The resolution of ratification contains two conditions and six declarations. I would like to describe each of these provisions for the Senate.

The first condition requires the President to submit to the Foreign Relations and Armed Services Committees an annual report on the amount of Nunn-Lugar cooperative threat reduction assistance that Russia will need to meet its obligations under the Treaty. As I mentioned earlier, without U.S. assistance, Russia cannot meet the timetable of its obligations under this treaty. Without the Nunn-Lugar program, it is likely the benefits of this treaty will be postponed or never realized.

The second condition requires the President to report to the Foreign Relations and Armed Services Committees on important items related to the treaty, including: 1, Strategic force levels; 2, planned offensive reductions; 3, treaty implementation plans; 4, efforts to improve verification and transparency; 5, status of START I treaty verification extension; 6, information regarding the ability of either side to fully implement the treaty; and 7, any efforts proposed to improve the effectiveness of the treaty.

The report contained in this condition must be submitted within 60 days of the exchange of instruments of ratification of the Treaty and by April 15 of each following year. The extensive nature of this report protects our critical Senate role in oversight of implementation and ensures that this body will remain an integral part of the process throughout the treaty's life.

The first declaration has been in each resolution of ratification for arms control treaties since the INF Treaty's resolution of ratification in 1988. It is known to colleagues here as the Byrd-Biden Condition. The condition articulates the Constitutional principles on which the common understanding of the terms of a treaty will be based.

The second declaration encourages the President to continue efforts to

eliminate the threats posed by strategic offensive nuclear weapons to the lowest level possible while not jeopardizing our country's national security or alliance obligations. Secretary Powell stated in his testimony before the Foreign Relations Committee that "the Moscow Treaty represents significant progress in meeting the obligations set forth in Article VI of the Nonproliferation Treaty." This treaty takes another step in meeting the U.S. and Russian commitments under the Nonproliferation Treaty.

The treaty establishes a Bilateral Implementation Commission, as a diplomatic consultative forum to discuss issues related to implementation of the Treaty. The resolution's third declaration calls on the Executive Branch to provide briefings before and after meetings of the commission concerning: 1, issues raised during meetings; 2, any issues the United States is pursuing through other channels; and 3, Presidential determinations with regard to these issues. This provision has been included to ensure that we remain fully aware of the activities of the Bilateral Implementation Commission.

During the hearings on the treaty, Secretary Powell and Secretary Rumsfeld testified that non-strategic nuclear weapons remain an important issue and expressed a strong interest in working closely with Russia to reduce associated threats. The resolution's fourth declaration is meant to underscore the threat posed by tactical nuclear weapons. It urges the President to work closely with Russia and to provide assistance on the full accounting, safety, and security of the Russian tactical nuclear weapon stockpile.

In 1991, President George H. W. Bush and Mikhail Gorbachev announced the removal of their deployed nonstrategic nuclear weapons. In Helsinki in 1997, Presidents Clinton and Yeltsin agreed to begin talks on these weapons, but negotiations have failed to materialize.

Secretary Powell has reported that the inclusion of tactical nuclear weapons was not possible in the Moscow Treaty. Thus far, Russia has declined to engage in discussions on the future of non-strategic systems. This declaration is meant to communicate the Senate's concerns about the threats associated with non-strategic weapons. It is our hope that there will be further dialogue and, if possible, greater efforts to secure these systems.

The fifth declaration encourages the President to accelerate U.S. reductions where feasible and consistent with U.S. national security requirements so that reductions may be achieved prior to December 31, 2012.

The final declaration has been included in an attempt to address concerns put forward by some Senators regarding the treaty's withdrawal clause in Article IV. This text follows up on Secretary Powell's commitment to consult with the Senate should the President consider the utilization of the withdrawal provision.

The Foreign Relations Committee asked the Secretary: "What role will the Congress have in any decision to withdraw from this treaty?"; and "Will the administration agree to at least consult closely with this committee before making any such decision?" The Secretary responded that: "While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action."

While I am sympathetic to arguments from Senators regarding the need to maintain Senate prerogatives, the process governing termination and withdrawal is a point of Constitutional debate. Although the Constitution assigns a specific role for the Senate in the treaty ratification process, it is silent on the issue of treaty termination. Furthermore, nothing in the Constitution restricts the President from terminating or withdrawing from a treaty on his own authority.

Presidents have consistently terminated advice and consent treaties on their own authority since 1980. Twenty-three of the thirty treaties terminated during this period were bilateral; seven were multilateral. Prior to 1980, Senator Barry Goldwater challenged President Carter's termination of the Mutual Defense Treaty with Taiwan. Senator Goldwater's challenge failed and the treaty was terminated. Since that time, objections have been raised only with respect to Presidents Bush's withdrawal from the ABM Treaty.

The White House Legal Advisor has long argued that the President is the principle spokesman of the nation in foreign affairs and restrictions on the power have been strictly construed.

Given the absence of a textual basis conferring the termination power on another branch or an established practice derogating from the President's termination power, it is difficult to envisage such a role for the Senate.

Proponents of a Senatorial role in this process will often respond by suggesting that the President cannot on his own authority terminate a treaty because it is the "law of the land." Again, the White House suggests this is a fallacy. A terminated treaty no longer has effect in much the same way that a provision of a law or treaty found by the courts to be unconstitutional no longer has effect. However, in neither case is the law repealed.

Historically there is evidence of only one instance in which the Senate sought by a resolution of advice and consent to limit the President's constitutional power to terminate a treaty. The first condition to the 1919 proposed resolution of advice and consent to ratification of the Versailles Treaty would have provided: "notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States." Vice President Thomas Marshall, addressing

the Senate before the vote, called the condition an unconstitutional limitation on the President's powers—a view with which a number of leading scholars of the day concurred. However, the resolution failed to receive the required two-thirds vote and the question has remained moot for the better part of a century.

Beyond the legal issues which underlie this debate, some have expressed concern that Article IV differs from previous arms control agreements in that it only requires three months notice and permits withdrawal based upon issues related to national sovereignty. Critics point out that the START Treaty allows a Party to withdraw, after giving 6 months' notice and only "if it decides that extraordinary events related to the subject of this Treaty have jeopardized its supreme interests."

I do not view the withdrawal provisions as a weakness in the treaty. Instead, I believe it is another manifestation of the improved U.S.-Russian relationship. It should also be pointed out that our bilateral relationship provides us with some confidence that the time and reasons for withdrawal would not necessarily relate to the agreement. As the Secretary of State told the Committee: "The Moscow Treaty's formulation for withdrawal reflects the likelihood that a decision to withdraw would be prompted by causes unrelated either to the Treaty or to our bilateral relationship. We believe this formulation more appropriately reflects our much-improved strategic relationship with Russia."

Mr. President, in performing its constitutional responsibilities with respect to treaties and international agreements, the Senate has to reach a judgment as to whether, on balance, U.S. acceptance of the obligations contained in the treaty serves the national interests of the United States.

The Moscow Treaty is not without blemishes. The Senate should not be surprised that the treaty is not perfect or that it does not cover every desired area of bilateral arms control. But that is not the point. The proper question is whether on balance, the Moscow Treaty serves the national security of our nation.

For some, no arms control treaty is good enough. Indeed, the very high stakes of the cold war and the fact that arms control cheating by the Soviet Union represented a potential threat to the survival of the United States led to a legitimate focus on treaties with high standards, especially for verification and the ability to detect even minor violations.

The cold war is over, and treaty requirements must suit U.S. national interests as they exist today. The Moscow Treaty charts a course towards greater security for both the United States and Russia. I urge my colleagues to ratify this treaty and approve the resolution of ratification without amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I am pleased to join our esteemed chairman, Senator LUGAR, in presenting the Senate this resolution giving the Senate's advice and consent to ratification of the Treaty on Strategic Offensive Reductions, known in the vernacular as the Moscow Treaty. Let me state flatly at the outset, I urge my colleagues to support the treaty.

On February 5, as Senator LUGAR noted, the Senate Foreign Affairs Committee approved this resolution unanimously. The committee did so, in my view, for two very good reasons.

First, the Moscow Treaty should be ratified and implemented. It is true that there is much that the Moscow Treaty does not do, which I will discuss at some length. But virtually all of the witnesses at our hearing recommended the ratification of the treaty because its implementation would be a step toward a more secure world. Reducing each nation's deployed strategic warheads from approximately 6,000 to between 1,700 and 2,200, in my view, will move us further away from the cold war era and may—I emphasize may—and I hope promote a United States-Russian relationship based upon mutual cooperation.

Second, in my view, while the resolution does not include everything we may want, it does address many of our concerns. It requires significant annual reporting by the executive branch on implementation of the treaty so that the Senate can oversee and support that implementation. These are important gains from an administration that first opposed any treaty at all and then pressed for a clean resolution of ratification. The administration has agreed to support and implement this resolution before the Senate. I think the country will benefit from that.

But there is much the Moscow Treaty does not do. So in the spirit of not engaging in false advertisement, I think we should speak about that a little bit. It is very unusual, at least in my 30 years as a Senator working on many arms control agreements from the Senate perspective, that an arms control agreement by any standard be put forward the way in which this one has.

In our hearings, the Secretary of Defense proudly compared the three pages of this treaty to the roughly 300 pages of the START treaty signed by the first President Bush. But that is just the beginning. Traditional arms control agreements usually involve the negotiated level of arms to which the parties will be held. They usually require the destruction of some weapons. Often

they specify milestones that must be achieved in reducing those arms and bar withdrawal from the treaty unless there is a good reason to withdraw and the President gives or the other side gives 6 months notice.

For decades, there has been emphasis on verifying that each party is complying with its obligations. We remember the famous phrase uttered by former President Reagan: Trust but verify.

In addition, the United States worked to ban MIRV ICBMs in the START II treaty. I know the Presiding Officer knows, but for those who may be listening, the MIRV'd ICBM is a single missile, a single rocket upon which multiple nuclear warheads sit and when the rocket goes off and the head of the missile comes off, it contains more than one nuclear warhead, and you can independently target each of those nuclear warheads, in the vernacular.

So we have thought for years and years, these are the most destabilizing weapons that existed, and we worked very hard, and the first President Bush worked very hard, to eliminate either side being able to possess these multiple warhead missiles with independently targeted warheads. It was contained in the START II treaty.

We were hoping in START III to control tactical nuclear weapons. They are the weapons that are shorter range and are used at shorter distances, referred to as tactical nuclear weapons. We had hoped to have a de-alerting of weapons slated for later elimination.

That is, the purpose we initially started off with was: Look, if we are agreeing we are going to get rid of these weapons, while we are going through the process of destroying them or taking them out of the silos or out of the bellies of submarines or out of the bellies of bombers, what we will do is we will de-alert them. That is, we will pull the plug. They will sit there, but they will not be aimed at anybody. They will not be on alert.

So for the longest time our objective, for stability reasons and for security reasons, was to get rid of multiple warheads, to make sure we move to include tactical nuclear weapons which are destabilizing so we begin to reduce them and, third, to say while we are getting ready to destroy these weapons, or take them out of the inventory, we will de-alert them. That is, not keep them on a hair trigger.

None of these objectives was achieved, or for that matter attempted, in the Moscow Treaty we are about to ratify—I hope ratify.

For starters, the United States unilaterally set this treaty's arms control levels before any negotiation. Indeed, the administration saw no particular reason for this treaty in the first place. Initially they said they would not do it as a treaty.

According to the Secretary of State:

We concluded before the Moscow Treaty was negotiated that we could and would safe-

ly reduce to 1,700 to 2,200 operationally deployed strategic nuclear warheads, regardless of what the Russians did.

Secretary Powell reports that President Bush then told President Putin:

This is where we are going. We are going there unilaterally. Come with us or not, stay where you are or not.

In short, the Moscow Treaty does not codify an agreement. Rather, it codifies two unilateral decisions to reduce strategic forces. That is not a bad thing, but it is not such a significant thing.

Another way in which the Moscow Treaty differs from previous arms control agreements is that it does not require the elimination of any missiles, any bombers, any submarines, or any warheads. As a result, each party is free to stockpile its officially reduced weapons.

We used to fight with our conservative friends on this floor who said we could not support such-and-such arms control treaty proffered from President Nixon through to President Ford and President Reagan and President Bush—we could not do it unless we were certain that the missile was destroyed, the warhead was destroyed, the submarine was destroyed. We used to hear what is going to happen is they are going to take these missiles and they are going to hide them in barns and they are going to hide them in the woods and they are going to hide them in camouflaged areas.

Let's be clear what this treaty does. It says you have to get down to 1,700 to 2,200 of these within the next 10 years or so, but all you have to do is take them out of commission. You don't have to destroy them. You can stockpile them. You can put them in a warehouse. You can pile them up in a barn for ready reload. You can take them back out. You don't have to destroy anything. That is in fact what the United States plans to do with many of its reduced weapons. They are reduced, not destroyed.

Trident submarines that are taken off nuclear patrol will be converted to other purposes—and could presumably be reconverted to carry strategic nuclear weapons, although at some cost.

Bombers will also be converted; actually, their re-conversion to strategic nuclear uses might be rather difficult.

According to recent press stories, the United States might use ICBMs to deliver conventional payloads. That would leave the missiles still available for use with nuclear warheads instead.

And the administration says that about three-quarters of the reductions may be made simply by "downloading"—that means by removing bombs and warheads from bombers and missiles, while leaving the delivery vehicles in service.

What happens to those "downloaded" warheads? Of the thousands of warheads that will be "reduced" by the United States, many—perhaps almost all—would be retained in some form of reserve status, available to be returned

to action in months, weeks, or even days.

The Secretary of State did not indicate that some warheads would be dismantled. But the administration has yet to earmark a single type of warhead for dismantlement.

For years, now, the Air Force has been prepared to give up the W-62 warheads on its Minuteman Three missiles.

They will be replaced by the W-87 warheads that are removed from the Peacekeeper missile, which is to be retired. But the Defense Department seems incapable of letting go of the old warheads.

I will move on. The Secretary of State did indicate, though, that some warheads would be dismantled, but the administration is yet to earmark a single type of warhead that we are going to dismantle. My support for ratification of this treaty is based in part on the administration's assurances for the record that "some warheads are to be removed and will be destroyed or dismantled."

Since the statement was made, however, there has been no action by the executive branch to turn this into a reality. I expect the administration to live up to Secretary Powell's commitment. If it should fail to do so, this would endanger the process by which the Senate gives advice and consent to the ratification of not only this treaty but every treaty in the future.

An equal concern for me is the question of what the Russians will do with its reduced weapons. If it follows the lead of the United States, it will try to retain as many missiles and bombers as possible, and it will stockpile its downloaded nuclear weapons rather than dismantling them and disposing of the excess fissile material.

Under this treaty, Russia can do whatever it wants with its so-called reduced weapons. But we have a stake in Russia's decision on this. That is because of the risk that Russia will not adequately protect the weapons and nuclear materials it has stockpiled.

It is one thing for us to decommission, reduce our nuclear weapon and stockpile it. We have exceedingly tight security on such material.

The Russians have incredibly, incredibly insecure facilities because they lack the money to be able to maintain these secure facilities. I worry that if Russia does not destroy them, that they will find themselves—and we will find ourselves—susceptible to the clandestine sale or the actual stealing of these materials, and they will fall into the hands of people who do not have our interests at heart.

The only threat to our very existence is the accidental launch of Russian missiles, and that is why I still worry about the MIRV'd ICBMs. But perhaps the worst other threat to America is that some Russian nuclear weapons, or material with which they make them, could be stolen or diverted to rogue states or terrorist groups. The more

weapons Russia stockpiles, the greater the risk not all of them will be properly safeguarded.

To combat that danger, our chairman cofounded the Nunn-Lugar program to assist the Soviet Union—and now its successor states—in meeting their arms control obligations.

Related programs in the Energy Department and the State Department help Russia to safeguard its sensitive materials, and to find civilian careers for its thousands of weapons scientists.

These programs will have a major role to play in the years to come. With Nunn-Lugar, we can enable Russia to destroy its old delivery vehicles rather than mothballing them. Russian officials have already decided they want to move in that direction.

Let me put something in focus, by the way. The entire budget for Russia for this fiscal year is roughly \$40 billion. The entire Russian military budget is \$9 billion.

My neighboring States of Pennsylvania and New Jersey have budgets bigger than all of Russia. I suspect if you added up all their law enforcement and prison-related budgets, it probably exceeds the entire defense budget of Russia.

Our defense budget, and I make no apologies for it, is between \$350 and \$400 billion. So I want us to keep this in focus. The ability of Russia to maintain and/or take the money to destroy this fissile material and mothball nuclear capacity is very limited, increasing the need for Nunn-Lugar, the threat reduction money, to be spent on American scientists with American contractors to go to Russia to destroy these weapons for them because they do not have the money to do it.

U.S. assistance can also help Russia to secure and dispose of its excess fissile material. That is the stuff that makes nuclear explosions. That is the stuff that is the product from which chain reactions, nuclear chain reactions start.

That is an urgent and continuing task, with or without this treaty.

I think the administration understands this. The Secretary of State has laid it out:

U.S. assistance helps to improve the security of Russia's nuclear weapons by improving their physical protection (fencing, sensors, communications); accounting (improved hardware and software); personnel reliability (better screening); and guard force capabilities (more realistic training).

These improvements are particularly important because Russia faces a difficult threat environment—political instability, terrorist threats, and insider threats resulting from financial conditions in Russia.

Translated: The Russian Mafia; translated: Departments seeking money to keep their folks employed doing things that are not in the interest of Russia, and clearly not in the interest of the United States.

The Secretary of State also assured the Committee that:

... we intend to continue to work with Russia, under the Cooperative Threat Reduc-

tion, CTR program, when and to the extent permitted by law, to make its warhead storage facilities more secure.

Such U.S. assistance will also increase the security of the Russian warheads made excess as provided in the Moscow Treaty.

The Secretary of State continued:

If requested by the Russian Federation, and subject to the laws related to CRT certification, the Administration would be prepared to provide additional assistance for removing, transporting, storing, and securing nuclear warheads, disassembling warheads and storing fissile material, dismantling surplus strategic missiles, and disposing of associated launchers.

I am pleased that the administration accepts the need to use Nunn-Lugar and related programs in implementing this treaty, and that the 2004 budget request has a 9-percent increase for Nunn-Lugar.

That increase is probably spoken for, however, by the cost of building—belatedly—a chemical weapons destruction facility at Shchuch'ye. So I wonder, at least, whether enough funds are budgeted for Nunn-Lugar; I hope they are but I don't think they are.

And I hope that the President will prevail upon his own party in the House to give him more than temporary authority to waive certification requirements for these programs.

Nunn-Lugar efforts cannot achieve their maximum effectiveness if every year or so the funds dry up for months at a time, while waiting for Congress to permit another presidential waiver.

The *laissez-faire* nature of the Moscow Treaty is also evident in the timing of its reduction requirement.

This is very unusual. Under Article I of the Treaty, the reductions must occur "by December 31, 2012." Until that date, there is no reduction requirement. Indeed, until that date, there is nothing barring each party from increasing its force levels.

A party could even have more weapons than it has today, so long as it does not exceed START Treaty levels before that treaty expires in 2009. I don't expect that, of course, but there is nothing to prohibit it.

And what happens on December 31, 2012. The treaty expires.

If a party fails to achieve the reductions required by this treaty, the other party will have little recourse. The treaty codifies legally binding promises, but provides no way to make the Parties live up to them.

This is a very unusual treaty.

Most curious of all, perhaps, is the withdrawal provision in Article IV of the treaty. You might think that, with no obligations until the very last day of this treaty's existence, there would be little reason ever to withdraw from it. That is certainly what I think.

Just in case, however, the treaty has what is probably the most liberal withdrawal clause in any arms control treaty. A party can withdraw with only 3 months' notice.

There is no need for withdrawal to be due to "extraordinary events related to the subject matter of this treaty [that]

have jeopardized its supreme interests," as is required in the START Treaty signed by the first President Bush.

Indeed, there is no requirement in this treaty to state any reason for withdrawal.

I hope the administration is correct in its view that we no longer need verification. The Secretary of State said, "in the context of this new relationship, a treaty with a verification regime under the Cold War paradigm was neither required nor appropriate."

It may be that we need not care what Russia does. That might explain why the Moscow Treaty leaves it to each party to decide what weapons it is reducing and how it will do that, and sets no benchmarks for measuring progress between now and December 31, 2012.

To this day, the Russian Federation has yet to say how it defines the term "strategic nuclear warheads," or how its reductions will be made.

We can only hope that his laissez-faire approach to arms control obligations will not lead to misunderstandings down the road. With no agreed definitions and no benchmarks, I respectfully suggest that there is lots of room for quarrels over whether a party will really be in compliance by December 31, 2012.

Perhaps voluntary transparency by each party will assure the other that arms reductions are proceeding properly.

I applaud the decision to establish a transparency committee under the U.S.-Russia Consultative Group on Strategic Security.

But I am not reassured by the Secretary of State's statement that "specific additional transparency measures are not needed, and will not be sought, at this time."

It may be that continuing U.S. assistance to Russia under the Nunn-Lugar program and other assistance programs will give us such visibility into Russian forces that we will have no need of verification.

But if we are to rely on that window, then—as I noted earlier—President Bush ought to persuade House Republicans to let him waive the certification requirements that periodically stall the funding of our programs for months at a time because if there is no verification and no ability through the threat reduction program to look inside what Russia is doing, then we are operating in the blind.

When the President requested that authority to waive provisions allowing him to move forward with Nunn-Lugar, it was people in his own party in the House who refused to make that authority permanent.

Previous Presidents gave special attention to the need to do away with MIRVed ICBMs. The first President Bush achieved that in the START II Treaty.

But Russia refused to let that treaty enter into force unless we continued to adhere to the Anti-Ballistic Missile

Treaty. When the current President Bush pulled us out of the ABM Treaty, START II died.

Why worry about MIRVed ICBMs? A MIRVed missile has multiple warheads. It's cheaper to put several warheads on a single missile than it is to build, house and launch several missiles.

But if I put 6 or 10 warheads on a missile, and you can take that missile out with only 1 or 2 warheads by attacking first, then my military planners are going to be nervous.

And that is precisely what can happen if my missile is an ICBM in a fixed silo. It may be powerful, but it is also a sitting duck.

So my military planners are going to say to me: We need to be able to fire our missiles before the attacking missiles land on them. The nuclear theologians call this: "Use 'em or lose 'em." Put another way, if Russia has MIRV'd ICBMs sitting in silos, and we get to a point—hopefully, that will never happen—in the next year, decade or two decades, and they know that one of our warheads can take out that multiple warhead ICBM they have on the ground, their military planners are going to say: You better strike first with that missile because if you don't, it will be taken out. And we are going to sit here and say: We know that is what their military planners are going to do, so we better take that missile out first.

That is called destabilizing. That does not lend security or a sense of security. That is why the first President Bush, and every other President before him, said it was important, of any missile you get rid of, to do away with MIRVed warheads because they were destabilizing, they were on a hair trigger.

This "use 'em or lose 'em" strategy is still in play. I will use radars and satellites to tell when somebody is attacking me. My command and control system will allow me to order a launch of my nuclear-tipped missiles within 10 minutes because that is all the time I will have between the warning of a possible attack and when the warheads will start falling on my MIRVed missiles.

Now, if I am the United States, that works. But if I am Russia, my missile warning network is made of Swiss cheese. Some of my satellites do not even work if I am Russia. I lost some radars when the Soviet Union broke up. And worse yet, my rocket force troops are so poorly paid, so ill-housed, that sometimes they even go berserk and shoot each other. This is not a joke. They really do. So there are risks in basing our deterrent force on MIRVed ICBMs. And if Russia's nuclear-tipped missiles are ever launched in error, we in the United States are the ones most likely to suffer.

But the administration is confident that none of this will happen. The Secretary of State told the Foreign Relations Committee:

We cannot conceive of any credible scenario in which we would threaten to launch

our strategic forces at Russia. The scenario . . . of Russia believing it faced a "use it or lose it" situation with its force of MIRVed ICBMs is therefore not a credible concern.

As a former press secretary of mine used to say—Evelyn Lieberman—"My lips to God's ears." Hopefully, that is true.

As a result, President Bush felt at liberty to tell President Putin:

[Y]ou can do whatever you think you have to do for your security. You can MIRV your missiles, you can keep more, you can go lower. Do what you think you need.

I sincerely hope the relationship between the United States and Russia has truly been transformed and that, as President Bush wrote in his letter of transmittal, "Russia is not an enemy, Russia is a friend"—a friend, I might add, that is not with us right now on the Security Council and not with us with regard to Iraq, but that is a parenthetical note.

Most of all, I hope that Russia feels the same way. If President Putin fears a U.S. attack, then it won't matter what President Bush has as his intent.

If the Russian military fears a U.S. attack, their missiles may stay on a "hair trigger" alert even if President Putin does not share their fears.

In short, the Moscow Treaty is a treaty that is long on flexibility accorded to each party and short on provisions intended to ensure compliance. That emphasis on military flexibility is the hallmark of this administration. It is an understandable response to dangerous times, but I think it is also a vision that ignores many of the political risks.

This administration has also promoted a nuclear weapons policy that speaks of the use of new "bunker-buster" weapons against deeply buried targets, treating nuclear weapons as a handy tool just as any other weapon, and thus lowering the threshold for nuclear war.

This administration also speaks of possible new nuclear weapons tests. This administration speaks of the possible use of nuclear weapons against states that neither have such weapons nor are allied with states that have them, contradicting previous American statements that we made in order to maintain other countries' support for the Nuclear Non-Proliferation Treaty.

This administration has indicated possible preemptive attacks, perhaps with nuclear weapons, on states that we fear are preparing to do us harm—again, perhaps even if those states do not have nuclear weapons.

I do not doubt that if we went through this list, issue by issue, we would find that the administration has understandable reasons for its actions. But in foreign affairs, understandable reasons are not enough. We need a sensible strategy. We need statecraft that offers what Thomas Jefferson called "a decent respect to the opinions of mankind."

In that respect, we risk alienating ourselves from those who could be of

help to us in many areas. The issue may be to keep an American on a United Nations commission or whether to support an American use of force in Iraq. Chickens come home to roost.

The fact is, we cannot take these unilateral positions irrespective, in my view, of world public opinion and then not expect to pay for it down the road somewhere. I would respectfully suggest, parenthetically, I think we are paying for some of that right now in the United Nations Security Council.

This fixation with military power extends to the Moscow Treaty as well. How should we handle a treaty that calls for significant force reductions but also allows each party to keep its powder dry?

Retired Senator Sam Nunn, former chairman of the Armed Services Committee, has a good term for the Moscow Treaty. He calls it, not "the Moscow Treaty," but the "good-faith treaty." Senator Nunn adds:

It expresses—and relies upon—good faith in our common interests and the common vision of our leaders.

I think it is a pretty good way to characterize this treaty.

But when he testified before the Senate Foreign Relations Committee, Senator Sam Nunn added a very important point about the treaty. He said:

If it is not followed with other substantive actions, it will become irrelevant at best—counterproductive at worst.

Let me read that again. He said: "If it is not followed with other substantive actions"—he means actions in terms of arms control and verification, and the like—"it will become irrelevant at best—counterproductive at worst." I share his view.

I support the Moscow Treaty because, on balance, it enhances our national interests. Put another way: To reject this treaty, in my view, would harm our national interest and, as I said at the outset, the relationship between the United States and Russia.

The arms reductions in it do not go far enough, in my view, but they are better than nothing. There is no verification provisions, but good faith, information from START verification activities, and Nunn-Lugar may be a good substitute for verification.

There is a risk that the Russians will rely upon MIRVed ICBMs that raise the threat of an accidental war, but there is also a chance that Russia will destroy those missiles as fast as they can pay for their destruction.

The flexibility built into this treaty could undermine each party's commitment to reductions and its confidence that the other side will achieve them, but the Bush-Putin relationship, which is now being somewhat strained on North Korea and on Iraq, could lead to new patterns of cooperation that make further formal agreements unnecessary.

May all the good outcomes come to pass, but they require a leap of faith. In the meantime, however, I worked with Chairman Lugar to draft a resolu-

tion of ratification that keeps Senator Nunn's admonition in mind. We must build on this treaty in order to ensure its success.

The resolution before us strengthens congressional oversight of the Moscow Treaty implementation and highlights some of the areas on which the administration should build on the treaty to secure a safer world for ourselves and future generations. The resolution includes two conditions and six declarations. Let me briefly go through them.

Condition (1) requires an annual report to the Senate Foreign Relations and Armed Services Committees on how U.S. cooperative threat reduction and nonproliferation assistance to Russia can best contribute to enabling Russia to implement its side of the bargain. Reports subsequent to the initial report will be due on February 15 so that the Senate can take them into account as it considers the budget for programs for which the administration is calling. This is vital because U.S. assistance can bring about the weapons dismantlement the Moscow Treaty fails to achieve.

Condition (2) requires an annual report to the Foreign Relations and Armed Services Committee on U.S. and Russian strategic force levels; each party's planned reductions for the current year; each party's plans for achieving the full reductions by December 31, 2012. Further, it requires reporting on any measure, including verification or transparency measures, taken or proposed by a party to assure each party that the other will achieve its reductions by December 31, 2012.

Condition (2) also requires information relevant to the treaty learned through START verification, and the status of consideration of extending the START verification regime beyond December 2009 when the START treaty is scheduled to expire; anything calling into question either party's intention or ability to achieve the full Moscow Treaty reductions by December 31, 2012; and any action taken or proposed by the parties to address such concerns. This report will provide a strong foundation for Senate oversight of the treaty's implementation.

The first declaration in the treaty reaffirms the Biden-Byrd condition on the authoritative nature of executive branch representations to the Senate and its committees during the ratification process insofar as they are directed to the meaning and legal effect of the treaty.

In other words, it says the President—this President or a future Democrat or Republican President—cannot reinterpret the treaty, cannot give it a meaning different than was suggested to us as what it meant.

There is a second declaration. It encourages the President to continue strategic offensive reductions beyond those mandated by this treaty to the lowest possible levels consistent with national security requirements and alliance obligations of the United States.

Declarations, I might note, for the Presiding Officer, who knows this well, are nonbinding. But this one makes clear that the Moscow Treaty should not be the end of arms control.

President Bush also issued a joint declaration on May 24, 2002, with Russian President Putin that declared "their intention to carry out strategic offensive reductions to the lowest possible levels consistent with our national security requirements and alliance obligations and reflecting the new nature of their strategic reductions."

The joint declaration went on to call the Moscow Treaty a major step in this direction—not the final step, only a major one. The clear implication is that further reductions may follow. This declaration gives the arms reduction process the Senate's blessing, just as we did when considering ratification of START and the START II treaties.

The third declaration states the Senate's expectation that the executive branch will offer to brief the Senate Foreign Relations and Armed Services Committees on issues raised in the bilateral implementation commission, which is part of this treaty, on Moscow Treaty issues raised in other channels, and on any Presidential determination regarding such issues.

Given the lack of verification or transparency provisions in the Moscow Treaty, the bilateral implementation committee established by article III of the treaty may play a major role in assuring that each party knows what the other party is doing and retains confidence that the reductions required by article I will be completed on time—a very important point, on time. Remember, there are no drop-dead dates here.

The fourth declaration urges the President to engage Russia with the objective of, one, establishing cooperative measures regarding the accounting and security of nonstrategic—that is, or tactical—nuclear weapons, and two, providing U.S. and other international assistance to help Russia improve its accounting and security of these weapons. The first meeting of the U.S.-Russian Consultative Group on Strategic Security established a committee to examine these issues. The administration witnesses listed this as a top priority. This declaration, in my view, adds the Senate's encouragement to pursue the issue of tactical nuclear weapons. It does not call for bilateral agreement on reductions of those weapons because several outside witnesses said no Russian agreement to such reductions was likely.

The fifth declaration before us encourages the President to accelerate U.S. force reductions where feasible and consistent with U.S. national security and alliance obligations. The Treaty's intended reductions may be achieved prior to December 2012. To me, the wisdom of faster reductions is clear. It will reassure the world of our commitment to reduced nuclear forces to a reasonable level as speedily as we can. They will also ease any possible



Russian concerns about whether we will meet the one deadline in the treaty. Department of Energy and Air Force officials warn that absent additional resources, major bottlenecks would slow down an accelerated reduction effort.

The Congressional Budget Office report on the treaty cites specific concerns in that regard. But those concerns relate to an effort to complete all reductions by the year 2007.

I believe in the years after 2007, when the transfer of Peacekeeper warheads to the Minuteman III missile will have been completed, faster reductions will be much more feasible.

There is declaration 6. It urges the President to consult with the Senate prior to actions relevant to article IV, paragraph 2, which relate to extending or superseding a treaty, or paragraph 3, which relate to withdrawal from the treaty. This declaration builds on the statement of the Secretary of State that "the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action."

The Secretary's statement could mean only that the administration would discuss with the Senate the need to withdraw when the decision has already been made. This declaration we have in the resolution goes further, by urging the President to consult with the Senate. One may discuss after the decision has been made, but one can only consult before a decision has been taken. The latter is what the Senate expects if this treaty is passed, and this expectation extends beyond the withdrawal issue to cover actions relevant to extending or superseding the treaty. It is vital that the executive branch consult with us when it is considering changes in a treaty. That way, Senators can raise any concern before decisions are made that might jeopardize the chances of securing our advice and consent to ratification.

The resolution of ratification before us was recommended unanimously by the Senate Foreign Relations Committee. I believe it will make a real contribution to the success of this treaty, and I urge all of my colleagues to support it.

To be sure, the resolution does not address every issue we could raise. It clearly does not speak to every declaration that I think should be included in this treaty, but neither is it the only venue in which to raise those issues. For example, consider what the Foreign Relations Committee's report of the treaty says about the proposal by GEN Eugene Habiger, former commander of U.S. Strategic Command:

Members of the committee . . . share General Habiger's view that options for reducing alert status should be evaluated by those with significant expertise on the specific weapons systems in question. If the President does not order preparation for such analyses, Congress could require the analyses or establish a commission of weapons

systems experts to undertake this task. Such commissions have been created before, some under the auspices of the National Academy of Sciences, and have proven useful in considering issues of such a technical nature.

Senator LUGAR and I do not think this resolution of ratification is a proper vehicle through which to establish such a commission, but unless something has changed, which I know it has not, we will continue to pursue this proposal in a venue other than this treaty.

The committee's report also addresses two other issues we were unable to incorporate in the resolution of ratification. On verification and transparency, our report says:

The committee believes that the absence of verification provisions in the Moscow Treaty makes confidence and transparency a high priority issue. . . . The United States should not only practice transparency, but also promote it, in close coordination with the Russian Federation.

Our report goes on to say:

The committee urges the President to use implementation of the Moscow Treaty as a means to foster . . . mutual confidence in the national security field.

The report also calls attention to the Congressional Budget Office's estimate that further drawdowns in strategic delivery vehicles after 2007 could save some \$5 billion.

Our report adds:

The committee recommends that the President give particular attention, as the Moscow Treaty implementation proceeds, to the possibility that modest further reductions in strategic delivery systems after 2007 could lead to significant cost savings without endangering the national security.

The Armed Services Committee and the Foreign Relations Committee can pursue both of these issues as they oversee the implementation of the treaty in the coming years, and I am committed to doing so, and I believe the chairman is as well.

Some of my colleagues are concerned about still other issues. Several amendments may be proposed today. Some of them are amendments I would like to support, but I will not support any additional amendments because I think it is fair to say, speaking for myself, but I think it reflects the view of the chairman—he may have already mentioned it—we believe that in order to get the cooperation we had to add the total of eight declarations or conditions to this treaty, we would, in fact, oppose other amendments, some positive, some, in my view, very negative. So it will be my dubious distinction of possibly voting against some amendments that I think are useful because I think if that were to happen and we started to load this up, we might very well lose this treaty. I think it is very important.

It is a mild exaggeration to suggest, but not very far off, that my view is that the value of the treaty is exceeded only by the danger of failing to ratify this treaty, and there is a danger, in my view, of failing to ratify this treaty. This is not a treaty, were I in charge of negotiation—as my Grand-

father Finnegan used to say, this is not the whole of it—this is not all of what I would like to have seen in this treaty. I sincerely hope this further changes the atmosphere in the positive direction it has been changing, that this administration and the Russian administration will conclude we should be dealing with MIRV missiles, we should be dealing with tactical nuclear weapons, and we should be dealing with other genuine mutual concerns that we have. I am confident if we reject this treaty, if we bog it down and it does not get the necessary supermajority required, then it will make those possibilities impossible in the near term.

So in each case, as these amendments are put forward, if they are, I will be guided also by the need to maintain administration support and Senate consensus regarding the resolution of ratification as a whole.

I say to my Democratic colleagues on my side of the aisle, I do not presume to speak for them all. Generally, I do not think it is appropriate for the chairman or a ranking member to commit his or her party to a single position that that chairman or, in this case, the ranking member takes.

I respect my colleagues who may come forward with amendments, but I hope they understand my rationale and why I will not be supporting those amendments, even the good ones, because there is no amendment I can see that is so significant that it would cure all the defects or all the things this treaty fails to address. The risk I am concerned about is bogging this treaty down.

It is a good resolution, I say to the Presiding Officer, who knows that as well as or better than anyone present—he is one of the most informed people in this body on foreign relations and arms control issues. I think it will be implemented. The reporting it requires, I think, will enable us to do our constitutional duty of watching over the treaty in the coming years.

Let's pass it and then work together to make it a success and work together to take the next steps we have to take.

I would note to my chairman that there may be a resolution unrelated to any amendment to this treaty calling for the Senate to go on record in a much more forceful way to support a comprehensive non-proliferation strategy and Nunn-Lugar cooperative threat reduction efforts. As I said in the chairman's absence, without verification, there are only two things that give me real solace, and they are the insight we get from the Nunn-Lugar initiatives and cooperative threat reduction, as well as the remaining verification process that exists within the START treaty which will expire three years before this treaty expires. But it will not, I assure my colleague, be as an amendment. It will not be as a declaration which we cannot amend. It will not be as a condition to this treaty.

I thank my colleagues for their indulgence. I do not plan on speaking on

this issue very much longer except on each amendment at some point. I hope we can move as rapidly as possible because, again, the treaty is valuable, but it is dangerous if we do not pass this treaty.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I commend the chairman and ranking member for the work they have done. I can only agree wholeheartedly with the ranking member's comments about the problems this treaty has, although I also intend to vote for it.

I came to the Senate in 1989. At that time, Vermont was a leader in the effort to reduce nuclear weapons. I, therefore, became very interested in what we could do to reduce the threat of nuclear war.

In November 1990, I traveled with seven Members of Parliament from the United States, Great Britain, and the Soviet Union. We went to the capital of each of our countries. We worked as hard as we could to raise awareness of the dangers of nuclear war and discuss what could be done to prevent the spread of nuclear weapons.

In England, we spoke with people who were involved with nuclear issues. We had a very memorable time with the Speaker of the House of Lords and also the House of Commons and gained insight into the British perspective on these issues.

We then traveled to Moscow on the evening Soviet President Gorbachev gave his annual economic speech. We were amazed when, following the speech, he spent a great deal of time with us discussing the nuclear issue. He stated that the Soviet Union would certainly welcome a prohibition on nuclear testing. At the end of that meeting, there was one light moment. I brought him a pint of maple syrup. I offered it to him and said that if he were to give a teaspoonful of this to someone, why, they would immediately seek peace. He responded: Do you have a liter? I said: No, but I will get you one. It was an interesting time.

We flew from there to Washington and met with National Security Advisor Brent Scowcroft.

This is an issue I have followed for many years. I agree with my predecessor, the ranking member, that this treaty is far from perfect. We are engaged in a global struggle to confront the terrorist threat and to curtail the dangers posed by the prospect of nuclear materials in the hands of so-called rogue nations.

While I will vote for this treaty, I cannot help but feel that the Moscow Treaty represents a tragic waste of opportunity. Instead of capitalizing on the Russian desire to reach agreement on deep cuts in nuclear warheads and instead of seeking destruction of warheads to ensure that Russian nuclear materials never fall into the hands of America's enemies, the Bush administration's distaste for arms control

agreements—indeed, for any sort of internationally binding agreement—has prevented it from seizing the opportunity to make the American people more secure.

There is nothing inherently wrong with the Moscow Treaty. It requires the United States and Russia to reduce their operationally deployed strategic nuclear weapons to between 1,700 to 2,200 warheads.

In a small way, it will make the United States, Russia, and the world a safer place—a very small way. It also is consistent with the previous administration's recommendations in the 1994 Nuclear Posture Review.

The shame of the Moscow Treaty is not in what it does, but in what it does not do. The treaty represents a lost opportunity. The Bush administration's scorn for arms control blinded it to a golden opportunity presented by negotiation of the Moscow Treaty to address bigger nonproliferation and counterterrorism concerns of the United States.

The Bush administration came into this negotiation only reluctantly. It repeatedly declared its opposition to the negotiation of a legally binding treaty text, asserting that less formal agreements or statements would suffice.

Press reports are replete with examples of conflict between the Pentagon, which opposed any limitations on its offensive nuclear weapons and wanted the flexibility to increase nuclear forces, and the State Department, which supported the negotiation of a legally binding agreement.

In the end, the State Department got its legally binding agreement, and the Pentagon got an agreement that is notable not only for its brevity, but also for its lack of lasting impact.

While the treaty calls for each side to "reduce and limit" its strategic nuclear warheads to within the 1,700 to 2,200 range, the United States made clear early in the negotiation that it would interpret this phrase to apply only to "operationally deployed" warheads. In other words, there is no obligation to destroy even a single warhead under the Moscow Treaty.

Warheads can be removed from their delivery vehicles and stored close by and still count as a "reduction" under the treaty. The United States has made clear that it plans to dismantle some warheads, put some in deep storage, and store others as spares.

The absence of any obligation to destroy warheads leads to one of the treaty's most striking anomalies. The deadline for the reduction of operationally deployed warheads to within the 1,700 to 2,200 range is December 31, 2012. Unless otherwise agreed, the treaty expires the very same day. So the reduction in operationally deployed warheads, which are the only reductions in strategic nuclear weapons required by the treaty, lasts for only 1 day.

On January 1, 2013, each party will be free from Moscow Treaty constraints on deployment of its strategic nuclear

warheads. Moreover, if either the United States or Russia decides at any time in the interim that it wants to re-deploy its warheads, it need only provide 90 days notice of withdrawal, and it will be free to do so.

On May 13, 2002, the President stated that he was "pleased to announce that the United States and Russia have agreed to a treaty which will substantially reduce our nuclear arsenals to the agreed-upon range of 1,700 to 2,200 warheads. This treaty will liquidate the legacy of the cold war."

This statement provides one more example of the President's rhetoric not matching reality. The treaty does not reduce our nuclear warhead arsenals to the range of the 1,700 to 2,200 warheads. Far from it. The White House refused to agree to such reductions. The treaty merely removes warheads from operational deployment. There is no reduction in nuclear arsenals. The legacy of the cold war lives on. It just sits a short distance from our missiles, bombers, and submarines rather than in a deployed posture.

Faced with the opportunity to lock in reductions of Russian strategic nuclear warheads, the President let ideology get in the way of meaningful agreement. Despite well-publicized concerns over Russia's ability to control its nuclear materials, he passed on an opportunity to assist global efforts against proliferation and terrorist attack by helping Russia deal with its nuclear stockpiles.

There are a host of additional steps that could have been taken in connection with the negotiation of the Moscow Treaty.

The President could have acted upon Russian desires to make true reductions in our offensive strategic nuclear weapons. He refused, despite the fact that destruction of Russian nuclear warheads would have eliminated their vulnerability to theft or diversion to terrorists.

The President could have agreed to Russian proposals for negotiation of a verification regime to track progress toward the 2012 limits on deployed warheads.

He refused, despite the confidence it would have instilled in the reduction process.

The President could have expanded the negotiation to cover tactical nuclear weapons.

He refused, despite the fact that thousands of such weapons exist in Russia and the United States without any sort of monitoring or control by an arms control regime.

Because of their small size and battlefield application, these weapons are extremely attractive to terrorist organizations, and relatively vulnerable.

The United States is currently unable to determine the precise number of Russian tactical nuclear weapons, and therefore unable to determine the nature of Russian control over such weapons and whether some might already have been lost or stolen.

The President also could have expanded the negotiation to cover the problem of multiple independently targeted warheads known as MIRVs.

Refusal to do so by the President leaves the American people vulnerable to the loss of several sites from a single missile launch.

Steps of this sort truly would have matched the President's rhetoric, and they would have made this world far safer for our children.

The opportunities presented by the Moscow Treaty are now lost. Other opportunities exist, however, to work with Russia and others around the world to fight the proliferation of nuclear weapons, material, and knowledge.

Such work is critical to our efforts to combat terrorism and to halt the spread of nuclear weapons and know-how to countries such as North Korea, Iran, and Iraq.

It is my sincere hope that in the future the President will reconsider the narrow approach taken toward the Moscow Treaty, and to other agreements such as the Comprehensive Nuclear Test Ban Treaty.

The fight against terrorism and the spread of nuclear weapons must be fought on several fronts.

Half-hearted efforts like the Moscow Treaty will not meet the needs of the American people and the world.

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HAGEL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Madam President, I rise today to support the resolution of ratification of the Treaty on Strategic Offensive Reductions—or, as we call it, the Moscow Treaty—now before the Senate.

The Moscow Treaty represents a shared commitment by the United States and Russia to step back from the cold war policies of nuclear confrontation and enter into a new era of cooperation. This is to assure that our nuclear weapons no longer threaten either our peoples or our civilization.

It was the bold vision of President Ronald Reagan, 17 years ago, at the Gorbachev summit in Reykjavik that set in motion this effort to make dramatic reductions in the nuclear weapons arsenals of the United States and then the Soviet Union. President Reagan's vision, once considered by some a fantasy or a negotiating ploy, is becoming the standard by which we should measure our success in arms control.

The Moscow Treaty avoids the strategic gamesmanship and pitfalls of the SALT treaties, the ABM Treaty, and other negotiations of the cold war.

The simplicity of this treaty, only three pages in length, betrayed its his-

toric significance for United States-Russian relations and for global security. Its strength is the power of its objective, to dramatically reduce American and Russian strategic weapons.

On November 13, 2001, President Bush announced that the United States would reduce its strategic nuclear arsenal by two-thirds, from approximately 6,000 nuclear weapons to between 1,700 and 2,200 operationally deployed strategic nuclear weapons by December 31, 2012. The President made this determination independent of what Russia would do, knowing that these reductions would be in the overall strategic interest of the United States.

President Putin determined that comparable reductions would also be in his country's own national security interest. On May 24, 2002, Bush and Putin agreed that their commitment to these reductions would take the form of a legally binding treaty.

The negotiations over the Moscow Treaty did not fall into the traps of previous arms control agreements negotiated with the Soviet Union during the cold war. That is as much a testimony to the new spirit of U.S.-Russian relations and the realities of today's threats as it is to the strength of the treaty. For example, it took the United States Senate 3 years to ratify the START II treaty. It took the Russian Duma 7 years for ratification. And both sides put conditions unacceptable to the other side on the respective ratification agreements. As a result, that agreement never went into force.

Instead of years of back and forth negotiations, with each side seeking a strategic advantage, the Moscow Treaty illustrates a turning point in America's relationship with Russia. It should provide an environment conducive to future arms control negotiations.

The Resolution of Ratification before us today introduces just two straightforward conditions that complement rather than complicate the treaty. First, the administration must report to the Senate annually on how the United States plans to reach the required reduction goals. While this resolution does not set a rigid timetable, these reports will allow the Senate to oversee the implementation of this treaty.

The second condition deals with the Cooperative Threat Reduction or Nunn-Lugar programs. Russia is committed to meeting these reductions, but the question remains if Russia has the resources to meet them. The Nunn-Lugar program has been successful in assisting the former states of the Soviet Union to help reduce their nuclear arsenals. The Resolution of Ratification rightly includes Nunn-Lugar programs as instrumental in achieving lasting and durable arms reduction.

The Moscow Treaty should not be considered as the final chapter in U.S.-Russian arms control, but it is an important and historic step forward. The United States and Russia must do more

to prevent the proliferation of dual use technology and weapons of mass destruction to Iran, North Korea, and other countries. The Nunn-Lugar Cooperative Threat Reduction programs are crucial to our shared security interests in preventing the proliferation of weapons of mass destructions. For us to succeed in making a safer world, Washington and Moscow must be strategic partners, not strategic adversaries.

The Bush Administration, Chairman LUGAR, Senator BIDEN, and others who have framed the Treaty and the Resolution of Ratification deserve credit and thanks for their leadership and steady focus. I urge my colleagues to vote yes on the resolution without amendments, for the very reasons Senator BIDEN articulated just minutes ago, and to understand the broader context and significance of this treaty for U.S.-Russian relations and global security. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I will speak briefly today about the treaty we are considering. I spoke about it in brief yesterday and said while I would vote for it, I think it is not much better than nothing with respect to arms control. I will explain a little bit about where I think we are and where I hope we might go on some of these issues.

I note that Senator LUGAR is in the Chamber, the chairman of the committee. He might or might not know that yesterday when I spoke on these issues, I spoke about the general issue of threat reduction. I spoke about the Nunn-Lugar, or Lugar-Nunn, programs by which we were actually using taxpayer money in this country to dismantle delivery systems and weapons in the old Soviet Union and in Russia, the very success of those programs, and how much I thought those programs have contributed to moving in the right direction.

We may not agree. I do not know. I suspect there are some who think this Moscow Treaty actually advances our interests. I think it probably does not, but I do not think it hurts anything. It is an agreement by which the United States and Russia decide that a number of nuclear weapons will be taken off the active delivery systems and put in storage, but at the end of the time during which this transition takes place, in 2012, we will have exactly the same number of nuclear weapons in Russia and in the United States as we have today, at least as a result of this treaty.

This treaty does not propose that any nuclear weapons be disassembled or destroyed. It is simply putting nuclear

weapons in storage facilities somewhere. Are they at the ready? Are they in storage? I think it is not a great distinction, or at least it is a distinction without much of a difference.

While Senator LUGAR is present, I want to mention, as I did yesterday, I have here a piece of a strut from a wing of a Soviet bomber. Some of my colleagues have been given pieces of this as a commemorative of a very successful effort we have made and continue to make with respect to arms reductions. I stress the word "reductions" of both nuclear weapons and delivery systems.

I ask unanimous consent to use this old strut of a Soviet bomber to make the point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. The point is this: I hold in my hand a piece of metal that belonged to a bomber that presumably carried nuclear weapons that threatened every American. Did we shoot this bomber down? No, we did not. We sawed the wings off and destroyed the fuselage. How did we do that? Because we had a program called Nunn-Lugar, or Lugar-Nunn, that actually recognized it is a whole lot better to reach an agreement for arms reduction and then help pay for the destruction of a Soviet bomber or a Russian bomber, or the dismantlement of a missile or a submarine and the destruction of a warhead, than it is to exchange them or to try to shoot it down or to sink the submarine. So we appropriated taxpayers' money for this purpose. This is called peace.

This is another item I showed yesterday: Ground-up copper from a dismantled Soviet submarine that carried missiles with warheads aimed at American cities. This is called progress. This submarine does not exist any longer. Why? Because we had the foresight, particularly by Senator LUGAR and Senator Nunn, to say if we can have verifiable reductions in both delivery systems and nuclear weapons, and even help pay for that destruction, it is far better than having this continued standoff and actually having to fight at some point to try to knock down a Soviet bomber or destroy a Russian submarine. We are destroying them, all right, but peacefully, through a program that works.

Because I think that is very important to understand, I made the point yesterday that there are thousands and thousands of nuclear weapons in this world. The bulk of them are contained in arsenals by Russia and the United States. Many of them are called theater nuclear weapons, lower yield, smaller nuclear weapons. Then there are strategic nuclear weapons, the larger nuclear weapons. There are thousands of each, and over time, through arms control agreements, we have reached some understanding that we want to reduce the number of warheads, the number of delivery systems. We have moved back and forth about

exactly how we do that. In some cases, there has been great emphasis on dismantling or limiting the number of delivery systems, the missiles themselves, or the bombers or the submarines. They are mere delivery systems for a weapon of mass destruction. In some cases, we paid great attention to that. In other cases, we have paid attention to the number of warheads themselves.

All of that is important. But I must say a treaty is not, at the end of the day, very important to us if it discontinues the effort to actually reduce the threat of war through dismantling weapons and delivery systems. We have made some progress in arms control, progress that I think is very important to the American people, but there is so much more to be done.

A rumor that someone had stolen one nuclear weapon some many months ago caused great concern in this country. The loss of one nuclear weapon to a terrorist could hold hostage an entire American city or, for that matter, much of a country, and there are thousands and thousands of these weapons.

It seems to me, if we wish to make this a safer world for our children and grandchildren, it is our job to aggressively stop the spread of nuclear weapons. God forbid other countries will become part of the nuclear club or that terrorists and terrorist organizations will acquire weapons of mass destruction, particularly nuclear weapons. We will stop the spread of nuclear weapons. And we must be the leader to do that. This country must be in the lead. It is our job. This responsibility falls on our shoulders at this time.

No. 2, in addition to stopping the spread, we must systematically, over a period of time, begin reducing the stockpiles. We must do that.

I have been disappointed for some long while on arms control issues. I don't believe we should disarm. I don't want our country to be weak. But I believe it is in our country's best interests to stop the spread of nuclear weapons and to have a mutually agreed upon reduction in the number of nuclear weapons.

In October of 1999, this Senate rejected the Comprehensive Nuclear Test-Ban Treaty. That was a terrible disappointment, certainly for me and for many around the world. We have not tested nuclear weapons for nearly a decade, yet we send a message to the rest of the world that we do not want a Comprehensive Nuclear Test-Ban Treaty, one that much of the world has already embraced. That was a terrible setback. Since that time, by the way, the reports by former Joint Chiefs of Staff Chairman Shalikashvili and the National Academy of Sciences have endorsed the Comprehensive Test-Ban Treaty and concluded that the treaty can be verified adequately, adversaries cannot significantly advance their nuclear weapons by cheating, and the United States can maintain confidence in its nuclear stockpile without test-

ing. We made a horrible mistake in rejecting that treaty.

This country, in December 2001, announced it would unilaterally withdraw from the ABM Treaty with Russia. In my judgment, that was a significant mistake. That treaty was the center pole of nuclear arms reduction agreements, talks, and discussions.

In January 2002, the administration released its Nuclear Posture Review, and it said the United States needs to keep a very substantial nuclear force for 20 years. It set out what that nuclear force would be. But that Nuclear Posture Review blurred the lines between conventional and nuclear weapons, calling for a new generation of smaller, easy-to-use nuclear weapons, including smaller bunker buster weapons—the wrong thing for our country if we are going to be a leader in trying to say to another nation, let's never see a nuclear weapon used again anywhere in this world. And yet we are talking about perhaps designing new bunker buster nuclear weapons—moving exactly in the opposite direction, in my judgment.

The Nuclear Posture Review called for increasing our readiness to resume testing of nuclear weapons. I don't understand that.

All of these, together, represent movement in exactly the wrong direction for this country. We have very serious challenges in the world that require our leadership. India and Pakistan don't like each other. They are shooting at each other at the border, over Kashmir. They both have nuclear weapons. It was not too many months ago we had a very serious, very tense time with respect to India and Pakistan.

The message we send as the world leader, the strongest military power in the world, is critically important. Our message ought to be that we want to make this a safer world by beginning the long process of reducing the stockpile of nuclear weapons, not by putting them in warehouses someplace. We should be really reducing the number of nuclear weapons and making sure that our efforts as the United States of America are used to try to prevent the spread of nuclear weapons to any other country in the world, any other group in the world—that is our responsibility. It is what we must be about. If that mantle of world leadership is not borne by us, that leadership will not exist. I fear our future will not be a particularly good future with more and more countries becoming a part of the nuclear club.

As I indicated, the Moscow Treaty does not require a single missile silo, submarine, bomber, missile, or bomb, for that matter, to be eliminated. Compare this with previous treaties. The Intermediate-Range Nuclear Forces Treaty required the destruction of an entire class of ballistic missiles with ranges from 2,000 to 3,000 miles.

I had a picture in the Senate one day of a few acres of sunflowers. This few

acres of sunflowers were sunflowers planted on a piece of ground that used to house missiles in the Ukraine with a warhead aimed at the United States of America. It is not a warhead. It is not a missile. It is gone. It is destroyed. And now where a missile was once buried, there grows a field of sunflowers. What a wonderful thing.

The fact is, these agreements, these treaties that we have had, have worked. The treaties require irreversible action by requiring the destruction of delivery vehicles and warheads.

As I indicated, the Moscow Treaty does not require a single nuclear warhead to be destroyed. It limits the number of strategic nuclear weapons that each side can deploy, from 1,700 to 2,200.

Admittedly, previous arms treaties did not require the destruction of warheads, but at the Helsinki summit Presidents Clinton and Yeltsin agreed to a framework of SALT III negotiations for destruction of warheads. During treaty negotiations, Russia insisted that it require the elimination of non-deployed warheads, but our country resisted because we wanted to keep warheads removed from deployment in storage.

So now we have a Moscow Treaty that says we are going to keep these warheads in storage but we will count them as a reduction in warheads because they are no longer active with respect to the ability to put them on an airplane or submarine or on the tip of a missile. Frankly, it does not reduce the number of nuclear warheads in a significant way, and in my judgment, we ought to be doing that.

We have the START treaty. We have a whole series of efforts that have occurred over a long period of time that give us a roadmap on how to succeed with respect to what I think our obligation is in these areas. There is nothing particularly objectionable about this treaty, but it does not really provide any progress for us. One can hardly object to something that does not do anything, except that my wish would be that we would engage in a manner that would allow us to make some progress.

I intended to offer an amendment. I say to my colleague from Indiana that I am not going to offer an amendment. I have the amendment, but I will not offer it because my understanding is that the ranking member would be obligated to vote against it based on an agreement the chairman and the ranking member have reached. But let me read my amendment and state what I hope this country will do at some point.

My amendment would have added a section (7):

**FURTHER NEGOTIATIONS.**—The Senate urges the President to build upon the foundation of the Treaty by negotiating a new treaty with the Russian Federation that would enter into force upon the termination of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed

at Moscow on July 31, 1991 (START Treaty), and would require deep, verifiable, and irreversible reductions in the stockpiles of strategic and non-strategic nuclear warheads of the United States and the Russian Federation.

The purpose of this would be to say that future negotiations which should occur, and should occur now, should have as an objective to reduce the stockpile of nuclear weapons contained both in Russia and the United States. I do not propose disarmament. I do propose that in circumstances where each of us has thousands and thousands and thousands of nuclear weapons—perhaps as many as 25 to 30,000 between both countries, if you include both theater and strategic nuclear weapons—I do propose we find a way to reduce the stockpiles on both sides in an irreversible way.

Then, as I indicated previously, my fervent hope and prayer is that the leadership of this country will exert itself to try to do everything it can to be a world leader to stop the spread of nuclear weapons. This country's future depends on it.

Let me conclude by saying I have great admiration for Senator BIDEN, who has had a world of experience in these areas, and for Senator LUGAR. I have already spoken of Senator LUGAR. I will not go on at great length. But his work has been extraordinary. Senator BIDEN's work, as well, contributes a great deal to this Senate and to this country.

I know he believes, as I do, that we have seen many missed opportunities in recent years to don the mantle of world leadership that we must assume dealing with these areas. While I will vote for this treaty, I am confident that Senator LUGAR and Senator BIDEN understand, perhaps even if this administration does not, based on their past actions and based on the things they have supported previously, this is a step, even if a baby step, that must be followed by very large strides, vigorous, aggressive approaches to do what we know needs to be done: A real reduction in the stockpile of nuclear weapons and a major effort on behalf of America to stop the spread of nuclear weapons in the rest of the world.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Illinois.

AMENDMENT NO. 250

(Purpose: To provide an additional condition)

Mr. DURBIN. Madam President, the resolution of ratification we have before us on the treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions, also known as the Moscow Treaty, is a step forward but in many ways it is a very modest step. The treaty is a three-page document signed by Presidents Bush and Putin on May 24, 2002, to reduce deployed strategic nuclear weapons to between 1,700 and 2,200 warheads by December 31, 2012.

The treaty actually calls for no warheads or delivery vehicles to be de-

stroyed. They can simply be stored. There are no verification provisions, other than those still in effect through 2009 from the START treaty, and the reductions in deployed warheads have to occur by December 31, 2012, the very same day the treaty expires.

However, once the reductions in deployed warheads are met, it means a large number of warheads will not be ready to launch at a moment's notice. That is a positive thing, even if no warheads are dismantled and no delivery vehicles are destroyed.

When nonnuclear countries agreed to forgo nuclear weapons in the Nuclear Nonproliferation Treaty, an essential part of the grand bargain was that nuclear countries, like the United States and the Russian Federation, were to control and reduce their nuclear weapons. Because this treaty is an effort to control and reduce the number of deployed warheads, I will vote for the resolution of ratification.

From the Nuclear Non-Proliferation Treaty flowed all the various efforts of U.S.-Soviet nuclear arms control, including the SALT and START treaties. The Nuclear Non-Proliferation Treaty was renewed in 1995, but it required a lot of arm twisting by the United States because nonnuclear countries have accused the nuclear powers of not being serious about nuclear arms control and reduction. A major reason nonnuclear states agreed to renew the Nuclear Non-Proliferation Treaty is because the United States signed and agreed to pursue ratification of the Comprehensive Nuclear Test-Ban Treaty, which sadly, this body, the Senate, rejected on October 13, 1999.

The failure of the Senate to meet its obligation and ratify the Comprehensive Nuclear Test-Ban Treaty left us with little or no leverage to keep Asia from a spiraling arms race in India, Pakistan, China, and perhaps even other countries. Pakistan and India are in a tense nuclear standoff that came to the brink of nuclear war over Kashmir and easily could again. North Korea, we all know, already has nuclear weapons and is likely to build more. Libya, Iran, and Iraq, may be seeking to acquire or develop nuclear weapons.

For those who think nuclear arms control is just a quaint leftover of the cold war, let me say we are facing a major round of nuclear proliferation with destabilizing effects that we may have no way to stop.

Let me at this point pay special tribute to the Senator from Indiana, Mr. LUGAR. Several weeks ago I went to a breakfast at which Senator LUGAR spoke relative to the issue of nuclear proliferation. Since the days of nuclear proliferation, with Senator SAM NUNN of Georgia, DICK LUGAR of Indiana has been a leader, a global leader, on the question of nuclear proliferation. I hope more Members of the Senate on both sides of the aisle will pay particular heed to his warnings about proliferation and about the need for the

United States and other countries seeking stability and peace in the world to be mindful of the danger of proliferation of nuclear weapons.

Some of the examples he gave us from his own life experience, visiting the former Soviet Union, were chilling—chilling because we are this close to the proliferation of weapons, weapons in the hands of countries that will not deal with them in a responsible way.

Having said that, though, I am still very concerned about the policies of this administration that could, in fact, further fray the fabric of the grand bargain struck with the Nuclear Non-Proliferation Treaty and actually create an incentive for current nonnuclear states to acquire nuclear weapons—exactly the opposite of what we want to see in the world of tomorrow. This country has to do more to deal with the crisis in North Korea, do more to secure fissile materials in other countries, and do more to secure a broad international coalition against proliferation.

I have cosponsored a resolution with Senator TOM DASCHLE, which will be introduced today, calling for a more vigorous nonproliferation policy.

I am particularly concerned this administration's policy of preemption, combined with a new policy of first use of nuclear weapons, is an incentive, an invitation to proliferation of weapons of mass destruction, especially nuclear weapons. I have introduced a resolution of my own on that subject today.

Let me elaborate with just a few points. Press reports about the December 31, 2001, Nuclear Posture Review indicated that the United States might use nuclear weapons to discourage adversaries from undertaking military programs or operations that could threaten U.S. interests; that nuclear weapons could be employed against targets able to withstand nonnuclear attack, and that setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in so-called contingencies. The September 17, 2002, national security strategy of the United States stated:

As a matter of common sense and self defense, America will act against such emerging threats before they are fully formed.

It went on to say:

To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.

The U.S. Under Secretary of State for Arms Control, John Bolton, recently announced this administration's abandonment of the so-called "negative security assurance," the pledge to refrain from using nuclear weapons against nonnuclear weapons, which was outlined in 1978, restated in 1995, and in 2002 in the context of gaining the support of other nations for the nonproliferation treaty. Press reports indicate that in a classified document, National Security Directive 17, the President may have made explicit what had

been usefully ambiguous before—a threat to use nuclear weapons in response to an attack with chemical or biological weapons. Making that threat explicit may mean that leaders of other countries that fear a United States attack will think they have to have nuclear weapons to deter the United States, leading to even more proliferation.

What we have here is an escalation of rhetoric, where we have moved beyond "no first use of nuclear weapons," to the point where this administration is saying we can use nuclear weapons against those who do not have them. And now we have a new policy of preemption where the use of those weapons does not even require an imminent danger, imminent threat against the United States.

This rhetoric and this policy cannot help but escalate the situation, leading to more proliferation. That is why I think it is sad that this U.S. Congress has been so passive, while this President has sought to dramatically radicalize and change the foreign policy which has guided this Nation for decades.

The United States is currently engaged in the expansion of research and development of new types of nuclear weapons such as the so-called bunker busters, or small nuclear weapons intended to destroy underground facilities or buried chemical or biological weapons caches.

These policies and actions threaten to make nuclear weapons appear to be useful, legitimate, offensive first-strike weapons, rather than a force for deterrence, and therefore this policy undermines an essential tenet of nonproliferation.

The cumulative effect of the policies announced by President Bush is to redefine and broaden the concept of preemption, which has been understood to mean anticipatory self-defense in the face of imminent attack, and the right of every state to include preventive war without evidence of an imminent attack in which the United States may opt to use nuclear weapons against nonnuclear states.

We don't know where this dangerous policy may lead. But it is hard to imagine it will lead to a safer world. It is hard to imagine that a nonnuclear power can look at the new Bush foreign policy and say with any degree of confidence that forestalling the development of nuclear weapons is in their best interests in the long term. I am afraid the President has created an incentive for proliferation of nuclear weapons—exactly the opposite of what this world needs.

Turning back to the treaty before us today, I am going to offer an amendment, and a number of colleagues will as well. It is my hope we will be able to make constructive and responsible improvements to the Resolution of Ratification that will address some of the weaknesses.

When the Senate considered the Resolution of Ratification of the START

treaty in 1992, it approved a condition that requires the President to seek a cooperative monitoring and verification arrangement in any future agreement.

I am offering an amendment to this Resolution of Ratification that requires the President to report to relevant Senate committees on how he is complying with that requirement.

The Strategic Offensive Reductions Treaty—also known as the Moscow Treaty—does not contain any verification measures other than those already required by the START treaty, which expires in 2009.

The President's position is that our new cooperative relationship with Russia means no verification is necessary. Certainly our relationship with the Russian Federation is quite different than it was during the dark and dreary days of the cold war. The preamble to the treaty makes reference to this new relationship saying the two parties desire ". . . to establish a genuine partnership based on the principles of mutual security, cooperation, trust, openness, and predictability."

I believe a series of cooperative measures, inspections, data sharing and other verification measures are appropriate even in a relationship based on trust, cooperation, openness, and predictability.

I am sorry to remind my colleagues on the Republican side of the aisle that it was their President, Ronald Reagan, who said, "Trust but verify." He was negotiating a START treaty at the time with the Soviet Union. I think his words still apply. Verification builds trust.

As British Foreign Secretary, Lord Palmerston said in 1848—and it has become an often-quoted maxim in foreign affairs—"We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual, and those interests it is our duty to follow." In this case, the interests of both countries are served by reducing deployed warheads, but interests can change with the circumstances.

President Bush has said several times—in fact, he said it in a conversation that I was a party to—that he has developed a relationship of trust with the Russian President, Vladimir Putin. In a joint press conference with the Russian President in June, 1991, President Bush said: "I looked the man in the eye. I found him to be very straightforward and trustworthy. We had a very good dialogue. I was able to get a sense of his soul. . . . The Cold War said loud and clear that we're opponents and that we bring the peace through the ability for each of us to destroy each other. . . . Friends don't destroy each other."

This may well be so, but the fact is that both countries still both have, at the push of a few buttons, the capability to destroy each other, and to destroy the world. There can be no more serious matter.

President Bush and President Putin may have the best of trusting relationships, but we cannot know what the future will bring or who will be President of either country over the life of this treaty, or what kind of relationship those Presidents may have.

Condition 8 of the resolution of ratification of the START treaty requires that in connection with any subsequent agreement reducing strategic nuclear weapons, the President shall seek appropriate monitoring measures. I want to read the entire condition, because I believe it is very important for my colleagues to hear what the Senate required in 1992:

(8) NUCLEAR STOCKPILE WEAPONS ARRANGEMENT.—In as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor—

(A) the numbers of nuclear stockpile weapons on the territory of the parties to this Treaty; and

(B) the location and inventory of facilities on the territory of the parties to this treaty capable of producing significant quantities of fissile materials.

This condition, originally offered to the START Resolution of Ratification during committee consideration, was offered by the Senator from Delaware, Mr. BIDEN, who is in the Chamber today and has been a leader, as well as Senator LUGAR, in developing the kind of arms control which can make a safer world. Senator BIDEN offered an excellent condition that reflected deep concern about nuclear warheads and fissile material falling into the hands of terrorists and irresponsible states, and anticipated that future treaties would require cooperative measures to monitor and verify reductions in strategic weapons in a post-cold-war context.

In fact, measures to monitor what becomes of the thousands of warheads to be taken off of operational deployment is one of the most important steps the United States and the Russian Federation can take to be sure those weapons or fissile materials are secured.

The START treaty contains an extremely complex verification regime. Both countries collect most of the information to verify compliance through "National Technical Means of Verification," in other words, satellites and remote sensing devices. START also allows intrusive measures, such as on-site inspections and exchanges of data.

But these measures under START apply to the retirement and destruction of nuclear weapons launchers and not the warheads themselves. START has a complex way of limiting nuclear forces—rather than counting warheads, it attributes a certain number of warheads to each kind of missile or bomb-

The treaty before us does not require the destruction of launchers, or warheads. There is simply no way to verify what may happen to the thousands of warheads that are to be taken out of operational deployment.

When Senator LUGAR came to our breakfast a few weeks ago, he told a story of visiting the submarine facility at Minsk—I am sure he can fill in the details—and seeing the long line of nuclear submarines that used to be part of the Soviet Navy. He raised a serious and important question about what would happen to the nuclear payload or the nuclear materials in those submarines. Will they be taken out to sea and scuttled, or dismantled and sold? It is a serious concern.

Think about the materials we are talking about. I have seen Senator BIDEN many times come to the floor with materials no longer than a saucer, and easily transported in terms of their size. Now we are talking about a treaty before us which does not include verification procedures so that we are not certain that the Russian Federation is actually dealing with these fissile materials and nuclear weapons in a fashion to guarantee that they won't be the subject of proliferation.

Doesn't it make sense for us to have a reciprocal obligation on the part of both the United States and the Russian Federation to make certain this treaty works? To say the President of the United States and the President of Russia have a trusting working relationship is a good thing for world peace. But who knows what tomorrow will bring? Who knows where we will be or where the Russian Federation will be? And who knows who the leaders will be?

It is important for us, if we are ratifying a resolution for a treaty that will affect the United States for 9 or 10 years, that we at least consider the possibilities that things may not end up as smoothly as we hoped. It is far better for us to build into this resolution a verification procedure to make sure both sides live up to the terms of the treaty. As President Reagan said, "Trust but verify."

I believe that it makes sense for new verification measures to be negotiated. A Bilateral Implementation Commission and the Consultative Group for Strategic Security have both been established in connection with the treaty, and verification and transparency measures may be discussed in these fora. Secretary of State Colin Powell said in his testimony before the Senate Foreign Relations Committee that the Administration will "consider whether to pursue expanded transparency" at meetings of the Consultative Group.

My amendment reminds the Executive Branch that it is already required to seek an arrangement on such issues by Condition 8 of the START treaty, and simply requires a report on what it has done to comply with the requirements of that condition.

I believe this change, although small, is important. It is a change that states

to every Member of the Senate and to the American people we represent and to future generations that this is more than just words on paper. It is more than just a blink of an eye and a relationship.

There is a verification procedure to make sure that the nuclear weapons that are to be set aside and not menace the rest of the world are actually set aside, verification procedures which we can trust and the Russians can trust as well. That is not too much to ask. To do anything less is to perhaps jeopardize the good, positive relationship we have today, by leaving unsaid and unmet our obligation for verification.

Madam President, I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 250.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 2, add the following new condition:

(3) COMPLIANCE REPORT.—Not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on the compliance of the President with the requirements of condition (a)(8) of the resolution of ratification of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), which states that "[in] as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor (A) the numbers of nuclear stockpile weapons on the territory of the parties to [the START Treaty]; and (B) the location and inventory of facilities on the territory of the parties to [the START Treaty] capable of producing or processing significant quantities of fissile materials".

Mr. DURBIN. Madam President, I have shared a copy of this amendment with Senator LUGAR, and I hope Senator BIDEN's staff has a copy as well. If not, we will provide it to them immediately.

At this point, I do not know if Senator LUGAR would like to respond to the filing of the amendment or to engage me in a conversation about the nature of the amendment. I would welcome that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the Senator for his very thoughtful and generous remarks about cooperative threat reduction and

the conversations we have enjoyed about that.

The Senator from Illinois has been a very strong supporter of nonproliferation in this country as we have worked with the Russians or we have tried to direct our own programs. It is always difficult to oppose an amendment of someone who has been so generous in mentioning cooperation we have had together.

I will oppose the amendment because I believe that, in fact, the Senator's objectives are being realized in many ways. Some are known to the Senator; some I would like to discuss presently.

But, first of all, I would say that in arguing in favor of the Moscow Treaty, Senator BIDEN and I have pointed out that the President had already made a determination that we were going to unilaterally destroy a good number of weapons. And the Russians, for their own reasons, had decided they wanted to do so.

This is why it is a very short and simple treaty without extensive verification protocols that have characterized other treaties. But it comes with the START I verification procedures that last through 2009. In our hearings, we have pointed out 2009 is short of 2012, which is the timetable for the total treaty to be consummated. But, at the same time, there is all of the strictness the Senator from Illinois has mentioned in previous treaties incorporated in this one.

The second point of verification is the Cooperative Threat Reduction Program, the Nunn-Lugar program. This has people from our country working with Russians on the ground in Russia. They are verifying precisely what they are doing.

I want to mention the extent of this reporting and verification by pointing to the CTR report which was just published for the year 2002. It has, on the front, so that all Senators will be able to see, the CTR logo, and says: "Cooperative Threat Reduction annual report, Fiscal Year 2002."

Now, page by page, the report goes through a description of cooperative threat reduction activities carried out in fiscal year 2000 in the nuclear, chemical, and biological areas, project by project and objective by objective. It discusses the 5-year plan for destruction or containment, security of each of these materials or weapons systems.

I mention this simply because that has been the objective of those of us who have tried to foster this Cooperative Threat Reduction Program; that in fact there be very close congressional scrutiny, dollar for dollar, area by area, all the way through.

Now, Senator BIDEN was prescient in his amendment that the Senator from Illinois has cited. But this clearly influenced the subsequent work under cooperative threat reduction, and does to this day.

The objectives that the Senator from Illinois has suggested that are especially important—and those were also

mentioned by the distinguished Senator from North Dakota, Mr. DORGAN, early on—we are concerned about the tactical nuclear weapons. We have raised the question to Secretary Powell as to why this was not included. In essence, this is not a quote from the Secretary, but he said: It is a bridge too far. We raised this with the Russians. They are not prepared to come to agreement.

Now, other countries are deeply interested in the Russians coming to agreement, the G-8 countries that have come together in the so-called 10 plus 10 over 10 program, which means \$10 billion for each of 10 years from the countries in the G-8 other than the United States, thus matching essentially what we are doing under cooperative threat reduction.

One of the objectives of the early meetings was clearly: What about the tactical weapons? These are very close to the Europeans. They are not long-range ballistic missiles. They are missiles on the continent in proximity to countries worried about their security.

So we have friends, in a multilateral way, who are helping to pursue this situation. I have some confidence—because Secretary Powell and Secretary Rumsfeld, in their testimony, indicated this is a high priority for them, they will continue to raise it with the Russians—we will make some headway. But we have not thus far.

I would just say to the distinguished Senator from Illinois, whether spurred by the Biden amendment years ago or various other activities, our activities as Members of the Senate and the House and on the ground in Russia have been vigorous.

I think the Senator cited perhaps some of my trips. But one recently, last August, was an attempt to go to the biomilitary plant at so-called Kirov 200. I sought to go there because it was identified as one of four bio-weapons facilities of which we believe the Russians are simply still in denial. They are not prepared to work with us, even though at 14 other sites we do now have active programs.

Under the ISTC Program, the International Science and Technology Program, we are giving stipends to Russian scientists who now have left the weapons field and are working on HIV/AIDS or other ways to combat chemical weapons poisoning.

I would simply say that the Kirov 200 situation, for me, was almost a bridge too far, even though I thought arrangements were available for our U.S. Air Force plane to convey me and the party out there. At the airport that morning, we were informed we would not be able to land. We could fly, but we were not going to land. So we began to work our way through the bureaucracy of the foreign office of Russia, unwilling to take no for an answer. In due course, we did fly the aircraft, and we did land in Kirov.

Having gotten there, I would say that I did not see everything that I wished

to see. But what I did find were retired Russians, retired at 55, who had come, from the plant that was denied to me, down to our activities and who, in essence, told me everything they were doing at either.

So I think we have a pretty good insight. I just mention this because even as we legislatively will some things to happen, they do not happen without persistence and sort of doggedly pursuing those objectives. I am just testifying that is occurring, sometimes to the discomfort of our relationship with the Russians. But in this particular case, I reported all my activities to the defense minister, Mr. Ivanov, and at least mildly admonished him we ought to be beyond this. The whole idea of the Moscow Treaty should be a new relationship, a new trust between President Putin and our President Bush. And all of us on both sides need to be fostering that.

So my response to the Senator from Illinois is to say that I think we are on the same side in pursuing congressional oversight, more vigor with regard to everything we are now doing, although I think it is fully reported annually by the Department of Energy, quite apart from CTR, and with goals to go where we have not been; namely, tactical weapons and future destruction.

Mr. DURBIN. Will the Senator yield for a question?

Mr. LUGAR. Yes, I yield for a question.

Mr. DURBIN. Am I right in my premise that this SORT treaty, this Moscow Treaty, does not destroy the nuclear warheads but simply calls for them to be stored, set aside, not in a deployable mode, so they, frankly, are at least within the grasp of either country to be reactivated? Is that accurate?

Mr. LUGAR. The Senator is correct. The treaty does not call for the destruction of warheads.

Mr. DURBIN. May I also ask the Senator from Indiana, since we live in the 21st century in fear that fissile material and nuclear weapons will be transferred either openly or covertly to countries that will misuse them, why would the Senator from Indiana believe that a verification procedure which spotlights the location and number of these weapons in both countries would not be in the best interest of reducing the likelihood of proliferation?

Mr. LUGAR. I would not disagree, in response to the distinguished Senator, that it would be ideal for this verification to occur, but I would simply respond that although we have been negotiating such verification for some time, the Russians have not agreed to do this. In other words, one reason that is not in this treaty is the negotiators have found resistance. I have found resistance. Other people have found resistance.

These things open up tediously, sort of one by one. For example, after great pressure, I was taken on a small Russian aircraft to a plant where in fact



there are warheads taken off of missiles, and they are stored almost like bodies in coffins side by side, lined there. Each one had a history of when the warhead was built, when it was taken off of the missile that would have conveyed it, when it was put there in storage, and some estimate as to its efficacy; that is, how long you can anticipate this warhead would actually be explosive. Much more ominous down the trail and something that I am pursuing is some sort of prediction as to when it might become dangerous.

The difficulty—and the Senator knows this—is these warheads are unstable sometimes in terms of their chemical composition. They may not lie there in peace forever, like a sporting goods store situation of inert matter. That is the problem for the Russians. At some point they will have to move the warheads. So they already have a railway station secured. They have procedures because they know that at some stage they will have to take the warhead out and disassemble it, a very dangerous predicament and one that then leads to problems of storage of the fissile material. So in another Nunn-Lugar program we are trying to work on the storage facilities for thousands of these warheads because, for the moment, there is not adequate storage for the fissile material itself after it is taken as plutonium or highly enriched uranium from the warhead. The Russians would like to pursue that.

So we asked the logical question the Senator has asked: Why can't we work together to verify where all these warheads are, what status they are in. We are interested in that. We don't want an accidental nuclear event in Russia. And the Russians have been resistant, in the fullness of time perhaps less resistant, but I would just say, once again, that was probably a bridge too far for this treaty. Our negotiators found the Russians not to be prepared.

Mr. DURBIN. Will the Senator yield for another question?

Mr. LUGAR. Of course.

Mr. DURBIN. Is the Senator aware that the amendment I offer calls on the President to report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate not later than 60 days after the exchange of instruments of ratification, annually thereafter on April 15, on the progress toward verification, and we go on to say that we are seeking the same type of verification as in the START treaty, the numbers of nuclear stockpiled weapons in the territories of the parties and the location and inventory of the facilities?

I ask the Senator from Indiana, if we have not reached the stage we want to in verification, is it not of some value for this Senate to say as part of the agreement that we are going to ask this President, and any subsequent President affected by the treaty, to continue to report on an annual basis

to the Senate the progress that is being made to reach verification?

I would think that would have real value to spur this administration on to keep negotiating, keep trying to reach agreement with the Russians. And absent that, I am afraid there would be a disincentive for that sort of thing to occur. I ask the Senator if that is a reasonable interpretation of my own amendment.

Mr. LUGAR. I think it is a reasonable interpretation, I respond to the Senator, but I would also say that in fact the President, at least through the Department of Defense, in the CDR report I have in front of me, is doing that each year. These are annual reports. Likewise the Secretary of Energy is making his own reports on the nuclear accountability issues. So it appears to me that generally the objective of the Senator is being fulfilled in current reports.

What is not being fulfilled and what the Senator and I both wish was being fulfilled is more progress toward the destruction of the warheads themselves and more openness on the part of the Russians to what their problem clearly is and one in which we could help if we had more access. Before I got into this particular vault I am talking about, General Habiger, who has been mentioned in this debate, was the last American ever to get there. This is not openness or transparency. So even though property threat reduction brings a lot of Russians and Americans together, there are areas in which we have not come together, these bio-weapons plants, the four of them, for example, and some of these vaults that we have not seen.

Every year we are reporting, however, our deficiencies or our inability to reach agreement. It is a checkoff list with the Russians.

I say, on behalf of those who are in the field with the CDR, they work at it all the time, working with their compatriots out in the hinterland of Russia to see what might open up this year.

Mr. DURBIN. If I might say, by way of a question in closing so that we don't prolong this debate, I hope the Senator from Indiana will view this amendment as instructive and as friendly and not as adversarial to his goals. I took heart from the statements he made in meetings I attended about the need for all of us to be more sensitized to the problem of proliferation of nuclear weapons. What I am seeking to do is to get an ongoing relationship with the President and the Senate so that we can continue to monitor the progress being made and the incentive is there for this President and any other President in the Russian Federation or the United States to continue to move forward on this track so we can reduce the likelihood of proliferation of nuclear weapons.

I ask my colleague from Indiana if he will consider this amendment I am offering in that light, as a positive, supportive effort, a friendly effort to add

something that may be of value to the conversation.

Mr. LUGAR. In response to the Senator, of course, I see it in that light. My only argument with the Senator today is that I do not believe it ought to be part of the treaty. I believe clearly the fulfillment is already occurring in terms of the reporting, with considerable vigor, but at the same time, as I have admitted to the Senator, the objectives we both seek by getting the President to indicate energy and so forth also requires the Russians to reciprocate. This particular treaty still has to be ratified by the Duma. We have our own debate here, but they will have theirs, too.

Senator BIDEN and I in our opening comments indicated we would resist amendments simply because we believe we have at least in a very general way covered territory of what we ought to be doing in terms of oversight but in ways that would not in any way be objectionable to the Russians who have to ratify the treaty and thus at least preserve the spirit in which Presidents Putin and Bush negotiated, admittedly, a limited treaty. I would ask the Senator at least for his thoughts as to whether he would be sufficiently assured by the vigor of my response to withdraw the amendment, understanding that we will continue to pursue these reports.

I will try to make available to Senators the CDR message if they do not have it which really reviews in detail the gist of what the Senator is requesting. But beyond that, it is a pledge of vigor in proceeding where we have not been, these bridges too far that I have described that are very important.

Mr. DURBIN. May I ask the Senator from Indiana a followup question? Would the Senator be willing to join with me and perhaps Senator BIDEN in a letter to the administration relative to this verification procedure, asking that the administration move forward to at least establish on an informal basis a reporting with the Senate so we can see the progress being made? I would consider that to be a step in this direction which moves us to the same goal.

Mr. LUGAR. I respond to the Senator that I would be pleased to work with the Senator on a letter which affirms, once again, the importance of the debate we are having, the interest of Members who are signing the letter, but others literally in the subject matter of what we are talking about who would acknowledge perhaps that some reports are being made and maybe ask for more vigor in being more complete. I would like to work with the Senator in that project.

Mr. DURBIN. I ask my colleague from Delaware, since I am taking his language from the START treaty and have venerated it, deified it, given it all of the credence any Senator could ask, whether he would be kind enough to join me.

Mr. BIDEN. The answer is yes. I think what the Senator is attempting

to do is very important. Let me explain to the Senator my perspective, and to state the obvious—I may very well be wrong about this. But let me tell my colleague why I honestly think what Senator LUGAR and I came up with is, quite frankly, more likely to get at what we need.

Condition 8 that has been referred to in the START treaty was a very new and important idea when we enacted it 10 years ago. It led the Clinton administration to use the Nunn-Lugar program to achieve a measure of transparency into the Russian fissile stockpiles in the mid-1990s.

In recent years, the United States has helped Russia to conduct a census of its civilian fissile material, but I doubt that either side is now prepared to allow access to the weapons stockpiles that are not on the civilian side of this equation.

It would be my expectation that a report called for on the activities pursuant to condition 8 to the START treaty resolution of ratification would only tell us there are no negotiations toward a bilateral agreement, even though there are useful efforts underway on the Nunn-Lugar related programs.

We already have a condition to the resolution before us that requires the Nunn-Lugar report; in other words, progress on Nunn-Lugar initiatives. We are required to have a report. While I will join the Senator in a letter, and I agree with what the Senator is trying to do, I honestly—not out of pride of authorship of what we came up with, but I honestly believe that what we did as a condition on the Nunn-Lugar programs on this treaty is, quite frankly, more effective than going the route of the condition 8 requirements in the START treaty. I hope I made that clear.

Again, there is no disagreement I have with the Senator from Illinois. The bottom line is that what he has pointed out is, in my view, a real deficiency in this treaty overall. His legitimate attempt to take condition 8 of START and use it as a vehicle to stand in for the absence of a verification requirement in this treaty is useful.

I honestly think, though, I say to Senator DURBIN, the way we did it in the resolution is a more effective way of accomplishing what the Senator is trying to do than through condition 8 of the START treaty.

I will conclude by saying, as I said in a necessarily lengthy statement laying out my interests, concerns, and the assets and deficiencies of this treaty when the chairman brought it to the floor, the treaty, as former Senator Sam Nunn said, in an overall context, can either be moderately helpful or it can be mischievous. I am paraphrasing.

The absence of a verification provision worries me not so much because I think we are going to be put in jeopardy if they do not do what they are supposed to do, but because it is going to allow a future administration or

Members of the Senate to do what they did when we had a verbal agreement on tactical nuclear weapons in the first Bush administration.

It is going to allow some of our friends on the right, who are not going to like it when things are not going so smoothly with Russia, to say: See, these guys are liars. These guys do not keep their agreements. These guys are not doing what they said because we cannot verify that they have done what they said they were going to do.

It leads to distrust because there is always, as my friend from Illinois knows, whether in the House or the Senate—and he has been here a long time—there is always a group in this body that trusts no agreement, none whatsoever, no arms control agreement, no matter how loosely structured.

As Senator Helms, my good friend and the predecessor of the Presiding Officer, used to say: There is never a war we have lost or a treaty we have won. So it is axiomatic on the part of some, in the very conservative elements of our party, but clearly in the Republican Party, who say all treaties are bad ideas, they are just bad ideas.

Absent verification provisions, we allow for misunderstanding to creep in over the next 10 years to what is basically a good-faith agreement until December 31, 2012, the drop-dead date when we know what has happened.

I wish to make one other point because I think it will affect other legitimate points of view and amendments that are brought to the floor that I would be inclined to support.

I remind everyone who may be listening—and I know my colleagues on the floor fully understand this—the President started off with a flat assertion that this would not be a treaty, the Moscow agreement. As a matter of fact, the day on which we had the police memorial service on The Mall—and I am part of that process—I was up on the stage, and the President, who has a great sense of humor and is really an engaging guy, walked up on the stage, grabbed my arm, and said: You owe me one, Joe.

I looked at him joking and said: How is that, Mr. President?

He said: You got your treaty.

He was kidding about my owing him one. But the generic point was well taken. He never wanted this to be a treaty in the first place. The Senator from Indiana—I will not say the Senator from Indiana—the Senator from Delaware was vocal, vociferous privately and publicly with the President personally and on this floor that it had to be a treaty.

The backdrop to all of this is, in terms of additional conditions that may or may not be added to this resolution, that if push comes to shove, I am convinced this President would not be disappointed if we did not vote for this. Let me restate that—he would be disappointed if we did not vote for it. But I am worried that, if certain

amendments were added that he did not like, I do not think he would have any trouble saying, I would rather not have it as a treaty, and I will keep the verbal agreement, the executive agreement with Mr. Putin, rather than have it as a treaty and have to accept these conditions.

It is very important this stay as a treaty as—flawed is the wrong word—but as incomplete as it happens to be. The Senator—I am not being solicitous—points out a deep and serious deficiency in this treaty, and I think the mechanism he chose to try to remedy it is, quite frankly, sound; but the remedy we chose to deal with the deficiency I think is a more likely way to achieve what we are seeking than condition 8 of the START treaty.

Having said all of that, I will be happy to join the Senator in a letter, as strong as he would like to make the letter. I have already sent a few missives down to the President on my views on some of these issues, for what they are worth. I would be happy to join the Senator and sign with him a letter along the lines he has been talking about.

Mr. DURBIN. I thank the Senator from Delaware.

Madam President, because I am convinced of the genuineness and commitment of both the Senator from Indiana and the Senator from Delaware to the issue of nonproliferation, of transparency in our agreement with any nation when it comes to nuclear weapons, I am going to defer to their judgment. But I will also add, were I to send a letter by myself, I am not sure what it might mean, but if they will join me in this correspondence to the administration, I am certain it will carry more weight and be a reminder that we are mindful of the need for real verification, to make certain these nuclear weapons do not end up in the wrong hands and, in fact, they are set aside so they will not be a threat to any other nation.

AMENDMENT NO. 250, WITHDRAWN

For that reason, with the assurance of Senator LUGAR, as well as Senator BIDEN, I ask unanimous consent to withdraw the amendment I filed.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment, and the amendment is withdrawn.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. WARNER. Madam President, I ask unanimous consent that the Senator from Virginia be allowed to proceed as in morning business for such period of time as he may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WARNER are printed in today's RECORD under "Morning Business.")

Mr. LIEBERMAN. Madam President, if I may paraphrase Winston Churchill, the "only thing worse than this treaty would be not having this treaty at all." So I rise this afternoon in support of this treaty—a good but ultimately insufficient treaty—and in support of my colleagues' amendments to it.

I rise also to lend my voice to a related resolution that I drafted with the minority leader and several of my colleagues, which enunciates the beginnings of a coherent non-proliferation strategy.

A little over one decade ago we awoke to the sound of freedom. The Berlin Wall had fallen; brothers and sisters who had been kept forcibly apart were able, once more, to take up the rights which are enshrined in our own Declaration of Independence, rights which we all too often take for granted. The Soviet empire was no more. It was the beginning of a new era. The threat of nuclear war, at least between two great superpowers, had lifted. It soon became clear that the newest threat to our security, the increased chance of proliferation wrought by the fall of the Soviet empire, was perhaps an even greater challenge. The sword had slipped from the giant's hand. We knew then and we know now, that we had no choice but to take action and prevent those who would do us harm by picking the sword up again.

We in the Congress and our President acted with resolve. We moved to strengthen international institutions and systems designed to prevent the spread of nuclear, biological, and chemical weapons. And we were successful. The nuclear capable states of the former Soviet Union, one by one, renounced the use and possession of nuclear weapons and returned them to Russia. We had a few setbacks along the way, but overall we have managed to contain proliferation. But now I fear that this President has lost his way, and is undoing the good progress of previous administrations.

The fact is, the events of September 11, 2001 should be a rallying cry for non-proliferation—we can imagine all too well the results if those who masterminded the attacks on the World Trade Center and the Pentagon, had access to weapons of mass destruction. Yet since then, the Bush administration has unwisely led our Nation and the international community down a meandering path of policy choices with only one clear outcome: the increase of proliferation of weapons of mass destruction. In doing so, their choices have raised more questions instead of settling them.

Why has the administration failed to engage North Korea, the prime proliferator of missiles and the greatest threat for immediate nuclear proliferation in direct talks?

Why has the President chosen to ignore the advice of General John Shalikashvili, the former Chairman of the Joint Chiefs of Staff, and instead actively pursued new uses for, and types of, nuclear weapons, when such action will erode the nuclear firebreak?

Why has the administration failed to meet the Baker-Cutler funding benchmarks for nonproliferation and arms control programs?

Why has the administration failed to fully invest in the Nunn-Lugar program?

Where is the long-term strategy to diplomatically engage proliferating nations?

I agree with President Bush that "history will judge harshly those who saw this coming and failed to act." However, at a time when the international community needs leadership and guidance on this issue, the administration is virtually silent. Too often on arms control and non-proliferation, America has become a colossus that oscillates between pouting and shouting. In contrast, the resolution that my colleagues and I are introducing today gives this nation a strong, clear, and constructive voice on these critical issues. Here and now we call for the administration to rebuild the broad international coalition against proliferation that it has permitted, and even encouraged, to deteriorate over the past two years. We call for the full funding of all Federal non-proliferation and arms control programs to the levels prescribed by the Baker-Cutler report. We call for engaging North Korea in direct and full talks. We call for the expansion of the Cooperative Threat Reduction program to include additional states willing to engage in bilateral efforts to reduce their nuclear stockpiles. These would be acts of strength by the strongest nation in the history of the world and they would be acts of wisdom because these acts would increase our security.

The bottom line: the United States must start now to rebuild the international community's consensus on stopping proliferation in its tracks. The measures outlined in our resolution will begin to do just that.

On September 11, 2001, in a single fell blow, we learned just how vulnerable we may be if we do not act with foresight and urgency on containing weapons of mass destruction. Today, I believe everyone in this chamber understands that we cannot speak of homeland security without addressing non-proliferation.

We cannot debate national security without including arms control. This Nation requires a coherent non-proliferation policy, and a clear voice on the matter in the international community. This resolution is the start.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I rise in support of the ratification of the Moscow Treaty. I would like to begin by thanking Senators LUGAR and BIDEN

who have done very good work in this instance, and I believe they are going to provide very dynamic leadership on the Foreign Relations Committee in the Senate. These Senators have been working in this area for many years.

I remember specifically the work of the distinguished Senator from Indiana after the dissolution of the Soviet Union as we had Russia and other countries grow out of that. We had the Nunn-Lugar legislation. Quite frankly, some of us were a little leery of how that program would work and whether it was the right thing to do. But looking back on that time in history, there is no question but that was a really dynamic leadership effort that needed to be made. It has been helpful. It has not been perfect, of course. But I think it has helped our relationship with Russia, and I think it has also helped to control the escape of and the misuse of some of those nuclear weapon capabilities. I want to recognize Senator LUGAR's past leadership in this area and thank him for working to get this Moscow Treaty ready.

I had occasion last year to go to Russia, to St. Petersburg and Moscow, with a delegation of Senators to meet with foreign policy leaders, defense leaders, members from the Duma, members of the Russian Federation Council, and the chairman of the foreign relations committee there in the Federation Council. It was very interesting and very informative.

I believe there is a growing opportunity for the United States to have a close working relationship with Russia. It has to be one of truths. It has to be one that covers the entire sphere of not only trusting each other when it comes to arms and treaties but also the economy and trade, foreign policy, and international issues such as the one we are working on right now.

We see today that the vote of Russia and what they do at the Security Council is going to be important as we prepare to deal with the situation in Iraq. So we need to have a growing relationship and friendship with this important country.

I think this treaty is a good one. It is one that certainly is timely.

Russia's transformation to a market economy still faces a number of challenges, obviously—its interests, and the people there. Also, the United States is working to get through problems. There are still problems we are trying to deal with. But our strategic relationship with Russia provides a strong foundation of cooperation on issues regarding nuclear weapons reduction and security.

Since 1992, the United States has spent over \$3 billion in Cooperative Threat Reduction Program funds to help Russia dismantle nuclear weapons and ensure the security of its nuclear weapons, weapons-grade fissile material, and other weapons of mass destruction. This has been a very big program. It is one that I think has been very important.

In 1998, both countries agreed to share information upon detection of a ballistic missile launch anywhere in the world and to reduce each country's stockpile of weapons-grade plutonium. As Russia and the United States continue to reduce the stockpile, we must stay vigilant in our collective effort to ensure that weapons-grade nuclear materials stay under lock and key. It is easy to say, but it is not a question of just turning the lock. There has to be an ongoing effort, there has to be verification, and there has to be a lot of cooperation.

The Moscow treaty builds upon the spirit of cooperation between the United States and Russia. It serves the interests of both nations and both peoples, and makes the world a safer place. The treaty is just one element of a growing relationship between the U.S. and Russia that includes several new opportunities for cooperation including trade, energy, and economic development.

There has been some concern, noted by the opposition, that the Moscow Treaty is not substantive enough—that it is only 3 pages long—much shorter than the several hundred pages of the START treaty—that is doesn't deal with actual warheads. First, we need to recognize that the Moscow Treaty does not take the place of the START treaty. The Moscow Treaty is separate from the START treaty—the START treaty is still in full force and effect.

Perhaps more important than laying out comprehensive steps of reduction, these important three pages of the Moscow Treaty fundamentally approach Russia as a friend, not as an adversary. I believe that is a relationship that is going to grow and become more and more important in the years ahead.

This is a historic achievement. With the document we will be voting on in the next day or two, both the United States and Russia will be making a commitment to reduce the quantity of operationally deployed warheads. Undeniably, it is in the best interests of both of our countries to destroy as many warheads as possible. Both sides continue to be challenged by warhead destruction in any given year because it is a very complex process. It is not a matter of just using a bulldozer.

However, we must also not allow the complexity of the process to prevent us from our commitment to progress in this warhead reduction. Although not intended to be a detailed roadmap to accomplish that reduction, the Moscow Treaty lays out a high-level framework that is both workable and flexible.

I am greatly encouraged by the level of developing cooperation between the United States and Russia that is embodied in this treaty. I am encouraged by the prospect now of having exchanges between leaders of the Duma and the Federation Council and leaders of the House and the Senate. I think it is important that we have those ongoing relationships. Under the leadership

of Senator LUGAR and Senator BIDEN, I believe we will see that continue to develop.

By bringing forth the ratification of this treaty, I think it makes good sense for our Nation. It is important for the future security of the world, and I think it will help our friendship grow so that we will have not an adversary, as we had for so many years, but a friend in Russia.

I wanted to come to the floor and endorse this treaty. I think it is an important signal of our feelings, and it is very important in a timely sense also.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, if it is agreeable to the managers of the bill, I would be pleased to address my remarks at this time to the important matter before the Senate—the treaty between the United States of America and the Russian Federation on Strategic Offensive Reduction.

I rise to express my strong support for the ratification of the treaty between the United States of America and the Russian Federation on Strategic Offensive Reduction, more commonly known as the Moscow Treaty.

In my career as a public servant, I have had a number of opportunities to work with the former Soviet Union and with the current Russian Federation.

I remember when I was Secretary of the Navy, I was asked to negotiate over a period of 2 years an executive agreement in the years 1970 to 1972 between the United States of America and the then Soviet Union. That executive agreement applied to the naval forces which I was privileged to be associated with at that time as Secretary of the Navy. It was a very important executive agreement. It is still in existence today. It has been used as a pattern for other nations for executive agreements between themselves and other countries. It related to how we operated our ships and aircraft in the international waters of the world—operated them in a manner that provided the maximum degree of safety to the vessel or aircraft itself and, of course, the crews who operated those platforms.

We had experienced, in those days, incidents not unlike the one provoked by North Korea just days ago—where one of our aircraft, on a routine mission, in international airspace, operating under clearances given by the international programmers of airspace—when we were broached upon, as we use that phrase in the military, by North Korea's fighter aircraft. And, indeed, that broaching took the form of actions that bordered on literally hostile actions, in my judgement. But time will settle out that event.

I just mention this chapter of history as showing my support for the people of Russia and the need for our two nations to work together. I still look upon Russia as a superpower, certainly in the arena of diplomacy, the arena of world economics. Indeed, I have pro-

found respect for their armed forces today, even though those armed forces are somewhat significantly reduced in size.

But against that background, I remember so well a number of trips to the Soviet Union. I remember so well one with the distinguished senior Senator from West Virginia, ROBERT BYRD, when he put together a delegation. We were the first Members of Congress to meet with then-President Gorbachev. It was a momentous day for all of us, having traveled those long distances, and then waiting in the anteroom, and then being escorted in to see that figure of history, a very important figure of history for Russia. I have a lot of respect for President Gorbachev.

I remember another codel with Robert Dole, again, leader of the Senate, as was Senator BYRD. We went to visit President Yeltsin. At this time, I note, the delegations to visit President Putin certainly have not been large in number. I am not so sure that is for the good of our two nations. I would hope that Russia might look more favorably upon delegations of the Senate to come and visit with their leaders of today.

In any event, I commend Senators LUGAR and BIDEN for their leadership on this issue. It has been exemplary. I think this Chamber can take rightful pride in each of those individuals—one the former chairman and one, of course, Senator LUGAR, the current chairman of the distinguished Foreign Relations Committee.

I certainly commend President Bush for his vision and leadership in negotiating this treaty and establishing a new strategic relationship with Russia. It is truly remarkable how our country's relations with Russia have evolved and deepened over the past 2 years. Groundbreaking U.S.-Russian cooperation on the war on terrorism has been critical to our success in Afghanistan and more broadly in our efforts to root out terrorism and deny terrorist groups safe havens and access to money and destructive weapons.

On the subject of destructive weapons, the Nunn-Lugar program, I have had a strong interest and support for that program from the very day it was conceived. I remember Sam Nunn had a small breakfast and sat down. What an audacious concept. We stood there in awe, as the cold war was very much in evidence in those days. But I think the bold foresight of Senators Nunn and LUGAR to envision this program has reaped a great deal of mutual benefit for both nations and, indeed, perhaps the world at large, to further limit the proliferation of not only weapons of mass destruction but the materials by which those weapons are made.

Equally remarkable is President Bush's success in implementing the bold vision he set forth in his May 2001 speech at the National Defense University for a new strategic relationship with Russia. President Bush decided to move the U.S.-Russian relationship beyond the cold war not incrementally,

but in a bold leap. He articulated the controversial view that it would be possible to pursue a vigorous missile defense program to respond to the growing proliferation threats of the post-cold-war world, and at the same time dramatically reduce the numbers of nuclear weapons in the U.S. and Russian arsenals.

President Bush set out to break the cold war linkage of restraints on missile defense to reductions in nuclear weapons, and he did so in a way that caused no harm to U.S. relations with Russia. No harm—I would say, indeed, it brought about a strengthening of those relations. This was a remarkable accomplishment. There were many who thought it could not be done. But their fears proved unfounded. President Bush deserves our respect and admiration for leading the world out of its conventional cold war mindset.

Russian President Putin shares in that credit. He, too, exercised admirable vision and leadership when he understood and convinced doubters in his own country that U.S.-Russian relations had evolved to the point where the ABM Treaty was no longer critical to Russian security. Because the United States and Russia no longer threatened each other, the ABM Treaty was no longer a necessary linchpin in regulating what used to be a U.S.-Soviet nuclear arms race.

If I might just digress a minute, again, in my years of 1969 to 1974, being the Navy Secretary, and my early years in the Senate, when we experienced so many periods of tension with regard to the cold war, there was always an underlying theme, which I will describe as follows. I remember President Reagan used to say, "Trust but verify"—a very magical phrase that captured the relationship between our two nations. But there was the feeling among the professional military who were responsible for these awesome weapons of mass destruction—and I think a feeling among those who negotiated, as did I in a very minor way on the Incidents at Sea Agreement—that the bottom line, the Russian Government, the Russian military were always there with a measure of prudent, sensible realization of these weapons, and there was an inherent responsibility in all of those individuals, both in Russia and in the United States, and their respective Governments, to exercise that judgment.

The concept of deterrence, the concept of massive retaliation always had the underlying theme that individuals had sound judgment as to any final decision, and that sound judgment would be exercised.

That is not true today with Saddam Hussein. We cannot find, in the history of his dictatorship over Iraq, that level of sensible responsibility as it relates to weapons of mass destruction. And I question whether that exists with North Korea today. I am not here to use any words of condemnation, but underlying the cold war period was

that sense of some security with regard to the ability of those in possession of weapons to use good judgment, even in the times of the greatest of tensions.

President Bush's readiness to negotiate a legally binding nuclear reduction agreement was instrumental in persuading President Putin that the new strategic framework proposed by President Bush—including withdrawal from the ABM Treaty—would serve Russian interests. The result: A treaty that was negotiated in record-breaking time, will bring sweeping mutual reductions in deployed nuclear weapons, and will enhance the national security of both the United States and Russia.

The Moscow Treaty is unlike any treaty we have had before. It is the first arms control treaty to embrace the new Russian-U.S. strategic relationship. In negotiating this treaty, both sides consciously rejected the cold war mentality of distrust and hostility that previously had required lengthy negotiations and extensive legal structures and detailed verification regimes to ensure that both sides would abide by their treaty obligations.

This simplicity puts the focus where it belongs—quickly achieving deep, equitable reductions in deployed nuclear weapons.

This breakthrough treaty will reduce the United States and Russian nuclear arsenals from their present levels of approximately 6,000 strategic warheads to between 1,700 and 2,200 operationally deployed strategic nuclear warheads over the next decade. These reductions, which amount to about two-thirds of the warheads in the Russian-United States arsenals, are the most dramatic in the history of arms control agreements. Such reductions are clearly in our national security interest. Russia is no longer perceived, or in actuality, an enemy. Our strategic arsenals, swollen by the cold war, no longer need to be sustained at such high levels.

Another great strength of this treaty is the flexibility it accords our leaders to meet the uncertainties both in the international security environment and in the technological status of our nuclear stockpile. September 11 was a vivid reminder that we are vulnerable to attack in ways we never imagined. It is critical to our national security that our leaders retain the maximum flexibility to respond to emerging threats and changes on the world scene.

The witnesses who testified before the Senate Armed Services Committee during our committee's review of the military implications of the treaty unanimously supported ratification of the Moscow Treaty. General Myers, Chairman of the Joint Chiefs of Staff, stated:

The members of the Joint Chiefs of Staff and I all support the Moscow Treaty. We believe it provides for the long-term security interests of our nation. We also believe that it preserves our flexibility in an uncertain strategic environment.

Throughout its history, the Senate Armed Services Committee has played

a critical role in assessing the national security impact and military implications of arms control agreements negotiated by the executive branch. Based on the hearings conducted by the Armed Services Committee and subsequent analysis, I am convinced that the Moscow Treaty advances the national security interests of the United States and deserves the Senate's unqualified support.

I strongly urge my colleagues to join all of us in giving our advice and consent favorably to ratification of the Moscow Treaty.

Mr. President, I see others about to address the Senate. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, the senior Senator, who is a gentleman. The old saying is: "He is a gentleman and a scholar." I have known him and worked with him, confided in him and with him for these many years. I cherish his friendship.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. WARNER. I thank him for those remarks. I made reference to my distinguished colleague from West Virginia moments ago in addressing this treaty and recalled when he led a delegation of which I was privileged to be a member—

Mr. BYRD. Yes.

Mr. WARNER [continuing]. To meet with President Gorbachev. I remember that day as if it were yesterday.

Mr. BYRD. Yes.

Mr. WARNER. And President Gorbachev said, we have this amount of time. And you very graciously, as the leader of the delegation—Senator Thurmond was with us as well—

Mr. BYRD. Yes.

Mr. WARNER. Anyway, it was a brilliant dissertation between yourself and at that time President Gorbachev, and it was a historic meeting. I said on the floor moments ago, I only wish we could do more of that with President Putin because I felt those delegations—I went on two delegations to the Soviet Union with the distinguished senior Senator from West Virginia.

Mr. BYRD. The Senator is correct, yes.

Mr. WARNER. They were very meaningful and helpful.

Mr. BYRD. Yes. I believe on that occasion former Senator Sam Nunn was with us.

Mr. WARNER. Yes. The Senator from Rhode Island, Mr. Pell.

Mr. BYRD. Yes. And Senator Mitchell.

Mr. WARNER. Senator Mitchell, Senator SARBANES.

Mr. BYRD. Yes. It was a fine delegation.

Mr. WARNER. Yes, it was, but it was under your leadership. You were the first Member of Congress to go and meet with President Gorbachev.

Mr. BYRD. That was the first Senate delegation to go and meet with him, yes, it was.

Mr. WARNER. I thank my colleague.

Mr. BYRD. I thank the Senator for remembering that occasion.

#### NORTH KOREA

Mr. BYRD. Mr. President, while the United States continues its relentless march to war against Iraq, a crisis that is potentially far more perilous is rapidly unfolding halfway around the world on the Korean peninsula.

While Saddam Hussein hunkers down in Baghdad, under the thumb of the United Nations weapons inspectors, and is being forced to begin destroying some of his most prized missiles, North Korean leader Kim Jong Il is aggressively taunting the United States and moving full speed ahead toward restarting his nuclear weapons program.

Over this past weekend, the North Koreans took their defiance and contempt of the United States to a new level when four North Korean fighter jets intercepted an unarmed U.S. reconnaissance plane in international airspace over the Sea of Japan.

According to news reports, the armed North Korean jets came within 50 feet of the American plane and shadowed it for 22 minutes. Initial reports suggest that one of the North Korean pilots may have engaged his radar in preparation for firing an air-to-air missile moments before the U.S. aircraft aborted its mission and returned safely to its home base in Kadana, Japan.

This latest action by North Korea is a marked escalation of the recent tensions between the U.S. and North Korea. Not since it shot down an unarmed U.S. surveillance plane in 1969—more than 30 years ago—has North Korea engaged in aerial confrontation with the United States. That last weekend's provocation by the North Koreans ended without incident is a relief, but it is not a reprieve from concern. Given the hostility and volatility of the North Korean government, this latest confrontation could easily have ended in disaster—a major disaster.

The White House branded North Korea's actions as "reckless behavior," and the Pentagon promptly dispatched 24 long-range bombers to Guam in a move that was seen by some as a not-so-subtle warning to Kim Jong Il that a military response to North Korea's increasing bellicosity is not outside the realm of possibility. But the President has given no indication that he is willing to address the North Korean crisis head-on by engaging North Korea diplomatically in an effort to defuse tensions. To the contrary, the White House appears determined to continue to proceed in its no-talk policy toward North Korea while it focuses the vast weight of its energy and resources on preparing for war with Iraq.

I am increasingly alarmed that this administration's military and diplomatic fixation on waging war with Iraq is serving to overshadow and possibly eclipse the mounting crisis in North Korea.

Benign neglect is a dangerous policy to apply to North Korea. The nation is isolated and its people are starving. Kim Jong Il is hostile, erratic, and desperate for cash. He is also armed and heavily fortified. In open testimony before the Senate Armed Services Committee on February 12, CIA Director George Tenet noted that "the United States faces a near-term ICBM (Intercontinental Ballistic Missile) threat from North Korea."

According to intelligence estimates, North Korea already has one to two nuclear weapons and continues to develop the Taepo Dong-2 missile, which has the capability of reaching the United States with a nuclear-weapon-sized payload.

Recent relations between the United States and North Korea were far from good to begin with, but since October, when it was revealed that North Korea had a secret program to produce enriched uranium, the resulting nuclear standoff between the United States and North Korea has gone from bad to worse.

In a period of just over 4 months, North Korea has moved swiftly and boldly to take the necessary steps to resume the production of nuclear weapons. Following the disclosure of its covert nuclear program in October, North Korea in December expelled U.N. inspectors from its nuclear facilities at Yongbyon, removed U.N. monitoring seals and cameras, and announced it would reactivate the facilities. In January, a month before last, North Korea announced its withdrawal from the Nuclear Non-Proliferation Treaty and appeared to begin moving its stockpile of nuclear fuel rods out of storage. Just last week, on February 27, American intelligence sources concluded that North Korea had, indeed, reactivated the Yongbyon facility. The significance of starting up the reactor is that it could, over time, provide a continuing source of plutonium for nuclear weapons, which North Korea could either stockpile or sell. If North Korea also begins reprocessing its nuclear fuel rods, some U.S. intelligence officials have concluded that it could begin producing bomb-grade plutonium within a matter of weeks, a process that could yield enough plutonium for five to seven bombs by this summer.

In other words, North Korea could begin grinding out the essential components of nuclear weapons for its own use or for sale to the highest bidder even before the first volley is fired in Iraq.

At the same time that it has been ratcheting up its nuclear activity, North Korea has also been ratcheting up its rhetoric and its military saber-rattling. In February, a North Korean MiG fighter jet crossed briefly into South Korean air space for the first time in 20 years. On February 24, North Korea rattled the inauguration of South Korea's new president by test firing an anti-ship missile into the sea. Earlier, North Korea threatened to

abandon the armistice that ended the Korean War.

And just this week on March 3, Kim Jong Il warned that nuclear war could break out if the U.S. Government attacks North Korea's nuclear program, while President Bush explicitly raised the possibility of using military force against North Korea as a "last resort" if diplomacy fails.

The pattern of increasingly hostile words and actions on the part of North Korea, coupled with the moves it appears to be taking toward building up its nuclear arsenal, make North Korea one of the most volatile and dangerous spots on Earth today. The Bush Administration's inattention to the problem and its unwillingness to engage in diplomacy with North Korea are only exacerbating an already precarious situation.

Under the circumstances, North Korea presents a far more imminent threat than Iraq to the security of the United States. It is ironic that the President has made it clear that a military response to the crisis in North Korea would be considered only as a last resort at the same time that he is massing forces in the Persian Gulf region to launch a preemptive military strike, possibly within a matter of weeks, if not days, against a much less potent threat to the United States.

What is particularly frustrating is that the North Korean crisis might never have reached the proportions it has reached had President Bush taken a different tack with respect to North Korea when he came into office. Today's nuclear standoff with North Korea is, in many ways, a replay of a similar crisis in 1994, when North Korea pushed the envelope on its nuclear program, nearly precipitating a military response from the United States. That crisis was resolved when the Clinton administration reached an agreement, called the Agreed Framework, to freeze nuclear production in North Korea in exchange for fuel oil and light-water reactors. Unfortunately, when he took office, President Bush put relations with North Korea in the deep freeze by heaping suspicion and disdain on the North Korean Government, branding Kim Jong Il a "pygmy" and including North Korea in the "axis of evil."

Even so, the current crisis might well have been defused weeks ago, before the two leaders started exchanging threats of war, had the United States agreed to talk directly to North Korea, as our allies in the region have been pleading with us to do. Instead, the administration drew a line in the sand, insisting that the United States would not be blackmailed into one-on-one talks with North Korea. As a result, the Americans and the North Koreans have been talking past one another for the past 4 months, and the progress has been all downhill.

It has come to the point that, whether by accident or design, the situation in North Korea could rapidly disintegrate from a war of words and gestures

into a war of bullets and bombs perhaps even nuclear bombs. As it stands now, North Korea has shown no evidence that it is willing to back down from its nuclear confrontation with the United States, and the United States has shown no evidence that it is willing to talk to North Korea.

Stalemate and neglect are not effective tools of foreign policy. Wishful thinking is not an effective tool of foreign policy. The situation in North Korea is a crisis, and the United States must come to grips with it. We must open a dialog with North Korea.

To ignore the peril presented by North Korea and its nuclear ambitions is to court—to court—disaster.

Frankly, the longer the United States procrastinates and lets North Korea set the agenda, the harder it will be to deal with the situation diplomatically. If we do not act quickly, we may inadvertently paint ourselves into a corner as we have done in Iraq.

It does not have to be that way. It is time for both nations to stop posturing and start talking. It is time for the United States to deal with the crisis in North Korea. I call on this administration to address the growing peril in North Korea, and to fully engage in a diplomatic effort to resolve what may well become an international problem of epic proportions. We can, and must, be firm, but we cannot remain aloof. We can, and should, insist that other nations with a stake in the future of North Korea be at the table, including China, Russia, Japan, and South Korea, but we can wait no longer for those nations to take the lead.

The situation in North Korea is serious, but it is not yet desperate. The window to initiate diplomacy is not yet closed, but the longer the United States drags its feet, the narrower that window becomes. It is time to start talking to the North Koreans. If the United States takes the lead, our allies in the region are likely to follow. But it is the United States that must lead the way. The only practical way to solve the crisis in North Korea, before it erupts into chaos, is with patience, skill, and determination at the negotiating table. Let us begin now, before it is too late.

Mr. WARNER. Mr. President, will the Senator entertain a question?

Mr. BYRD. I would be glad to.

Mr. WARNER. Mr. President, over my years in the Senate, I have had the privilege many times of working with my distinguished colleague. I have listened very carefully to his remarks. The bulk of the facts the Senator relates with regard to how North Korea has violated the framework agreement are accurate. I think his assessment of the potential threat as to how they address the serious issue of nuclear weapons is correct. But I respectfully say I believe this administration has been pursuing a policy—now my colleague may differ—of diplomacy to resolve this dispute. Our President recognizes the seriousness.

As the Senator said, the bombers were promptly dispatched. My understanding was that that mission of those bombers had been in the planning for some time and, coincidentally, they were dispatched right after the eve of this very serious incident by which the hostile aircraft broached our unarmed aircraft. The Senator was dead accurate in his characterization of that serious incident.

The point I wish to make is that I think our President has taken the correct tack at this time in diplomacy of saying that there may come a time in the future on bilateral talks, but at this juncture of this serious situation—and our President fully recognizes and I think shares with my colleague from West Virginia the seriousness of it—the multilateral approach; namely, that the talk should initiate with a table at which Russia, of course, South Korea, Japan, and China are there to participate. That is the way this administration quite appropriately desires to approach it.

I believe Secretary of State Powell, in his most recent trip to the region not more than 10 days to 2 weeks ago, clearly said that out of that multilateral approach could evolve the situation whereby bilateral talks between the United States and North Korea would follow.

Am I correct in my summary of how the President is approaching this? The Senator may have differences with it, but at least for the basis of our debate, I think I am correct.

Mr. BYRD. I think the Senator is correct.

Mr. WARNER. We have clearly not had the opportunity to fully exhaust the potential of a preliminary round of multinational talks such that these nations believe they are a partner with the United States. Now we may take the lead, but so often our Nation is criticized that we are the ones who are saying, you do this, you do that. Rather, in this crisis I think our country is saying that we want to work together with other nations as partners in addressing this issue before the possibility of bilateral talks.

Mr. BYRD. I think that is a good approach normally, if there is time and if there is an indication that those other nations are going to take that lead. That is one thing. But there is not time here. There is not the indication that the other nations are going to take that lead.

So I say we need to act more expeditiously. I do not think we can afford to wait. This is a crisis that is developing, and developing quickly, and there is every indication that if we continue to wait, Kim Jong Il is going to take additional steps. I understand he may have one or two nuclear weapons now, and he is fast getting into the position where he will be able to manufacture a weapon a month and then faster. We do not have the luxury of waiting until these other nations finally decide they want to do this.

They seem to be reluctant. They have not shown any dexterity in moving in to fill this void up to now. I do not think we can afford to wait.

In addition, yes, other nations have thought we acted too fast. They have done that in spades with respect to Iraq. We have gone hellbent into that. It seems the President has been determined to conduct a war in Iraq from the beginning almost. I would say as far back as last August he had said there were no plans. That was the response we received from all of the people in the administration. I know once before the Appropriations Committee, Secretary of State Powell, in answer to a question from me, said: There are no plans.

The administration and its functionaries must have taken Members of Congress as fools when the administration continued to at that time say, well, the President has no plans. Anybody could see through that. He may not have plans today. He may not have plans on his desk. That was the way it was phrased: He had no plans on his desk. It takes only a fool not to be able to see through that. Perhaps he does not have plans on his desk, but there may be plans on some other desk somewhere that the President knows about, or the President may have plans tomorrow. He is certainly not immune to knowledge of what is going on all around him. After all, he is the Commander in Chief, the top man in the executive branch; he is supposed to know what is going on.

So while we were fed that line by the administration, they simply did not want to tell us, and they do not want to tell us yet. It is not that they do not want to—that other nations have a right to complain about this administration moving pellmell into a situation without waiting for other nations, without wanting to wait for other nations. Not only that, but the administration treats us the same way in the Congress.

The administration does not want to tell us what the cost of this was is going to be. They say it is such a range of costs that it might change from day to day. They do not want to say what it will be now because, who knows, maybe tomorrow it will be different. Well, of course, that is to be expected. But I think the administration ought to be honest, upfront, and sincere with the elected representatives of the people in Congress, and say now this is the situation today, Senator, as we see it. We think the range would be somewhere between A and B. That can change, Senator. Mr. Chairman, that can change. It can change tomorrow. But as of today, we cannot pinpoint the exact figure, but it would appear that it would be thus and so.

Now, if the war lasts longer than a week, lasts longer than 2 weeks, 10 days, or 3 weeks, it may cost more. Of course, if we win the war, and win it quickly, it will not cost much. But then there is the problem of the morning after. What is the cost going to be

in helping to rebuild Iraq? If we are going to be responsible for destroying a great portion of it, we have a responsibility of rebuilding it. So, the cost would be, the estimate would be, thus and so.

If the administration would come before the Appropriations Committee and address it like that—we understand that any administration would find it difficult; it would be impossible to be sure as to what the costs would be. But if an administration sits down with the congressional committee and says: Here is the situation; we estimate it to be thus and so, because we think the war will not last more than a week, or 10 days, or 2 weeks, or a month; if it lasts longer, it will cost more—that is being honest and forthright with the elected representatives of the people. We understand that. We were not born yesterday. But to just say, “We do not know exactly,” what does the administration think that Members of Congress are fools?

We can see all that. We know all that. We know these things are difficult to figure. But when we also know that estimates are being kicked around internally, we believe we are entitled, on behalf of the people, to know what those estimates are.

Mr. WARNER. Mr. President, if I might reply to my good friend, first on the issue of diplomacy, I do believe our President has worked very hard with the Prime Minister of Great Britain and other heads of state of the nations willing to proceed on the diplomatic route.

Today we had a speech by the Secretary of State. I don't know if my colleagues had an opportunity to read it as I have. But it clearly says we are on a diplomatic course. No decision has been made to go to war.

What little success the diplomats have had to date—and I frankly think Resolution 1441 was a high water mark of this whole controversy—is owing to the fact that this President had the courage to put our troops in forward deployments to back up the words of the diplomats and to send a signal to Saddam Hussein and others that we have a commitment to those men and women there, 200,000 of them in that gulf region. I visited the gulf region just 10 days ago. They are there as a symbol of our commitment to make diplomacy work.

I recognize the Senator and I were with Secretary of Defense Rumsfeld the other day when my good friend from West Virginia expressed, as he has done now, the question of cost estimates. But the Secretary of Defense said he believed at this time he could not give those projections which would enable, I think, some very serious and finite parameters to be established.

My good friend might recall President Clinton one time—I am not here to be political—said about the Balkans, we would be home in a year. I think the Senator remembers that because he and I collaborated on an amendment to

require the other nations to come forward with their allocation of commitments to try to resolve some of the problems in that region. I remember we stood toe to toe on that.

Here we are, 8 years later, and we are still in the Balkans with a not insignificant force. We have learned from that and experienced the need to exercise caution with regard to the questions of casualties. How well I remember being in the Chamber in 1991. The projected casualties we might encounter in the gulf war of 1991 were in the estimates of the tens of thousands. We thank the dear Lord that it did not in any way near approach that amount, although this country did lose brave soldiers, sailors, and airmen, and experienced the wounding of others in that very important conflict.

The better side of prudence is being demonstrated here by the President and his Secretaries who are entrusted with dealing with the Congress. I printed in the RECORD earlier today, I say to my good friend, a recitation of a number of hearings the Senate Armed Services Committee, on which I am privileged to say my colleague serves, has conducted. That committee has, in connection with our debates on Iraq, held a number of briefings and so forth, in which I have been in attendance, on Iraq. Those are helpful for the public in its important debate now, and which I respect the diversity of opinions on Iraq, as I respect the opinions of my colleague from West Virginia. Nevertheless, I think our Senate has taken a constructive role in addressing that conflict.

Mr. BYRD. I thank the Senator.

I think we are going pretty far from the subject that I started out with today. I was talking about the fact that we are not paying the kind of attention that should be paid; we are not addressing the real crisis that is developing. We are not looking at the real peril that is facing this country; namely, North Korea. We are being distracted by the developing situation in Iraq, which, as far as I am concerned, does not present to this country anything near the peril, the danger, that we are confronted with in North Korea.

Now, if the distinguished Senator wishes to engage in a freewheeling debate on the whole subject matter, fine, we will do that another day. But I am addressing the Senate on the need to open talks with North Korea and not wait for other nations to take the lead. We need to take the lead ourselves. Every day counts. Every 24 hours counts. We are already seeing this situation advance quickly. As long as Kim Jong II thinks we are going to be distracted with Iraq, he is likely to take further advantage of the situation. That is the issue I am addressing.

Mr. WARNER. I thank the Senator. We did start out on that subject, but I wished to make reference to other statements the Senator made.

Going back to the question of Korea, I think your concerns are important,

as are mine. I simply say I think our President is vigorously trying to exercise leadership in world diplomacy with a multilateral approach with the nations of Russia, China, South Korea, and Japan at this point, and I have not read into any of the statements or actions that would say that after the full exploration of the multilateral approach, hopefully participation by those nations as partners, possibly of a bilateral approach—indeed, the Secretary of State has made an offering of food to care for the tragic situation of starvation in the North Korean section of that peninsula.

Mr. BYRD. Mr. President, I say to my friend, I hope the President will display this kind of desire to engage in multilateralism more so than he has with respect to Iraq. This is the approach I favored all along. We should get the United Nations, be sure the opinion of the world is with us in Iraq, and get the support of the United Nations.

I have a resolution I introduced some time ago urging we seek a second U.N. resolution. If the President would show more interest in a multilateral approach to that situation, I think many would feel better. I recall his saying, I think, to the U.N.: If you don't do it, we will. If the U.N. doesn't do this, I will—or we will.

That kind of an attitude has not been to my liking, certainly, and it does not show enough concern about the opinions of other nations, and it does not show enough desire to have the support of other nations. But this President is determined, apparently, to have a war in Iraq, even if he has to go it alone. That has been the impression I received thus far. When he says to the U.N., if you don't do it, I will, or we will, that doesn't show any great inclination to wait on other nations to help join in that situation.

Mr. WARNER. Mr. President, I think we have somewhat debated this issue. I believe the President has made strong overtures to the international community. Certainly he gave a brilliant speech in the U.N. He is working within the Security Council. Our Secretary of State has addressed the issue today. Perhaps at another time I would very much be privileged to engage our distinguished colleague in a debate on the subject. I thank my colleague.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I think we certainly need, more and more, to debate this situation. I think we have not debated it enough. I believe that where we missed the boat was last fall when this Congress turned over to the executive branch the authority, by a resolution, virtually to declare war. I think Congress was wrong in doing that. I voted against that resolution. I am proud of the vote that I cast at that point. I think Congress, under the Constitution, has the authority to declare war, and I think we shift aside our responsibilities and our duties under the Constitution when we attempt to shift



that duty and that responsibility and that authority over to the Chief Executive of the United States.

The time for debate was then. It is not too late to debate it now. I have been attempting to say a good bit from time to time on this matter, and will continue to, if we have much time left. But time is closing in on us, as I see our troops massing on the borders of Iraq. I don't think there is much time left to debate. But as long as that time remains, I think we ought to utilize it. We ought to tell the American people what their losses are going to be and what the cost is going to be to them.

That is where I think the administration is falling down. It ought to let the American people know the sacrifices they may have to make and what the cost of this war is going to be in terms of money, in terms of lives, and in terms of our image before the world—what it is costing us there. So let's have more from the administration on this point.

Mr. WARNER. Mr. President, if I might say in conclusion, to those who perhaps take views different from I and others, I hope that debate would include very clearly a message to Saddam Hussein in Iraq that his lack of cooperation is the root cause of the problem today.

So I thank my colleague for this opportunity. Maybe at a later date we can get into a further discussion.

Mr. BYRD. Of course there are always two sides to issues. Preston County, WV, is a great buckwheat flour-growing area. They make fine buckwheat cakes. But there is no buckwheat cake so thin that there isn't two sides to it. So there are two sides.

It seems to me we have just been recalcitrant in not telling the American people what this is going to cost. I have a feeling they don't know very much, from the lack of debate that has gone forward, and from the fact that this administration has not come forward with the facts and told the American people what the cost may be to them. And all the while we see our young men and women being shipped out, as the National Guard goes forth and takes our schoolteachers, our policemen, our firefighters, our lawyers, and our churchmen. It takes people from all walks of life and sends them overseas—for how long we do not know. We don't know. They don't know what the duration will be. They don't know whether they will come back, of course. And I am sure their salaries are suffering when they go over as National Guardsmen.

The people are entitled to know more than this administration has been willing to tell them. So I hope the Senator will join me in urging the administration to come forward with the facts and tell the American people, his constituents and mine, what they may have to pay.

Mr. WARNER. Mr. President, I share those concerns. My State has likewise contributed many reservists and

guardsmen. As a matter of fact, I have been working with colleagues today on a question relating to that.

Were it not for the sacrifices of those individuals, the reservists, active duty, and many others, we would not be where we are trying to solve this problem diplomatically.

Say what you want about this President, I have seen a measure of courage in this fine man that I have not seen in others. He has all along said: The buck stops on my desk, and I accept responsibility.

I thank my colleague.

Mr. BYRD. I say to the Senator, courage is fine. I don't think the President lacks courage. Nobody is questioning his courage. But whether he has wisdom or vision or exercises good judgment along with courage is something else. I am simply saying this administration has not been forthright with the American people and has not been forthright with the Congress. We can debate that as long as you wish, but that is the way I see it. At some future time, if the distinguished Senator wishes to debate that, I will be happy to accommodate him.

Mr. WARNER. Mr. President, I accept that challenge. I thank my friend.

Mr. BYRD. I thank the Senator.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Alexander). Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I acknowledge my friend, the chairman of the Foreign Relations Committee, Senator LUGAR, who is in the Chamber.

Today the Senate is engaged in an important and historic debate on the Moscow Treaty. President Bush and President Putin signed the Moscow Treaty on May 24, 2002, to limit strategic offensive nuclear weapons. Unlike arms control treaties of the past, this treaty does not include definitions of terms, counting rules, elimination procedures, or monitoring and verification provisions—all conditions considered in the past as essential to an effective agreement. As President Reagan once said, "trust but verify."

The administration believes that the lack of these features is an asset and indicative of a new age in American-Russian relations. In the words of President Bush, it is time that the United States "complete the work of changing our relationship from one based on nuclear balance of terror to one based on common responsibilities and common interests."

The treaty reflects American and Russian intent to reduce strategic nuclear warheads to between 1,700 to 2,200 by December 31, 2012. Each party is free to define for itself its "strategic nuclear warheads" and to determine how to reduce them. The treaty does not provide for the destruction of warheads or delivery systems. Nor does it place any restrictions on either party's force structure over the next ten years. Both sides can keep warheads for testing, spare parts, and possible redeployment.

The administration plans to meet treaty requirements by moving an undefined number of warheads to a reserved force, some to storage, and dismantling others. The Russians will make similar force structure changes. Russia intends to continue to reduce weapon platforms and warhead levels and dismantle weapon systems with U.S. assistance under the important Nunn-Lugar Cooperative Threat Reduction Program.

However, the Moscow Treaty leaves many issues unresolved and many questions unanswered. For example, Article I of the treaty specifies that each party shall "determine for itself the composition and structure of its strategic offensive arms."

The United States has defined this to be "operationally deployed strategic nuclear warheads," and has defined operationally deployed to mean "re-entry vehicles on intercontinental ballistic missiles in their launchers, re-entry vehicles on submarine-launched ballistic missiles in their launchers on-board submarines, and nuclear armaments loaded on heavy bombers or stored in weapons storage areas of heavy bomber bases."

Congress will have to wait to see how many warheads are destroyed and stored. Likewise, we will have to wait to see how Russia defines "strategic offensive arms." Russia may move to redeploy multiple independently-targetable reentry vehicles, or MIRVs.

Article II of the treaty states that the Strategic Arms Reduction Treaty, START, will remain in force. During the signing of the Joint Declaration, Presidents Bush and Putin stated that the provisions of START "will provide the foundation for providing confidence, transparency, and predictability in further strategic offensive reductions."

But START expires in 2009. If START is not extended, we do not know how the parties will provide confidence and transparency between 2009 and 2012.

Article III of the treaty establishes a Bilateral Implementation Commission but does not establish guidelines, procedures, or even responsibilities of the Commission. We do not know if the Commission will focus on monitoring and verification of agreed reductions.

When President Bush signed the Moscow Treaty nearly a year ago, he assured the American people that he would continue to work on a separate political declaration that would create a strategic framework for the United States and Russia.

This document was to be broader in scope and would address other security and arms control issues aside from strategic reduction, including non-proliferation, counter-proliferation, anti-terrorism, and missile defenses. We have yet to receive that document.

We need a better vision and a better strategy of how to make America safer and more secure from attack with weapons of mass destruction.

I fear that the President is moving us toward a world of greater insecurity besieged by fears of nuclear weapons proliferation. Today's Washington Post indicates that the administration is willing to accept a North Korea with nuclear weapons. This is astounding, and, if true, threatens stability in northeast Asia. In addition, the administration has sought funding for new battlefield nuclear weapons that are more "useable."

Until now, U.S. non-proliferation policy has been based on reducing the number of nuclear weapons states, controlling the spread of nuclear weapons technology, and eliminating nuclear weapons. We need to prevent the spread of weapons of mass destruction and establish with the rest of the world a system that deters both countries and terrorist groups from gaining access to these dangerous technologies.

The resolution intended to be introduced by Senator DASCHLE and others, which I am proud to cosponsor, lays out the type of comprehensive non-proliferation policy that we need to make the world a safer place for future generations. I urge my colleagues to support it, and I urge the administration to adopt its recommendations.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I rise today to address the Senate on the treaty being considered for ratification, the Moscow Treaty. I want to praise the hard work of our chairman, Senator LUGAR, and the ranking member, Senator BIDEN, and their staffs, for the diligent efforts on this treaty. Their hard work on this treaty will ultimately enhance U.S. security.

This treaty describes what both the United States and Russia hope to do in a new era, and that is to reduce our respective strategic offensive nuclear weapons stockpile and to reduce it quite dramatically. Considering how strategic nuclear weapons policy has changed since the time I first came to Capitol Hill, to the House of Representatives, way back in 1978, this new Moscow Treaty is a significant accomplishment but one that failed to maximize

the opportunity to provide the world with the real destruction of weapons. It is clearly a major step in the right direction, but I do not think it has gone far enough.

During this debate today, we have heard about the weaknesses of this treaty, and there are some. I regret, for example, that the treaty merely de-alerts nuclear weapons. It does not require their destruction.

The treaty also is weak in its timetable for reaching the lowering of the target inventories, the inventories of warheads on top of the ICBMs. The treaty brings the target down from multiples of thousands to a range between 1,700 and 2,200 weapons. But it does not offer a specific timetable for how that will occur over these next several years. I believe we can remove these weapons more rapidly, and I hope the administration will do so.

I also regret the treaty does not address tactical nuclear weapons, nor does it include verification procedures beyond those of the START I treaty.

I remember when I was in the House of Representatives at the time President Reagan was President, he kept saying, over and over: "Trust but verify." I think we could have some more of that in this treaty.

Despite all of those weaknesses, reductions in our strategic offensive weapons are appropriate, and are a major step in the right direction. Our relationship with Russia has evolved into an important partnership, and we hope that partnership is going to be strengthened. As we continue to move in this century to develop a relationship under the premise that Russia is not an enemy, then that is a step in the right direction.

The Presiding Officer is from the South. I am from the South. We are accustomed to seeing two strange dogs approach each other. They are very leery of each other. And pretty soon they are sniffing around each other, and pretty soon those dogs decide it is OK, they can be friends. So as we start sniffing around with this former adversary, one that we hope will be a future solid partner, we must work to build mutual trust so our nations can cooperate on other important issues of common concern to our collective security, such as fighting terrorism, and such as economic reform and development.

Clearly, one of the areas we have had a very cooperative relationship in is our respective space programs.

I will never forget in the midst of the cold war there was a little bit of thought when an American astronaut crew rendezvoused and docked with a Soviet crew of cosmonauts. They lived together in space for 9 days in the Apollo-Soyuz historic mission of 1975. That started the contacts between our two space programs. That ultimately led to the joint venture we have now where the Russians are a partner of ours and they are helping us. They are our partner as we build the Inter-

national Space Station. By virtue of this recent tragedy with the Space Shuttle *Columbia*, the way we can save those three humans on board should we not be able to get another space shuttle to the space station is the fact that there is a former Soviet—now Russian—spacecraft, Soyuz, that is docked to the International Space Station that can bring that crew of two Americans and one Russian home if they need to.

This relationship with Russia has extended to NATO. We look forward to cooperating with Russia on issues affecting the security of Europe and our allies. But there is one area in which the United States can provide assistance to Russia while enhancing U.S. security. In this context of the Moscow Treaty, this is critically important. Earlier today Senator BIDEN said we must continue to move forward and provide adequate funding to the Nunn-Lugar Cooperative Threat Reduction program and related nonproliferation programs in the Departments of Energy and State.

These programs collectively facilitate the destruction of nuclear weapons. They bolster the security of the facilities containing weapons-usable and fissile material. And these programs provide for retraining of scientists.

These programs are very valuable. Yet they have not been adequately funded. This administration has not come forward with the adequate request for funding for the Nunn-Lugar cooperative threat reduction program.

I will tell you, there is no one I have a greater respect for than my chairman of the Foreign Relations Committee, Senator DICK LUGAR. I think he will tell you the same thing. The spread of nuclear weapons and associated materials is a real threat. It is one particularly evident as we weigh the options available to us to deal with so many of the threats around the globe. Look at North Korea. It is one of those threats.

We must provide resources to these programs to try to stop the spread and the proliferation of nuclear materials because they enhance our security by ensuring the adequate disposal of these weapons and their fissile material.

Certainly now when we are engaged in this war against terrorists, when we are trying to prevent al-Qaida sympathizers and other terrorists from acquiring such deadly weapons, we should not lack in any resources.

I again make a pitch to my colleagues in the Senate to adequately fund the Nunn-Lugar cooperative threat reduction program.

These programs were evaluated in a report released in January 2001 by our former colleague and now the Ambassador to Japan—Howard Baker from the State of the Presiding Officer—and his partner in that report, Lloyd Cutler. Their report clearly said these threat reduction programs are being underfunded. They call the proliferation of weapons of mass destruction

and weapons-usable material to be “the most urgent unmet national security threat to the United States today.”

That is what Howard Baker and Lloyd Cutler said in their report to the Congress in 2001.

That report was before an agreement was reached on the Moscow Treaty for reducing our nuclear arsenals.

Now with so many new nuclear weapons coming out of service, we must consider significant action to reduce proliferation to ensure that the American people and our friends and allies around the world will be safe. The most obvious way is to bolster the Nunn-Lugar programs.

I want to also speak on the subject of nuclear weapons, and I want to mention North Korea.

I was very troubled to see the report that the Bush administration is slowly accepting North Korea's status as a nuclear power. This is an unconscionable abdication of leadership by this administration. North Korea has taken provocative steps. I don't know why we weren't raising Cain—I mean shaking the rafters—when those fighter aircraft buzzed our observation aircraft—our surveillance aircraft—just 2 days ago. North Korea has taken some very provocative steps hostile to the United States.

It is likely they already have, according to our estimates, between one and three nuclear weapons because North Korea cheated on several international and bilateral agreements over the past decade. Since that time, they have renounced the Nuclear Non-Proliferation Treaty. They have renounced the International Atomic Energy Agency and their monitors who were there present by international agreements. They have renounced the 1994 Agreed Framework with the United States. They have been moving spent fuel rods to a reprocessing plant. Then, of course, this inexcusable incident with fighter jets to harass a U.S. reconnaissance flight in international airspace.

Now, lo and behold, the President of North Korea is overtly threatening a nuclear war if the United States leads any effort to isolate them.

With all of this belligerence, we have to have a plan. I would suggest that the Bush administration start working to diplomatically sit down with North Korea to start reducing tensions. We cannot and must not allow the North Koreans to develop an effective nuclear weapons arsenal.

A year ago, the President, in his State of the Union Address, referred to North Korea as an “Axis of Evil.” Does he think that they are evil? I think he does. Do I think that they are evil? I certainly do.

But is this the best way, diplomatically, to approach someone that we are trying to contain from becoming a nuclear power? We want them to stop their brutal actions against their own population, and we want to stop their proliferating technologies relating to weapons of mass destruction.

So in that regard, the President was correct. But we have started to see what the consequences of that speech are. Instead of, as Theodore Roosevelt would say, “speaking softly and carrying a big stick,” the President made a judgment to speak harshly. And I want to know, where is the policy to back it up?

This pronouncement did not cause the North Koreans to begin bad behavior and cheat on their agreements with the U.S. and the international community, but it did embolden them to harden their position and to spurn the international community and begin in earnest to openly pursue more nuclear weapons. This is now the situation in which we find ourselves. And we have to get out of it.

I want this administration to have success because I think North Korea, with, a short way behind them, the country of Iran, poses the next major threat behind the threat that we are engaged in, which is, the war against terrorists.

I think the United States needs some clear action. U.S. leadership is needed to get the world's declared nuclear powers to work together through the United Nations Security Council on a common response to the danger, not only in North Korea, but in Iran as well. If we fail to do so, the nightmare scenario of North Korea selling its nuclear weapons to terrorist groups and other rogue states, even their enriched uranium that they are trying to produce, all of that could become a reality. That is not good for anybody on planet Earth.

I believe we ought to approach a policy where we must make North Korea understand that building an arsenal of nuclear weapons will not be tolerated and that all options to combat this threat, including the military options, have to be on the table. At the same time, we must work to form a viable regional solution with China and Russia and Japan and South Korea, but not to the exclusion of bilateral dialog with North Korea.

I think all of us here are disappointed that China did not respond favorably to Secretary of State Colin Powell's recent appeals for assistance and involvement during his recent trip there. China, and other members of the Security Council, have a lot at stake. They must live up to their commitments of trying to prevent nuclear proliferation.

No policy that we pursue can possibly work unless it is carried out in concert with key countries. But we are getting to the point that we cannot wait. We are going to have to devise workable policy options that the United States and North Korea may take to de-escalate this situation.

So I call upon our colleagues here and our friends in the administration to begin a dialog with North Korea immediately. Each day that passes is a day that the danger notches up one more level.

Again, I thank Senators LUGAR and BIDEN for their strong leadership on

these critical security issues facing our Nation. I thank them for their sponsorship of this Moscow Treaty. I will support the Moscow Treaty on the final result at the end of the day when we pass it. It is clearly in the interests of the United States. Indeed, it is in the interests of planet Earth.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

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## LEGISLATIVE SESSION

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### MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now return to legislative session and that it proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

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### TRIBUTE TO RETIRING SERGEANT AT ARMS ALFONSO LENHARDT

Mr. BENNETT. Mr. President, the Democratic leader took to the floor recently to pay tribute to the retiring Sergeant at Arms, GEN Al Lenhardt.

I used to chair the Committee on Legislative Branch Appropriations, in which circumstance I had continual contact with the Office of the Sergeant at Arms. When I became the ranking member of that subcommittee was when Al Lenhardt was hired as the Senate Sergeant at Arms. I can report to my fellow Senators that he had no partisanship at all in the way he discharged his duties.

It was within a matter of days after he was sworn in as Sergeant at Arms that September 11 hit. His baptism into the procedures of the Senate was handling the disaster of September 11 and trying to work out security for the Senators, and then to handle security as we traveled to Ground Zero in New York. Since that time, he has been faced with the challenge of making the Capitol as secure as possible.

As he moves on to his next assignment, I want to make it clear that I, too, salute him for the service he has performed for the Senate. He has handled himself in a very professional way. He has done very significant things to make this building safer, things that most Senators do not see.

By virtue of my position on that subcommittee, I was privileged to be in a confidential, classified briefing, as he outlined for us the actions that have been taken to make this building safe.

Indeed, I now take some comfort out of the fact that if there is a biological or chemical attack on Capitol Hill, this building is the safest place to be of any place on Capitol Hill. And that is a tribute to the patriotism, professionalism, and service of Al Lenhardt.

So I join with my friends on the Democratic side of the aisle, and the Democratic leader, who chose him for that position, in wishing him the very