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

Mr. RINGAMAN. Mr. President, I ask unanimous consent that the bill be passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statement related to the bill be printed in the RECORD.

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

The bill (H.R. 5116), as amended, was passed.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMSS—Continued

Mr. KERRY. Mr. President, it is my understanding we now are in executive session on the START treaty.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, last week, I asked unanimous consent the order for the quorum call be rescinded. The PRESIDING OFFICER. Mr. President, I suggest the absence of a quorum.

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 President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. INOUYE. I ask unanimous consent that I be permitted to speak as in morning business.

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

Mr. INOUYE. Mr. President, last evening, the Senate made a regrettable decision to defer action on completing its work on the fiscal year 2011 Appropriations bills. I shouldn’t have to remind anyone that we are in mid-December, 1 week before Christmas, nearly 3 months into the fiscal year.

Yet because our Republican colleagues have decided that they cannot support a bill that they helped craft, we now face placing the Federal Government on autopilot for another 2 months under a continuing resolution—a CR.

My colleagues should all understand the consequences of this decision. First, a CR does virtually nothing to accommodate the priorities of the Congress and it abdicates responsibility for providing much needed oversight of the requests of the executive branch. Each year, the Senate Appropriations subcommittees conduct hundreds of hearings to review the budgets of our government agencies. Our committee members and staff conduct thousands of meetings with officials from the executive branch, our States and municipalities, leaders and workers from American companies, and the general public.

The committee relies heavily on the work of the Government Accountability Office and outside experts to determine spending needs. Tens of thousands of questions are forwarded each year to officials in the executive branch asking them to justify the funding requested for each respective agency. It is painstaking, detailed work. It requires great knowledge of each of our Federal agencies, a desire to dig into the nitty gritty details of agency budgets and question the programs and functions they manage.

This annual review was conducted in a bi-partisan fashion with Democratic and Republican Members and staff working in close cooperation to determine how our taxpayer funds should best be allocated.

These meetings, reviews, questions, and deliberations together led to the formulation of 12 individual Appropriations bills. Each bill is drafted by the subcommittee chairman and ranking Member in concert, marked up by the subcommittee, and then reviewed, debated, and amended by the full committee.

A year’s worth of work came down to a choice. Would the Senate acquiesce in providing a bare bones approach to governing or would it insist upon allocating funding by agency and by program with thousands of adjustments that are the result of the good work of the House and Senate Appropriations committees?

To me, the answer was obvious. Nothing good comes from a CR. The Congress owes it to the American people to demand that programs funded by their hard-earned money be for the best purposes we can recommend based on the countless hours of work of our committees and their staff.

Some will point out that a continuing resolution will result in fewer dollars being spent. That is technically correct. A CR will include less spending than was included in the omnibus, but like the old saying goes—you get what you pay for.

The savings in the continuing resolution come primarily by shortchanging national defense and security. Under the CR, the total allocated to the Defense and Homeland Security spending is $508 billion. Under the omnibus bill the total is $520.6 billion. So, more than half of the so-called savings is really additional cuts to the Defense Department.

For Homeland Security the CR would cut nearly $800 million from the omnibus measure. In fact, if we look at the funding for all security programs in the bill, more than $15 billion in cuts come from this sector.

Surely we could have all agreed that we shouldn’t be determining our national defense and security funding on the fact that Congress was unable to finish its work. Who among us really believes we should base our recommendations for defense, homeland security, and veterans on whatever level was needed last year? This is not how to run a government. The United States of America is not a second-rate nation, and we should not govern ourselves as if she is second rate.

The continuing resolution by design mandates that programs are to be held at the amounts provided last year, regardless of merit or need. Moreover, in the vacuum this creates, it is left to the bureaucrats to determine how tax-payer funds are allocated, not elected representatives. At this juncture, may I suggest that I believe we who represent our States know more about our States than these bureaucrats. I do not believe the people of Hawaii elected me to serve in the Senate as a rubberstamp.

The alternative I offered was a product of bipartisan cooperation in the Senate. It represented a good-faith effort to fund many of the priorities of the administration, while ensuring that it is the Congress that determines how the people’s money will be spent.

While the omnibus bill we drafted provided more funding than the CR, it is clear means the amount sought by the administration. Earlier this year, more than half of this body voted to limit discretionary spending to the so-
called Sessions-McCaskill level, which in total is $29 billion below the cost of the budget requested by the Obama administration. The Appropriations Committee responded to the will of the majority of the Senate and adopted this ceiling, or spending level. Moreover, we were not asked to identify unneeded prior-year funds and, in those cases, to achieve this reduced level. And it was not easy, sir. Many worthwhile programs were cut, but we reduced the bills reported from the committee by $15 billion—enough to reach the Sessions-McCaskill level while still fully funding and paying for Pell grants and covering all CBO scoring changes. The administration’s top priorities have received funding but not always at the level sought. Congressional priorities were cut back. Essential needs were met, but there were no frills.

For many Members, this debate focused on what we call earmarks. Here, too, the Congress tightened its belt. As defined by rules, we reduced spending that was provided in fiscal year 2010 by nearly 35 percent. Less than $3 billion was recommended in the omnibus bill for congressionally directed spending programs as compared to more than $7 billion last year. My colleagues should be advised that since 2006, the Congress has reduced spending on earmarks by just about 75 percent. In total, the omnibus bill recommended less than three-quarters of 1 percent of discretionary funding on the so-called earmarks. A tiny fraction of funds are provided so all of you can support the needs of your constituents which are not funded by the administration.

We have all heard those who say this election was about earmarks. Nothing could be further from the truth. This election was not about earmarks. My colleagues who went home and reminded the voters what they had done for them—yes, with earmarks—are returning to the Senate. If this election was about public distaste for earmarks, why did I receive a higher percentage of votes than any other Member of this body who had an opponent? Why is it that virtually all of my colleagues who took credit for earmarks will be coming back next year?

This election was about gridlock and partisan gamesmanship. And what we saw in the past 24 hours is more of the same—endless delaying tactics, followed by defective rules by partisan point-scoring rather than what is good for our Nation.

Some of our colleagues have suggested that since this bill is 2,000 pages long, it is obviously too big. But as we all know, it is not. It is designed to fund all government agencies. Of course it is 2,000 pages long. It is simply not rational to object to a bill because of its length. And that is nonsense.

Too often, our debates in the Senate focus on mind-numbing budget totals that are hard to grapple with. But when the CR is $15 billion to $20 billion below the omnibus, you have just a number: it is specific programs that will be cut or eliminated. When we point out that congressional priorities were curtailed, these are real programs that impact the lives of millions of Americans. When we are talking about an omnibus, we are talking about thousands of such programs.

For example, in the Defense Subcommittee, we prioritized the purchase of more helicopters to move about the rough terrain in Afghanistan. Keep in mind that there are thousands of men and women—American men and women—in uniform, putting themselves in harm’s way, sometimes being injured or killed. These funds were nottalked about or appropriate but were identified as a need by field commanders. So the committee justifiably appropriated more than $900 million to buy new helicopters. This will be lost from the bill when we vote for a CR instead of an omnibus.

We added $228 million to test and procure the new double-V hull improvements to Stryker armored vehicles, which will dramatically improve soldiers’ protection. These were not included in the President’s budget.

To support our wounded warriors, we added $100 million for lifesaving medical research in psychological health and traumatic brain injury.

Under the CR, funding for the Cooperative Threat Reduction Program, which secures nuclear weapons and materials in Russia, would be reduced by $100 million.

There are hundreds of additional examples which could be described in defense. For example, the President requested $275 million for terrorism prevention, and assistance for new initiatives to strengthen our communities and economy. When it comes to the health and well-being of our constituents, it is clear that passing an omnibus is just better policy. Again, we are talking about redirecting our resources to address today’s needs, not last year’s needs.

Specifically, the omnibus bill included $142 million in vital program increases for the Indian Health Service that are not in the CR, which includes $44 million for the Indian Health Care Improvement Fund, which provides additional assistance to the neediest tribes; an additional $46 million for Contract Health Services; an additional $40 million for contract support costs, as well as support for new initiatives in drug prevention, chronic diseases prevention, and assistance for urban Indian clinics. This omnibus bill would continue the strides that have been made in the recent past to significantly increase funding for the Indian Health Service and thereby provide more and better medical care for our
Native Americans and Alaska Natives. But this CR will bring that to a close.

There are hundreds more examples of what will not be done because the Congress will not pass this bill. However, because the CR turns over decision-making to the executive branch, I cannot even tell this body all the things the bureaucrats will not do that are important to Members of Congress and to our constituents.

The Senate has put the burden of determining how taxpayer funds should be spent to the President and his administration to determine how to spend funds for another 2 months rather than letting the Congress decide. Instead we are now faced with placing the decision in the hands of the publican colleagues who will allow the administration to determine how to spend funds for another 2 months rather than letting the Congress decide.

We find ourselves where we are today because we were unable to get this message across. In many respects it was a failure of communication. We were never able to adequately explain to everyone what the good things in this bill would have accomplished. So instead we are now faced with placing the government on autopilot. Our Republican colleagues will allow the administration to determine how to spend funds for another 2 months rather than letting the Congress decide.

In the 2 months, we will very likely find ourselves having to pass another 2,000-page bill that will cost more than $2 trillion or, once again, abdicating our authority to the administration to determine how taxpayer funds should be spent. I wish there were a better way, but the decision by our colleagues on the other side who helped craft this bill has left us with no choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Massachusetts?

Mr. KERRY. Mr. President, I think the Senator from North Dakota wanted to engage in a very brief colloquy regarding some of the funding on the modernization program, and I know Senator FEINSTEIN, the chairperson of the Senate Armed Services Committee, wishes to talk about verification a little bit.

I do this with the indulgence of the Senator from California. If an amendment is ready, we are ready to go to an amendment. So we are not trying to delay by any speaker any movement to an amendment. I wish to restate that 58 Senators on this side of the aisle are ready to vote on this treaty this afternoon. We are ready to vote now. If there are amendments, we are also ready to take up those. We would love to see if we could get the process going.

I don’t know if the Senator from North Dakota is here. He may not be here, I see the Senator from Tennessee is on his feet. He may wish to ask a question.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORRIG. Mr. President, I do think that it would be helpful to the Senate if the amendments are coming forth this afternoon. I know I and others are encouraging that process to begin. So I think that is getting ready to take place. My sense is there will be a number of very substantive amendments that come forward.

I wish to make a comment. I think I have helped this process along, and I have enjoyed it thoroughly. I watched something happen last night on the floor of the Senate with our majority leader, whom I respect, coming down and filing an amendment that I think is important to our Nation’s shore. That is why I have enjoyed this process so much.

I wish to say to our Presiding Officer that what has happened over the course of the last 12 hours, which was 12 hours last night, and don’t tell me and those on the DREAM Act during a lameduck session in the middle of the START treaty, what it says is, Republicans— and I don’t even like to use partisan labels—but, Republicans, you all need to rise up above partisanship and deal with foreign policy in a bipartisan way, but in the midst of that, we are going to throw some partisan issues in here that are campaign promises we made over the course of this last year when we ran for election.

I have to tell you what that has done. I have watched it. I have been in three meetings this morning. What has happened is it is poisoning the well on this debate on something that is very important. I don’t want to see that happen.

I am not one who comes down here and says fiery things or tries to divide. I am just hoping that saner minds will prevail and that these issues that have been brought forth that are absolutely partisan, political issues, brought forth to basically accommodate activist groups around this country, I am hoping those will be taken down or I don’t think the future of the START treaty over the next several days is going to be successful based on what I am watching.

I can understand human beings reacting the way they do to what happened last night at 7 o’clock, but I am hoping that is going to change. I am going to work through this amendment, and I am encouraging people to bring amendments forward. I know Senator LUGAR is doing the same. But to ask Repub-

licans to rise up above—and I think we all should rise up above. I think foreign policy and nuclear armaments—are there actually real differences in this case, but I think we should try to work together to resolve those. But to say—

Mr. KERRY. Mr. President, I think it is important to be clear in political things that are strictly there for political gain doesn’t add up. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. KERRY. Mr. President, I am encouraging people to bring amendments forward. I wish I was actually yielding the floor. I thought I was yielding for a question, but I am happy to have my colleague make his comments, and I appreciate them.

Let me begin by saying I personally appreciate all of the efforts and good faith and engagement of the Senator from Tennessee, the Senator from Georgia on the committee, Senator LUGAR, and others. This has been bipartisan in a result, and that is the way it ought to be. We had a very significant vote, 14 to 4, coming out of our committee that brought this treaty to the floor. I am proud of that on behalf of the committee, and I think that is the way we ought to deal with it here. Now, I don’t want to get these other issues clouded up in this debate. That is not what I am trying to do, and I am not going to spend much time on it at all except to say this: We don’t control what the House of Representatives does. The majority leaders do not. They decided to do something and they passed a bill and they sent it over here. That also has bipartisan support. The Senator knows my own feelings about how things should have been sequenced. We are where we are. If we are going to live up to the words of the Senator from Tennessee about keeping this treaty where it ought to be, which is in the square focus of our national security and our interests abroad, et cetera, my hope is that everybody will simply rise above whatever—however they want to view these votes. What is political in one person’s eye may be a passionate, deeply felt issue of conscience in somebody else’s eye.

I don’t want to get this issue confused in that debate. I just don’t want that. I think it is important for us to keep our eyes on the ball. This is about our national security, the entire national security community. Generals, admirals, our national strategic community, our military leaders from the Joint Chiefs of Staff through the command have all said: Pass this START treaty; we want it now. The issue is not why now, it is why would we delay? Why would we not do it now? So I hope we will get it done and that is the way it ought to be for political gain doesn’t add up.

I think the chairman of the Intelligence Committee has some powerful reasons for why now, and she has come to the floor by a prearranged agreement to speak at 2 o’clock. So I would like to yield the floor to her for that purpose, if I may.

The PRESIDING OFFICER. The Senator from California.

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The PRESIDING OFFICER. The Senator from California.
Mrs. FEINSTEIN. Thank you very much, Mr. President. I see both the ranking member and the chairman of the committee on the floor. I wish to say a few words about both of them and the good name they give the bipartisan ship. Both of them see how much of America’s destiny is wrapped up in this treaty and how nuclear weapons become a bane of exist- ence because of their size, because of their number, and because of this inex- orable concern that they fall into the wrong hands somehow, some way, someday.

I am one of the few Members of this Senate who is old enough to have seen the bombs go off in Nagasaki and Hirosh- ima. I know the devastation that a 15- and 21-kiloton bomb can do. These bombs today are five times the size plus, and they can eradicate huge areas. If you put multiple warheads on them, the destruction is inestimable.

Mr. President, what is interesting to me about the other side is that the Intermediate Range Nuclear Forces Treaty was approved by a vote of 93 to 5, the 1991 START agreement was approved by a vote of 9 to 6, and the 2002 Moscow Treaty was approved by a vote of 95 to 0. Chairman of that commit- tee, the distinguished Senator from Massachusetts, has pointed out time and time again on this floor, those treaties received less deliberation than is being given to this treaty. The rela- tionship between the United States and Russia today is better today than was the relationship when previous treaties were ratified. And the New START treaty we are debating is a fairly modest measure. So I hope it will receive a strong vote for ratification.

Now, for my remarks. I come here as chairman of the Intelligence Com- mittee to address comments that have been made on the other side of the aisle about this treaty, particularly as those comments relate to monitoring provi- sions. Let me just put out the bona fides.

The Intelligence Committee has studied the June 2010 National Intel- ligence Estimate on the intelligence community’s ability to monitor this treaty. We had a hearing. We sub- mitted more than 70 questions for the record. We received detailed responses from the intelligence community. Committee members and very highly technical, proficient committee staff participated more than any committee meetings and briefings on a range of issues concerning the treaty, focusing on the intelligence monitoring and col- lection aspects.

The conclusion is on my part that the intelligence community can, in fact, effectively monitor Russian activities under this treaty.

I would also like to say to all Sen- ators I have just reviewed a new intel- ligence assessment from the CIA dated yesterday. It analyzes the effect of hav- ing New START’s monitoring provi- sions in place and the loss on intel- ligence if the treaty is not ratified. I can’t discuss the contents of the assess- ment on the Senate floor, but the report is available to all Senators. It is available through the Intelligence Committee, and Members are welcome to review this report and other docu- ments, including the National Intel- ligence Estimate, in our offices in room 211 in the Hart Building.

Let me now describe the ways in which this treaty enhances our Na- tion’s intelligence capabilities. This has been the lens through which the Senate Select Committee on Intel- ligence has viewed the treaty, and I be- lieve the arguments are strongly posi- tive and persuasive.

First, the intelligence community can carry out its responsibility to mon- itor Russian activities under the treaty effectively.

Second, this treaty, when it enters into force, will benefit intelligence col- lection and analysis.

The U.S. intelligence community will use these treaty provisions and other independent tools that we have outside of the treaty, such as the use of na- tional technical means—for example, our satellites—to collect information on Russian nuclear fields. Russia is complying with the treaty’s terms.

The treaty provisions include on-the- ground inspections of Russian nuclear facilities and bases—18 a year. There is going to be an amendment, I gather, to increase that. I will get to that later in my remarks. Second, regular ex- changes on data on the warhead and missile production and locations. Third, unique identifiers—a distinct al- phanumeric code for each missile and heavy bomber for tracking purposes. I reviewed some of that in intelligence reports this morning. A ban on block- ing national technical means from col- lecting information on strategic forces, and other measures that I am going to go into.

Without the strong monitoring and verification measures provided for in this treaty, we will know less—not more—about the number, size, loca- tion, and deployment status of Russian nuclear warheads. That is a fact.

I think most of you know General Chilton, the Commander of the U.S. Strategic Command, who knows a great deal about all of this. He has said this:

Without New START, we would rapidly lose insight into Russian nuclear strategic force developments and activities, and our force modernization planning and hedging strategy would become quite complex and more costly. Without such a regime, we would un- fortunately be left to use worse-case analy- ses regarding our own force requirements.

Think about that. Let me be clear. That is what a “no” vote means on this treaty.

Russian Prime Minister Vladimir Putin made the same point earlier this month. He said that if the United States doesn’t ratify the treaty, Russia will have the right to include augmentation of its stockpile.

That is what voting “no” on this treaty does.

These monitoring provisions are key, as are the trust and transparency they bring, and the only way to get to these provisions is through ratification.

In fact, we have not had any inspec- tions, or other monitoring tools, for over 1 year, since the original START treaty expired; so, today, we have less insight into any new Russian weapons and delivery systems that might be en- tering their force. That, too, is a fact.

Thirteen months ago, American offi- cials wrapped up a 2-day inspection of a Russian strategic missile base at Tykovo, 130 miles northeast of Mos- cow, where mobile SS–25 interconti- nental ballistic missiles were deployed.

Twelve days later, their Russian counterparts wrapped up a 2-day inspec- tion at Whiteman Air Force Base in Missouri, home to a strategic bomb wing.

Since then, nothing. Since those two inspec- tions—one in Russia and one in the United States—we have essentially gone black on any treaty inspection, data exchanges, telemetry, and notification allowed by the old START treaty.

Let me describe the monitoring pro- visions in this treaty now, because these provisions are key to the origi- nal START treaty’s provisions.

No. 1, the treaty commits the United States and Russia “not to interfere with the national technical means of verification of the other party.” That is important to inter- nal satellite and “not to use concealment measures that impede verifica- tion.”

This means that Russia agrees not to block our satellite observations of their launchers or their testing. With- out this treaty, Russia could take steps to deny or block our ability to collect information on their forces. And there are ways this can be done. Let me make clear that, absent this treaty, Russia could try and perhaps block our satellite observations.

To be clear, national technical means are an important way of identifying some of Russia’s activities in deploying and deploying its nuclear forces. How- ever, while I can’t be specific here, there are some very important ques- tions that simply cannot be answered through national technical means alone.

I have also reviewed those this morn- ing, and those are available if a Mem- ber wants to know what we mean by this. They can go to room 211 in the Hart Building, and members of the in- telligence staff can inform them ex- actly what this means.

That is where other provisions of this treaty—including inspections, data ex- changes, unique identifiers—come into play. Without them, we are limited in our understanding.

So believe me, this is a big problem for our intelligence agencies.

The second provision in New START on monitoring is a requirement that Russia provide the United States with regular data notifications. This in- cludes information on the production
of any and all new strategic missiles, the loading of warheads onto those missiles, and the location to which strategic forces are deployed.

Under START, similar notifications were vital to our understanding. In fact, the notification provisions under New START are actually stronger than those in the old START agreement, including a requirement that Russia inform the United States when a missile or warhead moves in or out of deployed status.

Third, New START restores our ability to conduct on-the-ground inspections. There are none of them going on today, and none have been going on for over a year. New START allows 10 so-called “type one” onsite inspections of Russian ICBMs, SLBMs, and bomber bases a year.

The protocols for these type one inspections were written by U.S. negotiators as years of inspection experience under the original START treaty. The day before yesterday, I went over the credentials of our negotiating team in Geneva, and many of them have done onsite inspections. So they know what you are looking at and they provided those guarantees in this treaty.

First, U.S. inspectors choose what base they wish to inspect. It is our choice, not the Russians’ choice. Russia is restricted from moving missiles, launchers, and bombers away from that base.

Then, when the inspectors arrive, they are given a full briefing from the Russians. This includes the number of deployed and nondeployed missile launchers or bombers at the base, the number of warheads loaded on each bomber and—this is important—the number of reentry vehicles on each ICBM or SLBM.

So you can pick your base, go to it, get the briefing. These missiles are all coded with unique identifiers, so you can do your inspection, and you know what you are looking at.

Third, the inspectors choose what they want to inspect. At an ICBM base, the inspectors choose a deployed ICBM for inspection, one they want to inspect. At a submarine base, they choose an SLBM. If there are any nondeployed launchers, one not carrying missiles, the inspectors can pick one of those for inspection as well. At air bases, the inspectors can choose up to three bombers for inspection.

Fourth, the actual inspection occurs, with U.S. personnel verifying the number of warheads on the missiles, or on the bombers chosen. As I mentioned earlier, each missile and bomber is coded with a specific code, both numerically and alphabetically, so you know what you have chosen and where it’s been before.

Under this framework, our inspectors are provided comprehensive information from the Russian briefers. They are able to choose themselves how they want to verify that this information is correct. And there are ways of doing that to verify.

The treaty also provides for an additional eight inspections a year of nondeployed warheads or facilities where Russia converts or eliminates nuclear arms.

Some people have commented that the number of inspections under New START—that is, the total of 18 that I just described—is smaller than the 28 under the previous START treaty, and that is true. But it is also true that there are half as many Russian facilities to inspect than there were in 1991, when START was first signed. When START went into effect, we had a map this morning of these Russian bases, of the silo locations, of the bombers, of the submarine pens. The numbers are dramatically smaller than at the end of the Cold War, when the first START treaty was signed.

These inspections should suffice, because the numbers are so down.

In addition, inspections under New START are designed to cover more topics than inspections under the prior START agreement.

In testimony from the Director of the Defense Threat Reduction Agency, called in Washington-ese “DTRA,” Kenneth Myers, the agency doing these inspections, said:

Type one inspections will be more demanding on both the DTRA and site personnel, as it combines the main part of what were formerly two separate inspections under START into a single, lengthier inspection.

So, whereas you go from 28 down to 18, and 10 type one inspections, you can take more time and they are much more comprehensive.

Some of my colleagues who question this treaty have raised a couple of problems with the monitoring provisions. Let me address a couple of them now.

First, under START, United States officials had a permanent presence at the Russian missile production facility at Votkinsk.

Inspectors could watch as missiles left the plant to be shipped to various parts of the country. New START does not include this provision. In fact, the Bush administration had taken the provision off the table in its negotiations, as a gesture to transparency, the treaty allows for the exchange of technical data and nuclear information between our two governments. That telemetry is not as necessary to monitor compliance with New START.
been a 10-year trend and deploy more weapons than it currently believes are necessary for its security. They would also have to decide to do this secretly, with a significant risk of being caught.

Because of the monitoring provisions, the inspectors, our national technical means, and other ways we have to track Russian nuclear activities, I think Moscow would have a serious disincentive to do that. Moreover, instead of developing a breakout capability, Russia could decide, instead, to simplify the treaty, as the United States did when President Bush withdrew from the antiballistic missile treaty.

Finally, even in the event that Russia did violate the treaty and pursue a breakout capability, our nuclear capabilities are more than sufficient to continue to deter Russia and to provide assurances to our allies.

Mr. President, the bottom line is that the intelligence community can effectively monitor and verify this treaty. If you vote no, you are voting against these monitoring provisions.

The second question I raised at the beginning of my remarks that is relevant to New START is whether ratifying this treaty will actually enhance our intelligence collection and analysis. This is above and beyond the question of whether the intelligence community will be able to fulfill its responsibility to monitor Russian compliance with the treaty. Again, I am unable to go into the specifics, but the clear answer to this question is yes. The ability to conduct inspections, receive notifications, enter into continuing discussions with the Russians over the lifetime of the treaty will provide us with information and understanding of Russian strategic forces that we will not have without the treaty. If you vote no, we will not have it.

The intelligence community will need to collect information about Russian nuclear weapons and intentions with or without New START, just as it has since the beginning of the Cold War. But absent the inspectors’ boots on the ground—and that is what is at risk here—the intelligence community will need to rely on other methods.

Put even more simply, the Nation’s top intelligence official, Director of National Intelligence James Clapper, has said that “the earlier, the sooner, the better” that this treaty is ratified. “We’re better off with it.”

You know, I don’t think I need to tell this body what is at stake in terms of our relationship with Russia. The Russian Federation is not the Soviet Union, and this is an important reform vehicle of a new, young Russian President who wants to enter into a much more cooperative and transparent time with our country.

Russia has been of help to our country, letting our equipment go through Russian land into Afghanistan when Pakistan has blocked passage and in terms of refusing to sell a missile defense system to Iran that it had previously agreed to provide.

I think what this projects to the world as a whole is very important in this world of asymmetric warfare. What it projects is that the United States and the Russian Federation are more cooperative and transparent than I think the gesture of that standing together that is envisioned in the enhanced cooperation of this treaty should never be underestimated.

Members, we need all of the major powers to come together in this new world of asymmetric warfare in which we are engaged, and most likely will be engaged for a long period of time. So I very much hope that the votes are there for ratification.

Let me end with this: During the 15-year lifespan of the first START agreement, the United States conducted 659 inspections of Russian nuclear facilities, and Russia conducted 481 inspections of our facilities. Again, it has been a 10-year trend and during this time, one American and one Russian inspectors were at a Russian nuclear facility. We have been in the dark for 1 year. It is time to bring the light of New START to bear.

I thank the Chair, and I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator from California. I think Senators will agree she has a reputation here for calling things the way she sees them. And as the Chair of the Intelligence Committee, I think all of us are grateful for the diligence with which she approaches these issues of national security. She is ahead of the curve, she doesn’t hesitate to hold the President or any of us accountable if she sees something differently, and I greatly appreciate her insights on the verification measures in this treaty.

Mr. President, I ask unanimous consent that the Senate, Senator Stein, be recognized for 10 minutes, after which the Senator from Arizona, Senator McCain, be recognized to propose an amendment.

Mr. RISCH. Mr. President, I, too, have been part of this debate. I would, however, modify that by saying but not just any treaty.

Those are just observations, along with one other that I have, which is that there are some good things in this particular treaty, not the least of which are the things people have talked about here, and that is, first of all, having a relationship with the Russians; and secondly, having actual inspections, even though they are very attenuated, but nonetheless having inspections; and thirdly, having a table around which people can get around and discuss possible violations or accusations one might have against the other.

This brings me to the next subject I want to talk about, and that is the historical basis we find ourselves in.

The people who did this 40 years ago and actually started the dialog and took us to the first treaty with the Russians are real heroes. They are people who were patriots and people to whom we owe a great deal of gratitude.

They have set this stage, if you would, for where we are today.
probably the most important thing they have given us is a 40-year history of dealing with this. When they sat down at the table, they did the things they did to come to the agreements they did, but the overriding philosophy on the defense of the United States against Russia and the defense of Russia against the United States was that if either one launched against the other, the other would launch, which would ensure the mutual destruction of both parties. That has been the philosophy under which we have operated for the 40 years.

Over the 40 years—sometimes things take a long time to sink in, but I think the Russians have come to the conclusion, as Americans have come to the conclusion, that is not a good thing. The likelihood of either party pulling the trigger on the other, in my judgment, and I think probably in the judgment of most people, is not very likely. Is it possible? Of course, it is possible. Anything is possible. An accidental launch is possible—I do not believe from our side. Without going into the details of this, but through my intelligence work I have looked at the failsafe things we have in place, and I do not believe we are going to have an accidental launch. I do not have the same level of confidence with the other side.

Nonetheless, I believe the likelihood of either party doing this is highly unlikely that that took place today? The world has changed in 40 years. Forty years ago, when we sat down with the Russians, we were the two superpowers in the world. We were essentially the two that had these kinds of arms. We were worried about each other—for good reason.

Today that is a very different situation. I am much more concerned, and I think most people are much more concerned, about North Korea, about Iran, and about some other countries that have nuclear weapons, as far as being a threat to us in the United States. One of the overarching concerns I have had and criticisms, if you would, is that we are focusing in this exercise, again on this 40-year history and relationship we have with Russia without bringing into the mix the other real issues—and there are real issues.

The first one I will talk about is modernization. That is one of the good things that came out of this. There has been tremendous movement since the beginning of this on people’s realization that our need to modernize our nuclear stockpile is very real. I commend the administration. I commend the chairman and the cochairman of the committee for pursuing that issue. Great strides have been made in that regard.

The other issue we are going to talk about a lot—in fact, my distinguished colleagues from Wyoming and Arizona are going to lay down an amendment in a moment about an issue that is of top priority to me, and that is the missile defense issue. I am going to talk more about the details of that when we actually get into debating this amendment. Suffice it to say, the concerns I have had and the criticism I have had of this process is we are still talking about this in terms that existed 40 years ago, in the context of the Cold War. It is not how we live in today, where we have an overhead threat from nations that we, in my judgment, have not adequately addressed.

I think one of the criticisms I have is we have missed an opportunity on missile defense. We did not miss that opportunity on modernization, but we have missed it on missile defense.

I am going to close with this. It brings me to my last two points. Time is important as you go through these things. I do not like us being up against the deadline we are up against when we have a matter of this magnitude we should be debating. That colors my judgment, what I think is the biggest problem with the treaty. It is not one of the most deliberative body of the world to actually deliberate on this issue.

The last one that I have real difficulty with is a matter of what we call the transcripts. I will talk earlier about the fact that we have the same responsibilities as the President of the United States in making the decision on this. Yet he has access to the transcripts of the negotiators, and we do not have access to the transcript of the negotiators, which gives me pause. Most reasonable people would not accept something, sign on to a contract—which is what we are doing with ratifying this—without knowing all the facts. I can tell you we do not know all the facts. That particularly becomes important. I am troubled by the missile defense issues we have. I would like to know what assurances were given to the Russians regarding launch on alert, missile warning and emergency planning when I read their independent statements, their third-party statements about this.

I would like to know what is in these transcripts. So that is a very difficult bridge I am going to have to cross.

Nonetheless, my vote on this depends on the amendments—and there are real amendments addressing real issues in this discussion. My final vote is going to depend upon what actually happens in the amendment process.

I yield the floor for my distinguished colleague from Arizona, Senator McCain.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Would the Senator from Massachusetts give me 1 minute? I wish to say something to the Senator from Idaho.

First of all, I appreciate the constructive way in which he has outlined his approach to these questions. I think he has made a number of important statements about the good side of what is in this treaty. I appreciate he would like to see how we can work through this amendment process.

Let me say to him and other colleagues who are in the same place, actually listening to him I think I gained a greater appreciation for the point he is trying to make with respect to how missile defense has been framed in this discussion. I think he is appropriately trying to step away from only seeing it through the lens of the Cold War, the Soviet Union, U.S., Warsaw Pact, NATO, Russia, and the United States now, and how that offense-defense posture is addressed. Because he is thinking, I believe, if I understand him correctly, about the multiple points of concern from which—obviously, you have to sort of think differently about the deployment.

I would say to him that is precisely, I think, how the administration is thinking about deployment. But it suggested to me that maybe there is a way for us to find common language that, in a declaration or an understanding, might embrace that more to the liking of the Senator, without doing injury to the treaty as a whole so we kill the treaty because we have to go back to the Russians and renegotiate it, which becomes the critical thing. I would like to work with him and some colleagues on that and see if we can come to an agreement on it, I think that is an important component.

I would also mention that the Senator has given access to a classified summary of the negotiating record with respect to missile defense and that was something we worked very hard to get the administration to do and I hope, indeed, that was helpful.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Thank you, Mr. Chairman. You have correctly identified the serious concerns that I and a number of others have. I am delighted to hear your invitation to attempt to clarify these matters where we can protecting the American people, which is the highest objective that both he and I share.

Regarding the transcripts, I am not satisfied with a summary. I would like to see the transcripts. That is a point we can discuss at another time.

I thank the Senator for his consideration.

Mr. KERRY. Mr. President, I will work with the Senator. Obviously, I believe, if you look at the resolution of run-up, I think we went over to address it. But if it does not do it for the Senator adequately, I will try to see if we can find a way to do that. We will work on it in the next hours.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have a parliamentary inquiry: What is the parliamentary situation as it exists on the floor at this time?

The PRESIDING OFFICER. The treaty is pending.

Mr. MCCAIN. Is there not other business before the Senate at this time?

The PRESIDING OFFICER. No, there is not, sir.

Mr. MCCAIN. What about the filing of petitions for cloture on what is known as don’t ask, don’t tell and what is known as the DREAM Act?
The PRESIDING OFFICER. That is in the legislative session and we are in executive session.

Mr. MCCAIN. That is part of the legislative session and we are in executive session.

The PRESIDING OFFICER. Correct.

Mr. MCCAIN. But time is still pending on the matters in legislative session; is that correct?

The PRESIDING OFFICER. The time of the cloture motion is ripening, but we are in executive session.

Mr. MCCAIN. I understand. So here we are, the date is Friday, December 17, and we are on the START treaty, a treaty—any treaty is a serious matter before the Senate. This is of the utmost seriousness. Meanwhile, there is a cloture motion.

Will the Parliamentarian please correct me. Both these that the time is running on are both privileged messages, which means there is no vote on the messages of the United States.

The PRESIDING OFFICER. There is no need for a motion to proceed with the House message.

Mr. MCCAIN. What, we are about 6 weeks after the last election, now discussing the START treaty again. I will have to tell the House that I will be proposing in a moment that I think is important. Meanwhile, two other issues, both of which are very controversial, cloture has been filed on and the clock is running.

There are also threats that we may have, again, other votes on things such as relief for the New York 9-11 people, the firefighters issue, and a couple others. Online gambling has been mentioned in the media as one of the majority leader's proposals.

Again, here we are. People spoke clearly on November 2. It was, in the words of the President of the United States, a “shaleacking.”

What are we doing on December 17? We are in the 30th week of the session, the executive session. Meanwhile, the legislative session will go on. Who knows what issue the majority leader will bring—another issue before the Senate, maybe a couple more privileged messages from the other side, file it, run the clock, 30 hours, and then force the Members of this body, of which there will be five additional Members beginning January 5—and at the same time my friend from Massachusetts and the other Members of the United States and proponents of the treaty are saying: Put partisanship aside, put your concerns aside, trust us because this is very important for the Nation.

What possible good does it do when the majority leader continues to bring up issues and force us to have votes on them, which is clearly in keeping with the majority on the other side's political agenda? It is kind of a remarkable situation.

I have been around this body for quite some years. I have not seen a degree and intensity of partisanship that I see today in the Senate. All of us want to do what is right for the country. That is why this START treaty deserves serious consideration. It deserves serious consideration by itself. But this body operates in an environment of cooperation and comity. That very much is not in existence today.

I will take it—on Saturday we will go off the executive calendar, onto the legislative calendar, force votes on these two very controversial issues, and then maybe, if it moves him so, the majority leader will want to bring the debate in the past to force votes, most of which of those votes he knows clearly will not succeed but will give him and the other side some kind of political advantage. That was not the message of the last 30 hours.

So I think a number of us are growing weary of this on this side of the aisle. We are just growing weary. And we believe the people of this country spoke—in the words of the President of the United States: a “shaleacking”—and we ought to perhaps keep the government in operation, go home, and, in less than 2 weeks or a little over 2 weeks, let the newly elected Members of Congress on both sides of the Capitol address many of these issues.

Now, I do not know if we will get through all the amendments and all of the debate that a solemn treaty deserves before the Senate. I really hope we can. I would also remind my friend from Massachusetts that my colleague from Arizona, certainly the most respected person on this issue on this side of the aisle, has offered a date certain of January 25, with a final vote on February 3, to the other side. That, obviously, has not been acceptable to them. By the way, that would be with the input of the newly elected Senators, not of those who are leaving.

So I look forward to continuing this debate and to the one who knows what other issue the majority leader may bring before the Senate—maybe a privileged message again, which would only then require one cloture vote, and we will then be forced to take another political issue.

So I tell my colleagues that we are getting tired of it. We grow weary. And it is not that we want to “be home for Christmas.” I spent six Christmases in a row away from home. But what it is about is responding to the American people.

Yesterday, the American people, in a resounding victory for those who voted November 2, rejected the Omnibus appropriations, some of the issues before the Senate deserve the participation of the newly elected Members of the Senate and House.

AMENDMENT NO. 4841

(Purpose: To amend the preamble to strike language regarding the interrelationship between strategic offensive arms and strategic defensive arms)

Mr. MCCAIN. So, Mr. President, at this time, on behalf of myself and the Senator from Wyoming, Mr. BARRASSO, I call up amendment No. 4841.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. BARRASSO, proposes an amendment numbered 4841.

In the preamble to the New START Treaty, state “Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear forces are decreased, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.”

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to thank my friend and colleague from Wyoming, Dr. BARRASSO. It has been a great privilege for me, since he has been a Member of the Senate, to be with him side by side in a number of battles.

I am particularly proud of the work Senator BARRASSO continues to do on the issue of ObamaCare. If anyone wants to really be brought up to date, I would commend his Web site, Second Opinion, that Mr. BARRASSO has, and he continues to be incredibly knowledgeable and effective not only here in this body but with the American people.

I would say to my colleague from Massachusetts, the Chair of the Foreign Relations Committee, Dr. BARRASSO has taken on this issue as well, and I am pleased to be joined with him.

I would say to my colleague from Arizona, Mr. Kyl, of course, has been following that issue since the 1980s. I know of no one who has been more heavily involved in that side of the issue. The other is, of course, this whole issue of defensive weapons—how the provisions of the treaty affect the entire ability of the United States, and this treaty, to move forward where it seems necessary to put defensive missile systems to protect the security of this country.

I would like to remind you how vital this is. We are living in a world where the North Koreans have nuclear weapons and missiles. The Iranians have missiles and the ability to deliver nuclear weapons. The Pakistanis have nuclear weapons. Other countries throughout the world are developing nuclear weapons and they means to deliver them. So our concern is not so much what the Russians will do in the form of offensive nuclear weaponry—
and I will be glad to discuss Russian media reports about the Russians building a new missile and moving ICBMs to the borders of Europe and all that—but the main problem here is, can the United States, under the treaty, have the ability to put into place defensive missiles which will protect the security of the United States of America?

We all know that proliferation of weapons of mass destruction and the means to deliver them is one of the major challenges of the 21st century. So I think it is vital—it is vital—that we make it perfectly clear that there is nothing in this treaty that constrains our ability to pursue that aspect of America’s defense. So it is deeply disturbing to so many of us when the preambles of the New START treaty says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that “current”—

I am going to emphasize the word “current”—strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

The operative word there, my friends, is “current.”

I have been around long enough to have lived through the history of missile defense. It is not that old of an idea. In the middle of the last century, the idea that we could develop and deploy defensive weapons sounded like science fiction and wishful thinking. For the most part, it was. A few decades later, it was with this view of missile defense fantasy that opponents of the idea mocked President Ronald Reagan, who was more committed than any American President before him to the prospect of developing viable missile defense systems—what President Reagan called his Strategic Defense Initiative, which became known as SDI.

This idea scared the Soviet leaders to death because they realized how serious he was about it and because the idea represented a threat to the very balance of terror that threatened all of mankind during the Cold War. Arms control theorists saw this terror stabilizing—mutual assured destruction as stabilizing—and believed that missile defenses could therefore be destabilizing.

As a result, the key pillar of Cold War arms control was the established interrelationship between strategic offensive weapons and strategic defensive weapons. This linkage was codified in the Anti-Ballistic Missile Treaty, among other treaties and agreements. It established that effective missile defenses, if developed, could threaten the strategic offensive capabilities of the United States and the Soviet Union.

For that reason, it limited the development and deployment of such defensive weapons.

President Reagan believed that viable missile defense systems—in particular, his Strategic Defense Initiative—held out the opportunity to eliminate the threat of nuclear holocaust and thereby render nuclear weapons irrelevant. President Reagan was one of the leading proponents of a strategy called “Star Wars,” and he believed that it was missile defense, not just arms control agreements, that would make that world possible.

My friends, if I may take you on a trip down memory lane, the debate on that topic was intense. It was passionate, and it was a fundamental debate that took place in this country during the 1980s. That is why, at the Reykjavik Summit of 1986, when Soviet Premier Mikhail Gorbachev cited the ABM Treaty as a legal ground for opposing what President Reagan believed was a critical limitation on the strategic defense initiative, the President broke off the negotiation and walked out—one of the most remarkable acts in recent history. We should define the initial response of the media and others to President Reagan walking out of arms control talks.

With the end of the Cold War and the collapse of the evil empire, the United States was no longer mortal enemies with the means to threaten one another’s existence. But the proposal of missile defense, this was an opportunity to break once and for all for the long-accepted linkage, the interrelationship between offensive and defensive weapons.

In a recent op-ed in the Wall Street Journal dated December 7, 2010, former Secretary of State Condoleezza Rice explained why breaking this linkage between offensive nuclear weapons and missile defense was so important in the post-Cold War, post-September 11 world. I quote:

When U.S. President Bush and Russian President Putin signed the New START Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons as their predecessors had. But the Moscow Treaty was different. When Russia’s 2001 withdrawal from the Anti-Ballistic Missile Treaty of 1972. And for the first time, the United States and Russia reduced their offensive nuclear weapons with no agreement in place that constrained missile defenses.

Breaking the link between offensive force reductions and limits on defense marked a key moment in the establishment of a new nuclear agenda no longer focused on the Cold War face-off between the Warsaw Pact and NATO. The real threat was that the world’s most dangerous weapons could end up in the hands of the world’s most dangerous regimes—or of terrorists who would launch attacks across borders. And since those very rogue states also pursued ballistic missiles, defenses would (alongside offensive weapons) be integral to the security of the United States and its allies.

This brief background helps explain a key concern I have with the New START treaty as it relates to missile defense: that because of one clause that—by the parties in the treaty preamble, the Russian Government proposed and the United States accepted as a way of political pressure to limit U.S. decisions about our missile defense systems.

I have followed this issue of missile defense pretty closely while the treaty was being negotiated. As I have said before, I am concerned by the series of events that led to the treaty’s handling of missile defense. First, the Senate has told the Administration that it has no way reference the development and deployment of U.S. missile defense systems.

But then, for some reason, after being told this treaty was not about missile defense, the Senate was then told there would be a reference to missile defense after all, but that it would only be in the preamble of the treaty which, of course, is not legally binding.

That was worrisome enough, but then we saw the treaty and not only was there a reference to missile defense in the preamble, but there was also a limitation on our missile defense deployments in the body of the treaty itself in article V. This may not be a meaningful limitation, but it is a limitation nonetheless and a legally binding one at that. This sets a very troubling precedent.

What I want to focus on this afternoon is the reference to missile defense that appears in the preamble, because that language carries a lot of historical significance and strategic weight, and it has been the root of mine and other Senators’ concerns about how the Russian Federation could use this treaty as a de facto veto against U.S. missile defense systems. This is what the eighth clause of the preamble says, and I quote from the preamble:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic offensive arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

There are many problems with this statement, and more that stem from it. First, it reestablishes—after what I told my colleagues about what happened during the Reagan administration—what happened over the past—I mean over the Bush administration, and I say reestablishes because we worked very hard over the past decade to decouple these two concepts, our offensive nuclear weapons and our missile defenses. During the Cold War, the Soviet Union was always terrified of the prospects of U.S. missile defense. Ever since President Reagan proposed the strategic defense initiative, the Russians have sought to limit development and deployment of offensive strategic arms which they knew they could never compete. They sought to bind our actions on missile defense through legal obligations in treaties,
and when that didn’t work, through po-
itical commitments or agreements that could be cited to confer future ob-
ligations, and thus transformed into as a po-
itical threat. In short, the Rus-
sians have always understood that U.S. mis-
siles were under development or deployed and would undermine the treaty’s ef-
fectiveness and viability. This is an un-
acceptable constraint on U.S. decision-
making.

As if to drive home the large poten-
tial problems that stem from this clause in the preamble, the Russian Government issued a unilateral state-
ment at the time the treaty was signed. I realize this statement is not legally binding either, but it certainly adds to the commitment that the Russian Federation believes the United States has made on limiting our missile defenses. This is a remarkable statement, and it deserves to be read in full, and I quote:

"The treaty between the Russian Federa-
tion and the United States of America on
Measures for the Further Reduction and
Limitation of Strategic Offensive Arms
signed at Prague on April 8, 2010, may be ef-
ficacious only in conditions where there is no qualitative or quantitative build-
up in the missile defense system capabilities of the United States of America. Con-
sequently, the extraordinary events referred to in article XIV of the Treaty also include a buildup in the missile defense system capa-
bilities of the United States of America such that it would give rise to a threat to the
strategic nuclear force potential of the Rus-

sian Federation.

That is a very clear statement made by the Russian Government about the linkage between missile sys-
tems and offensive arms. This is the
Russian interpretation of what our two
governments have agreed to in the pre-
amble. They explicitly draw the con-
nection between strategic offensive and
strategic defensive arms. They explic-
Itally state that the United States is
limited in its development and deploy-
ment of missile defense systems. They
explicitly refer to the language in the
preamble about the "effectiveness and
viability" of the treaty in order to
claim that any buildup or improvement in U.S. missile defense systems would
undermine the treaty. Then they go
one step further. They draw a logical
connection between what was agreed to in this clause of the preamble to article
XIV of the treaty which establishes the
rights of the parties to withdraw from the
treaty and the conditions under which they may do so. In short, the Russian Government has

effectively turned a nonbinding political
agreement into the pretext of what it
believes is a legal obligation under the
treaty itself.

You don’t have to take my word for it. Listen to what Russian leaders
themselves have said. Here is Russian
Foreign Minister Sergei Lavrov speak-
ing on March 28, 2010:

"The treaty and all obligations it contains
are valid only within the context of the lev-
els which are now present in the sphere of
strategic offensive weapons.

Here is Foreign Minister Lavrov
again on April 6, 2010:

"Russia will have the right to exit the ac-
cord if the U.S.’s buildup of its missile de-
Fence strategic potential in numbers and
quantity begins to considerably affect the

efficiency of Russian strategic nuclear forces.

... Linkage to missile defense is clearly spelled out in the accord and is legally bind-
ing.

I would remind my colleagues these
are the statements of the Russian For-
egn Minister. And here is everybody’s
favorite President, Dmitry Medvedev,
speaking to the Russian Parliament on

Either we reach an agreement on missile
defense and create a full-fledged cooperation mechanism, or if we can’t come to a con-
structive agreement, we will see another ex-
compensation of the arms race. We will have to
make a decision to deploy new strike sys-

tems.

Finally, here is my favorite, Prime
Minister Vladimir Putin, speaking on
"Larry King Live" on December 1, 2010:

"I want you and all the American people to know this. At least those spectators who will follow our program here. It’s not us who are
moving forward our missiles to your terri-
tory. It’s you who are planning to mount
missiles at the vicinity of our borders, of our
territory.

We’ve been told that you’ll do it in order
to secure against the, let’s say, Iranian threat. But such a threat as of now does not
exist. Now if the rudders and counter mis-
siles will be deployed in the year 2012 along
our borders, or 2015, they will work against
our nuclear potential there, our nuclear
arsenal. And certainly, that worries us. And
we are obliged to take some actions in response.

Unfortunately, at the time the treaty
was signed, after agreeing to this prob-
lematic clause in the U.S. negotiators did not use the oppor-
tunity to make a unilateral statement of their own to decisively and un-
equivocally discredit the Russian Gov-
ernment’s claims. Instead, this is the
statement the U.S. Government issued
in response to the statement I read, the
signing statement:

"The United States of America takes note of
the Statement on Missile Defense by the
Russian Federation. The United States mis-
sile defense systems were not intended to af-
flect the strategic balance with Russia. The
United States missile defense systems would
be employed to defend the United States
against limited missile launches, and to de-
fend its deployed force, allies and partners
against regional threats. The United States
intends to continue improving and deploying
its missile defense systems to defend itself
against limited attack and as part of
our collaborative approach to strengthening

My friends, I understand diplomacy, and I understand statements that are
equivocal. That certainly stands out as one of those.

We could have stated that the devel-
opment and deployment of U.S. missile
defenses are in no way limited by the treaty, its preamble or anything the Russian Government says about them. We could have stated that the United States does not recognize decisions about its missile defense systems as a legitimate and valid reason for the Russian Federation to withdraw from the treaty, as is its right under article XIV. We could have stated affirmatively that the United States will continue to make both qualitative and quantitative improvements to its missile defense systems regardless of whether the Russian Federation threatens to or actually chooses to withdraw from the new START treaty. We could have said all that and more. Instead, we simply took note of what the Russians had to say and then spoke passively about our intentions, without addressing the heart of the matter.

What does all this mean? What it means is that the Senate needs to fix the problem presented by this clause in the preamble. One way to do that—the easiest way—is to simply strike the eighth clause from the preamble text. That is what this proposed amendment would do. It will remove any recognition of an interrelationship between offensive nuclear weapons and missile defense, and it would undercut the logical and political foundation of the Russian unilateral statements, as well as the clearly and repeatedly stated Russian position that this treaty imposes a legally binding limitation on U.S. missile defenses.

I see I am joined on the floor by my friend and cosponsor of this amendment, the Senator from Wyoming. Again, I take this opportunity to thank him for taking the lead in offering this amendment within the Committee on Foreign Relations during the markup of the resolution of ratification. I have had the opportunity to travel overseas with the Senator from Wyoming, to Iraq and Afghanistan and Pakistan and many other places. I appreciate his consistent leadership on matters of national security.

I ask unanimous consent that, since it is our amendment, he be recognized next.

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

The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, it is indeed a privilege to join my friend and colleague, the ranking member of the Armed Services Committee. He made mention of the six Christmases he spent away from home. Members of this chamber know how those Christmases were spent in captivity as a prisoner of war in North Vietnam. I recommend to all of America his book "Faith of my Fathers." I read it on a trip with Senator McCain, heading to Iraq to visit and thank our troops several years ago, on Thanksgiving, while we were there with the troops. We were in Baghdad, Kirkuk, and in the Anbar Province. I had a chance to meet, for the first time, a young marine who was Senator McCaIN's son.

As we traveled across this globe visiting our soldiers, thanking them—in Afghanistan as well—we had been to Georgia, where he was awarded and read the fight of the high commission delivered from the President and the people of Georgia. Senator McCaIN is recognized and respected worldwide for his knowledge, for his patriotism, and for his bravery. I think it is critical that we listen to him as we talk about this very important treaty.

The amendment he brings is one to strike the language in the preamble that limits our missile defense. It limits our ability as a nation to defend ourselves. I have major concerns about the Russians trying to limit current and future U.S. missile defense capabilities through the New START. I am committed to our national security and the ability of the United States to defend ourselves.

In my opinion, this treaty, signed by our President and by the Russian President on April 8, 2010, places explicit limits on U.S. missile defense. There should be no place in a treaty with Russia for the United States to limit our ability to defend and protect our Nation.

Specifically, I believe the language in the preamble, the language in the unilateral statement by Russia the day the treaty was signed, and the language in the statements by senior Russian officials regarding missile defense—all of them show Russia intends to weaken the ability of the United States to defend ourselves.

The language in the preamble provides an explicit linkage between strategic nuclear offensive weapons and strategic nuclear defensive weapons.

The preamble implies the right of Russia to withdraw from the treaty based on U.S. missile defense that is "strategic" in nature. It gives Russia the right to withdraw when the United States has deployed strategic weapons. The treaty preamble gives Russia an opportunity to turn their backs on the treaty at the slightest sign of a shift in American defensive strategy. This language is unacceptable and needs to be removed.

Senator McCaIN read from the Wall Street Journal editorial or op-ed by former Secretary of State Condoleezza Rice. She pointed out several very legitimate concerns about the New START treaty that must be resolved during the ratification process. I wish to repeat and reiterate two sentences that get to the very heart of this amendment that Senator McCaIN and I are bringing to you today. She stated:

... the Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the "interrelationship" of the two.

Suppose the President of Russia is trying to force the United States to choose between missile defense and the treaty. In that case, I choose missile defense.

The administration continues to claim there is no limit on missile defense and that the administration also claims the preamble is not legally binding. Well, Russia clearly disagrees and believes the opposite to be true. They have made it quite clear they consider the preamble to be legally binding.

Russian Foreign Minister Sergey Lavrov was quoted by Senator McCaIN on the floor. This very year he stated—and I will reiterate it—that the treaty contained a "legally binding linkage between strategic offensive and strategic defensive weapons."

There is a fundamental disagreement between the United States and Russia on this issue. I believe that placing constraints on future U.S. defense capabilities should not be up for debate, let alone placed in a treaty on strategic offensive nuclear weapons.

It is outrageous that this administration would make any concession to Russia on our national security. I think the administration's decision to include this language was a serious mistake. We should not let our hands behind our backs and risking the national security of both our Nation as well as our allies.

The United States must always remain in charge of our missile defense—not Russia or any other country. As our country continues to face threats from around the world, we should not take any action that will hinder our missile defense options. With concerns over countries such as Iran and North Korea, the United States cannot take any chance on language that could weaken our missile defense capabilities. The administration claims the language in the preamble has no legally binding significance. That would be no problem in eliminating that language on missile defense in the preamble of the treaty.

That is why I am privileged to join Senator McCaIN in offering amendment No. 9814, and I ask my colleagues to give great thought and consideration to what the importance of this amendment is and then go on to adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I have been here and have listened to the two previous speakers. Let me echo and agree with the remarks made by the Senator from Wyoming about the Senator from Arizona, I serve as his second ranking member of the Armed Services Committee, and I have watched his leadership for quite some time now. Also, I have to say the Senator from Wyoming and I are both on Foreign Relations. I have also watched his leadership on this.

I come from a little different perspective than some because I am on both committees. One of the things I have
been concerned about for a long time has been that many people don’t have a firm understanding as to the threat we are under in this country. We have heard a lot of different explanations about the intent of article V of the treaty. On the one hand, the Obama administration and us to say that there are no limitations on our missile defenses. On the other hand, as has been stated by the two previous speakers, the Russian Foreign Minister states that there are obligations regarding missile defense that constitute a legally binding package. I think that was covered well by the senior Senator from Arizona. I will mention three things that pretty well lock in, in my mind, this connection that is there.

The preamble of the treaty recognized the interrelationship between strategic offensive arms and strategic defensive arms, and that interrelationship will become more important as strategic nuclear arms are reduced. That same thinking would be increased and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic effective arms of the parties.

I quoted yesterday extensively this. The foreign minister of Russia, Sergei Lavrov said:

We have not yet agreed on this missile defense issue, and we are trying to clarify how the agreements reached by the two presidents could relate with the actions taken unilaterally by Washington.

He added that the Obama administration had not coordinated its missile defense plans with Russia.

There is a stronger statement made in the very beginning that already has been quoted; that is, that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively.

I wish to also mention that, as far as this treaty was concerned, I had occasion to be in Turkey not long ago, and I talked to the Ambassador to Turkey, Eric Edelman. Many of us remember he was the Under Secretary of Defense for Policy. A couple months ago, he made a very strong statement:

New START, unfortunately, introduces limits and obstacles to further development in precisely these means of defending the country. As part of the ratification process, I would hope that, at a minimum, the Senate will express its sense that no further limitations on either Missile Defense or Prompt Global Strike should be considered as part of the future nuclear arms reduction agreements.

He was referring to any other agreements, not just this one.

Allowing any further such constraints could well prove a major error in long-term strategy. What would happen—what would happen were we to trade away areas of U.S. comparative advantage for reductions in Russian strategic forces that would be likely to happen even in the absence of a treaty.

Let me try to break this down. I think an awful lot of people have heard these same words repeated over and over. Yes, certainly there is no one here who can say there is no relationship between any restrictions they are designing in terms of our ability to have a missile defense system. We know what happened in Poland, and I happened to be over in Afghanistan when the $10 billion budget—what that was his very first budget. At that time, several of us had been involved with both the Czech Republic, where we were anticipating the building of a radar system, as well as Poland for a ground-based interceptor. One of the things that was very offensive about that was several of us—and I can remember personally the President of the Czech Republic saying to me, in the Czech Republic, are you sure that if we take this risk and we are willing to do this, because we believe it is the right thing to do, that you won’t change administrations and come to pull the rug out from under us? And I said, I can certainly give you that assurance. Unfortunately, that is exactly what happened when he gave his military budget. He did away with—he terminated that system.

This is a chart that I think most people agree with. It came from the Congressional Budget Office. As you know, we have over here in Alaska and down in California ground-based interceptors. Originally, there were going to be quite a few more. Then they dropped it down to 44, and recently—under this administration—it went down to 30 ground-based interceptors. So we feel, and I feel—and I think most people agree—that what is coming in from North Korea and coming across here can be detected, can be shot down, and if missed the first time, you would have another run at it. So I have stated several times we are in pretty good shape for this.

But if you look at the footprint of the coverage, it goes over and barely covers the eastern part of the United States, and of course definitely, over here in Western Europe. If there should happen, I don’t think there is anyone—and I have talked to a lot of experts—who believes if for some reason we were not accurate, and not right the first time, there would be another chance to do it. All you have to do is look at this chart and I think you can see that threat is out there; that coverage is out there; that certainly there is a question as to whether we would be able to do it with a ground-based interceptor from this direction.

This is Iran over here. The reason we have this on the chart is because it is pretty well accepted, not even classified, that Iran will have the capability of sending a missile over the year they are estimating might be as early as 2015. Well, 2015 happens to be the same date that the Iranians will have this capability, and that is the scary thing.

Let me go ahead and walk through this on this other chart on the timing. According to the phased adaptive approach, which replaced the idea we are going to have a ground-based interceptor in Poland, it says that in phase one or the 2011 timeframe, we would be able to deploy the current and proven missile defense systems available in the next 2 years, including the sea-based AEGIS system, the SM-3 interceptors—that is the Block 1A—which were deployed here.

This is something we have now. This chart shows here something that is coming from Tehran over to the United States, let’s say to Washington, DC. If they have this capability over here, we also have to have a capability of the ground-based interceptor in Poland. So here we are right now, the capability that they have in Iran would be portrayed right here. This is their capability. This is our capability to kill something over here. That is where they are today. This is where they are going to be in 2015. This IRBM capability would be sometime around the year 2012 or 2013, when we look at this, we can see that phase one, according to the administration, would be the 2011 timeframe. That is a sea-based AEGIS with the SM-3 interceptor, Block 1A.

Phase two would be the 2015 timeframe. That is when we are getting into—the average testing—deploying a more capable version of the SM-3 interceptors, Block 1B. This is the Block 1B right here. So this would give us a little greater capability in both the sea- and the land-based, but that would be for a short- or medium-range missile threat.

Then phase three. This phase three here. This is what they state we would be able to have by 2018. That would be an SM-3 Block 2A. In order to gravitate to—not quite sure I am accurate on this—what would be the capability that we would have with a ground-based interceptor in Poland, it would have to be the SM-3, 2B.

Phase four, that is the SM-3, 2B, which they are estimating might be as early as 2020. But that is “might be.” There is no time range or agreement that it would be. That is in the best scenario.

So by eliminating this capability here, that would have been deployable by 2015, and going to something that might be deployed by 2020, when they have the capability, we believe, by 2015, that is the scary thing.

I have often said—and I know it is an oversimplification—when you look at the treaty we are talking about, it is a treaty over which neither we nor Iran have any control. What is that threat I see out there? I see North Korea. And by the way, North Korea is going to have this same capability, we believe—well, now, actually for 12,000 kilometers, and 10,000 would reach the United States from Tehran. We know no one denies—that Tehran and North Korea are trading capabilities and technology.
I only wanted to come to say there is a real threat out there. This is something that is real. It is something we have looked at and we were able to accept at one time, before they took down the sitting in Polan. So now we have a treaty that I think, by anyone’s interpretation, you would have heard the senior Senator from Arizona and the junior Senator from Arizona, and the Senator from Wyoming and others speak on this—that does certainly, at the very least, have the threat of reducing our capability of defending ourselves. 

I only want to point that out, to get into the RECORD how serious the threat is, what the timeframe is and why we should be not even considering a treaty unless we have the language incorporated in amendments—that would be offered I believe by a number of Members on this side, including myself—addressing the missile defense. I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, if the Senator from Arizona was about to speak on this, I would be happy to let him do so. I mean, we have seen Senator LUGAR and I might respond.

Is the Senator from Arizona able to say, by way of seeing where we are headed here, how long he thinks he might take?

Mr. KYL. Mr. President, I would say to my colleague, maybe 10 minutes is all. I wish to respond to four particular points that have been made here.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KERRY. And possibly Senator GRAHAM had a question, and I thought I would also respond to his question, if he wanted to pursue that.

Mr. KYL. Mr. President, I very strongly support the amendment offered by Senators MCCAIN and BARRASSO. The primary point here is the preamble has created a great deal of confusion and it will create discord between the two parties here—between the Russian Federation and the U.S. Government.

There is a built-in conflict, a big problem. It is a tumor here, and it is going to grow and eventually create a conflict between our two countries that frankly isn’t necessary, and that is the purpose of removing this language from the preamble that creates this problem in the first place, that reestablishes the linkage between strategic offensive weapons—which are the subject of the treaty—and missile defenses, which are explicitly not the subject of the treaty.

My colleague Senator MCCAIN pointed out that Secretary Rice had written an op-ed where she said one of the most concerning things—worrisome, I think—was how the language in the preamble had worked very hard to eliminate. In the Moscow Treaty of 2002 they had eliminated it, making it clear—even though the Russians wanted preamble language or treaty language connecting the two—they were not going to be connected by the United States. We intended to keep our missile defense plans totally separate and apart from any strategic offensive weapons.

The proponents here of this treaty and its language have made some arguments which I think I should respond to briefly. They will probably dwell on some of these again, but I have heard these arguments before. One that you hear over and over is that the treaty language is not binding. The simple response to that is: Fine, if it is not binding, then what is the big deal about amending it or simply eliminating this particular provision? Because it is pernicious, it is going to create a lot of problems in the future in terms of disagreements between the two countries—disagreements which are not necessary but which are going to create a real problem in the relationship between the two countries. So if it is not binding, clearly there shouldn’t be a big deal about amending the preamble.

In the preamble, the United States pursues the plans that Secretary Gates has announced.

Second, I did hear my colleague from Massachusetts, which I say: Well, these preambles are not that big a deal. They are mostly for domestic consumption. That may be true, but that is a two-way street. We have some domestic consumption here in the United States, and we want to have a little comfort in this treaty that we are not going to be so constrained. I am well aware of the language in the resolution of ratification, which is simply a statement that says the treaty doesn’t limit U.S. missile defenses. That is true, as far as it goes. But, of course, it begs the question of how the Russians interpret the preamble. And they interpret it—as I said 2 days ago, or yesterday, I guess—as a legally binding authority for the Russian Federation to leave the treaty based on its interpretation of extraordinary circumstances, allowing it under article XIV—the withdrawal clause—to withdraw from the treaty if the United States were to deploy missile defenses that qualitatively or quantitatively improve our condition vis-a-vis Russia, which clearly is going to happen if the United States pursues the plans that Secretary Gates has announced.

Of course, the real question is: In view of the Russian objections, will we in fact do that? And that is the pernicious aspect of this preamble. I am afraid, because the Russians have made such a big deal out of this, the Obama administration is backing away from what were announced as our plans for missile developments.

Third, I would point out the fact that this is a problem noted by the administration. The Senate gave its advice in the Defense bill last year when we explicitly said don’t include any limitations on missile defense. We also added prompt conventional global strike. So this language was negotiated notwithstanding a warning by the Senate that limitations on missile defense could create a problem in our consent to the treaty.

Fourth, the language, as I said, is inconsistent with—that is to say the language in the preamble is inconsistent with announced plans for U.S. missile defense. My colleague Senator KERRY quoted administration officials as saying that we briefed the Russians thoroughly on this. No doubt that is true. It also appears to be true the United States has begun to modify our announced intentions with regard to deployment of missile defense.

My colleague Senator INOUYE pointed out that in place of the ground-based interceptors that the Bush administration had planned to deploy in Poland, along with associated radars in the Czech Republic, to complement the missile defense system in California and Alaska, primarily dealing with the threat coming from east Asia, the administration announced that it would substitute a phased array—or, rather, a phased adaptive growth, which is important not it’s fourth phase, the potential for intercepting ICBMs that could come from Iran to the United States, but also, of course, anywhere else, including Russia.

There would clearly be a qualitative improvement of missile defenses vis-a-vis Russia, which under their interpretation of the preamble would allow them to withdraw from the treaty. We say no, it wouldn’t. Oh no, wait, that was the START I treaty where we said no, it wouldn’t. In the START I treaty, the unilateral statement of the United States rejected what the then-Soviets said. The language is almost the same.

The Soviets said: We don’t want you to have missile defenses, and if you do, that is a ground for withdrawal from the treaty. At that point, the United States said: No, it is not.

Did we say that this time? No, not a word. As my colleague Senator MCCAIN said, the United States was silent; instead, in effect saying in our unilateral signing statement: You don’t have anything to worry about because we are only going to develop missile defenses limited against regional threats. In other words, neither the ground-based interceptor we were going to deploy but President Obama pulled back from Europe nor the phased adaptive approach, which, in its final phase, could be effective against a Russian ICBM—apparently neither of those is going to be deployed.

The administration did not make an announcement to that effect, but they did appear to confirm it when they briefed the Russians again on the status of things a few weeks ago, the NATO allies and Russia that the first three phases of the phased adaptive approach would be deployed, but the magic language wasn’t used on
the fourth. They just said it would be available. Which is it? Are we, in fact, pulling our punches already before the treaty is even ratified because the Russians have objected to it? Isn’t this exactly what Secretary Rice warned us about, saying we were confusing a relationship language between missile defense and missile offense, and it strikes the language that says that current U.S. missile defense is not a problem—of course laying open the whole question of whether what we do in the future will be a problem. That is what the McCain-Barrasso amendment would do. It takes out this language which raises the question of whether what we intend to do the treaty, in my view, than it might be. Russians back out of strategic arms limitation treaty because of U.S. deployment of missile defense—to me, that is something we need to deal with with certainty because if that day ever comes, it would really be an unnerving event.

It is clear to me that the Russians have taken the preamble language to mean that we have limited ourselves. It is clear to me that the President is trying to say we have not limited our- selves. Senator KERRY says it. I say it, you say it. But if the Russians do not agree with that, it would be better not to do the treaty, in my view, than it would be to create an illusion that the world is safer and have that illusion destroyed.

Just think this through. No matter how much you want a treaty, the worst thing that could happen, in my view, is that two major powers with nuclear weapons sometime in the future have a falling out. That is where we are head- ed if we do not get this right.

To my colleagues, this is a big event. It is a big moment in terms of our rela- tionship with Russia. But you should not sign a treaty when there is a high likelihood we think we need to do, that it will put them in a spot of having to withdraw. That has to be settled.

Taking the preamble out—if we took it out and they still signed the treaty, that would make sense. If you leave it confusing, then you are asking yourself for a heartache down the road. Do you agree with that?

Mr. KYL. I certainly do. I will terminate my conversation here by also adding one other point to my response to my colleague from Arizona about a letter from the President. The problem right now is that such a letter if it confirming to move forward with a missile defense system adequate to protect the United States from an ICBM, from more than regional threats, would directly con- tradict our signing statement. What the President would have to do is say: I hereby reject or repudiate the signing statement that the State Department attached to the treaty when we signed it and state the U.S. position instead as—and then lay out his commitment to deploy a defense system adequate to protect the United States from an ICBM.

Mr. SESSIONS. Will the Senator yield?

Mr. MCCAIN. While the Senator still has the floor, one additional question for my colleague. As we all know, there is nothing more important, probably, that comes before this body than the ratification of treaties. Our Founding Fathers reserved it for the Senate and the Senate is doing it.

This treaty is obviously of signifi- cant importance—not just the treaty itself but the impact it has around the world. There is certainly something to the allegations that are made, the comments that are made that this could af- fect U.S.-Russian relations. I think the Senator from South Carolina and you and I—every Member of this body is very aware of the absolute importance of this treaty and for us to make the decision strictly based on the merits or de- spite of this trend.

The reason I ask my colleague this question is that allegations continue to swirl that there is going to be a vote for or against because of another piece of legislation or for other reasons, for other political reasons. I reject that al- legation. I wonder if my colleague from Arizona does as well. I know every Member of this body is making a judg- ment on this treaty on its merits and their view of its merits or demerits and its importance to the future security of this Nation. And I hope, my colleague from Arizona, that I cleared that up, and I hope my colleague from Arizona will too.

Mr. KYL. Mr. President, I could not agree more with my colleague from Ar- izona. There have been rumors swirling around here for 3 weeks—for example, when the tax legislation was being nego- tiated—that somehow or other there was some deal in the works to trade the extension of the existing tax rates for support of the START treaty. There was never any kind of a deal like that going on. No, this treaty stands or falls on its own merits.
The other thing I would say, however, is that I have made the point for a long time that one of the impediments to ratifying this treaty or to debating it and considering it in a meaningful way was the intersection of all of these things that we talked about before the Senate, much of it very partisan, and that it was very difficult.

My colleague from Arizona was right in the middle of a sentence a while ago when he was interrupted by another colleague to say that we have some intervening business we have to do. That is the problem. If we are going to debate and consider the treaty and be able to do it in the thoughtful and focused way it really deserves, then we should not have all these other items come popping in and out of the Senate. We are on the treaty for 2 days and then going to be off of it for 2 days, back on it again for another day, and meanwhile now we are voting on this and that other thing. That is what I was counting would preclude us from ever really getting to the point where we had time to do the treaty and do it right. I think my predictions were very correct.

Mr. SESSIONS. Will the Senator yield for a question—Senator Kyl. You have been a practicing lawyer and a successful one. You negotiated a lot of agreements here in the Senate. Do you think what Senator Graham said, it seems to me that at the very heart of this treaty is a very apparent misunderstanding about the meaning and ability of the United States to deploy a missile defense system. What we are telling the other party is that we are entering into negotiations on a matter as serious as nuclear weapons, isn’t it a basic part of a good agreement that there are no misunderstandings on important issues?

It seems to me quite clear from repeated Russian statements that they are taking a position very fundamentally contrary to the one the United States should be taking.

Mr. MCCAIN. Mr. President, I am glad to respond to that and summarize this again. Yes. Any lawyer—and we are both lawyers here—knows that if you have an ambiguity in a contract, you come popping in and out of the Senate. Where somehow we are going to come straight, the junior Senator. I have it straight. The other guy is senior in every way. What can I say?

In that colloquy, they suggested there is some kind of confusion and that we are proceeding down a road where somehow we are going to come into some kind of a confrontation over this issue.

Let me begin by saying, it does not take missile defense or any misunderstanding over it—there is not one; I will come to that next—but it does not take the misinterpretation of the treaty for the Russians to decide to get out of the treaty or for the United States to decide to get out of the treaty.

Senator Risch from Idaho stood here a few minutes ago talking about all the benefits of modernization that are in this treaty, talking about all the good items about knowing what they are doing.

The choice here is between having that misinterpretation locked in the way we have it in the context of the treaty and locked in with a treaty where we have verification or not having it. That is what we are talking about.

The fact is, there is no confusion. First of all, the Congress has passed a law. It is the law of the land, the Defense Act of 1999: It is the policy of the United States to deploy as soon as technologically possible an effective national missile defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized or defensive) with funding subject to the annual appropriation of funds for national missile defense.

Unequivocal. No ifs, ands, or buts. The law of the land, which we voted for is to have a missile defense system; and that is the policy of the United States.

What the Senators have been arguing about is a paragraph that has no legal binding—none whatsoever—no legal binding, standing, whatsoever. It is not part of the four corners of the treaty. It is not part of the treaty. It is a statement. There is no confusion about what that statement means.

Let me read the U.S. unilateral statement, our statement, of April 7, 2010:

The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches—That is, incidentally, language completely in keeping with the National Missile Defense Act of 1999; the same language to defend the United States against limited missile launches and to defend its deployed forces, allies—and partners against regional threats.

Some colleagues have come to the floor and questioned whether we are going to be there for our allies. Here is the statement that makes it clear we will be there for our allies.

I read further:

The United States intends to continue improving and deploying its missile defense systems—Hear that. Please, hear that. That is our signing statement: We intend to continue improving and deploying our missile defense systems—in order to defend ourselves against limited attack as part of our collaborative approach to strengthening stability in key regions.

Did the Russians understand what we said? No. If you read what the Russians said, if I can find it. As early as April 6, 2010, Russian Foreign Minister Lavrov said:

The present treaty does not deal with missile defense systems but with a reduction of strategic arms.

On August 2, 2010, Foreign Minister Lavrov made this especially clear in an article in a Russian publication. He said: Dedicated from the outset to the reduction and limitation of strategic offensive arms, this agreement does not impose restriction on the development of missile defense systems.
A month earlier, Deputy Foreign Minister Ryabkov said at a press conference:

Russia did not seek to limit the development of U.S. missile defenses while drawing up a strategic arms cut treaty. We have never had a lack of initiative to limit the development of the U.S. ABM system — including the global one by means of the treaty.

There are no such limitations in this treaty.

So the Russians understand what this treaty means. And so do we.

What is the language that the Senator seeks to strike, and why is it problematic, and why will I oppose it?

I oppose it because since it is not within the four corners of the treaty — but, nevertheless, the preamble to the treaty — it requires us to go back to the Russians and renegotiate. That is a treaty killer. Make no mistake, this becomes a treaty killer.

Can this deal violate the ratification of ratification—which, incidentally, I say to my colleagues, it is an understanding, which means it has to be communicated to the Russians. This is communicated to the Russians. And here is what it says regarding missile defense: It is the understanding of the United States that, A, the New START treaty does not impose any limitations on the deployment of missile defenses other than the requirement of paragraph 3 of article V, which is the one that refers to the silos. We talked about that yesterday. We talked about the silos yesterday, and I will come back to it in a minute. The most relevant language is in B.

Incidentally, the silos are all that our understanding refers to as contained within the treaty. In paragraph B, it says, any additional New START treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 — that is the silos — the conversion of silos — would require an amendment to the New START treaty, which may enter into force for the United States only with the advice and consent of the Senate.

So, if the other words, if there were to be any other restraint on missile defense, we are making it clear — and this is communicated to the Russians — that it would require the Senate’s advice and consent. It has to come back to us. We control what happens. So the only response of this that has any legal force of law is the silos.

I would say to my colleagues, are the people who came here last night saying we are spending too much money advocating that we build and allow a silo conversion that costs $50 million compared to the silos that the military wants to build that cost $36 million and are brand new and more effective and more efficient and not confused with the old ICBM silos? What makes more sense?

That is not a limitation on missile defense because we have the right to go out and build any number of fields of silos we think they most effectively work. We can build those new silos for $20 some million less than the ones they want to preserve the right to conceivably convert and confuse the world about what is in them.

It is pretty clear there is no limitation on defence that can do what we want with our bombers. We can do what we want with our submarines. And we can do what we want in terms of our interceptor missiles, fired from fields somewhere that we decide to put them. That is not a limitation on defense under any definition whatsoever.

I might add, for those who quoted a couple of comments by a couple of Russians, they are giving greater credibility to those Russians than they are to the Secretary of State, the Secretary of Defense, the President, the Vice President, the Joint Chiefs of Staff, and our strategic command and the head of our Missile Defense Agency, all of whom have said: We are going to go ahead with our plans. We are going to do what we want.

So when you look at the language we already have in the resolution of ratification, which will be communicated to the Russians, there is no limitation on our defense for anything we intend to do, want to do, or some sense for the United States of America.

That said, let’s talk about the language and what it does mean that the Senator’s amendment seeks to strike.

It says the following:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important and strategic if reproduced, and that current strategic defensive arms — i.e., referring to our plans, and what we have, and what we are doing — do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

That is all it says. What is that? I tell you what it is. It is a statement of fact. It is a statement of the truth. It is a statement of a truth that was recognized by President George Bush, by Condi Rice, by Jim Baker, and by all of their predecessors, all the way back to Richard Nixon, Henry Kissinger, and others.

What is the statement of fact? Well, here is the statement of fact: Is there a relationship between one person’s level of offensive weapons and someone’s defensive weapons? I was here with the Senator from Arizona, the senior Senator from Arizona, and we had a long debate in the 1980s over this subject, and he was right. It created a lot of turmoil back and forth over the so-called SDI program and the Strategic Defense Initiative that President Reagan initially proposed. He and I — and Senator Kyl may have been here then — were a part of that debate with President Reagan in that period of time. What we learned during that period of time is the reality of this relationship between offense and defense.

I want to take a minute to sort of go through it a little bit because I think it is important to understanding how innocuous these words are and what they sort of recognize in this process.

The policy of our country is now to sort to create a limit on those things. I read that. The Strategic Defense Initiative was a much broader, much bigger kind of concept. In fact, in the beginning of that debate, it even contemplated putting weapons up in space and having the ability to shoot, down from space, and a whole bunch of other things. We went through a long and tortured debate about all that, which finally sort of exposed this following reality.

Here is the reality: For years, we would each respond to each other as we both built up the numbers of nuclear weapons. We both contemplated first strike capability and survivability, second strike capability and the numbers of weapons we had affected the judgment of each side about their security. If one side had a whole bunch of great big missiles with big warheads, as the Russians did — the big SS18A and so forth; they had bigger ones than we did, actually — and that motivated us to think about a whole bunch of other ways to defend against it because we wanted them to know if they did try to do a first strike that they couldn’t take out and we certainly would come back and annihilate them. That was the theory of mutual destruction that kept everybody building weapons until we had more than 10,000 strategic weapons and tens of thousands more of depth charges, mines, cruise missiles, and various other platforms for tactical nuclear weapons by which we could deliver a nuclear warhead.

Ronald Reagan, to his credit, and Mikhail Gorbachev came to the conclusion, at Reykjavik, it was the madness; that nobody could afford to spend endless amounts of money just building up these huge offensive weapons so they could overwhelm the other side, or at least have a sufficient level of threat to the other side was scared to do anything.

I listened earlier to, I think it was Senator Kyl and others, talking about how we have prevented some wars. I am convinced, frankly, that we probably didn’t prevent them all. Vietnam largely because Russia and China were the surrogates behind the war, both with massive nuclear power, so we never quite went that distance because we always knew there was that counter threat in the background.

Now that certainly was the threat that existed in those 13 days of October when President Kennedy and Kruschev squared off over Cuba and we became perilously close to a nuclear war.

So what happened is, when President Reagan put out on the table the idea...
we were going to go ahead and build a defense, all of a sudden the Russians, who, frankly, couldn't afford it then and can't afford it now, they looked at that defense said: Whooops, what does this do to our calculation about first strike, second strike, and the nuclear deterrents we have?

If all of a sudden the other side has the ability to shoot down all the weapons or a sufficient number of weapons of the other side in little calculated first strike, they will be able to surface, survivability capacity, we have annihilated the theory of deterrence.

If one side gets a qualitative huge advantage and just deploys it—go ahead and do it—put it out there. Like these desks here, the front row of desks are our offensive weapons, and the back three rows are all of a sudden a massive defensive system, and all they have is the front row of desks. Boy, are they going to do it, and do differently. Suddenly they say: We either develop that system so we can take it out or we develop a big enough offensive system so we can overwhelm all of it. Right back to the arms race we have struggled to get away from.

That is why the idea that we are going to try to take out of here a non-binding, nonlegal, completely sort of throw-away statement—there is a truism, as Henry Kissinger called it. I know he talked to him for every President, Republican and Democrat alike, as Henry Kissinger called it. I threw away statement—there is a truism, a fact, a reality.

There is a relationship between offense and defense, and if we can't be—I don't know—capable enough and understand the nuance of this thing well enough to be able to admit the truth about something, given all of the other evidence that is on the table about where we are heading, we would have an enormous mistake to kill the treaty over a non-binding, near irrelevant piece of text.

Let me just say further I have already pointed out in the resolution of ratification we have obviated the need to have this agreement. We have completely put in there language which I think clarifies. I am happy to work with my colleague further to see if there is some other way to even state more clearly in a declaration or a condition—we could state it in some way perhaps more clearly, if that satisfies him. But I don't think, given the lack of legal standing, that we are going to kill the treaty over the notion of this.

A couple more things I wish to say about it: Does this assert this link for the first time or reassert a link that has been separated? I have stated the obvious link between offense and defense.

Let me say one other thing. President Reagan, incidentally, had a fascinating idea which a lot of people laughed at initially when he put it out there. He said: Let's share it with the Russians. Now, why would you share it with the Russians? That is President Reagan talking. Because if they know what it is, if they know that it is not a guise to get an advantage over them, somehow be able to surprise them or overwhelm them, but they understand exactly what you are doing, which is precisely what we have done in the course of this European deployment—they know it, they understand it, they see what it is directed at. It is focused on Iran. It is focused on rogue missiles. It is focused on the threat we ought to be focused on. They understand that. Therefore, they don't see it as a reason not to enter into this kind of an agreement.

But if we just unilaterally quietly go off on our own and develop something they think can alter the strategic balance, then their leaders are subject to the same perceptions are of people who say: Hey, you are not protecting our Nation. You are not thinking about us. The evil United States of America might be trying to blanket us, et cetera.

We both have folks in our political bodies who hate treaties or don't want to deal with us; or they don't want to deal with us and we don't want to deal with them. We understand that. But every President, Republican and Democrat alike, has strategically it made sense for the United States of America to, in fact, reach these agreements and to negotiate these agreements. The world has been made safer because of it, and nobody has greater testimony to that than Senator Lugar, who is passionately for this treaty because, as Jim Baker said, it was START 1 that created the foundation for the Nunn-Lugar threat reduction program to be able to work and reduce the threat today.

I repeat, when Donald Rumsfeld was preparing to negotiate the Moscow Treaty, here is what he said:

We agreed that it is perfectly appropriate to discuss offensive and defensive capabilities together.

As those negotiations began, President Bush said:

We will shortly begin intensive consultations on the interrelated subjects of offensive and defensive systems.

He said the two go hand in hand. What is more, seven former heads of the Strategic Command wrote the Senate Foreign Relations Committee this summer saying:

The relationship between offense and defense is a simple and long accepted reality.

So the Obama administration isn't creating some link. It is acknowledging the reality, and it is acknowledging it—I might add in a paragraph that has no legal standing with respect to the treaty itself, but it is, for what I consider a successful, second stage deployment which a lot of people say: Hey, you are not protecting our Nation. You are not thinking about us. The evil United States of America might be trying to blanket us, et cetera.

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Here is what Bob Gates said: The Russians have always tried to resist our ability to do missile defense, but this treaty doesn't accomplish that for them. He said: We have a comprehensive missile defense program and we are going forward with all of it. So the administration has made clear to the Russians that we are going ahead with missile defense. We don't need this amendment. It doesn't change Russia's withdrawal rights. It doesn't ask what we have already made clear, notwithstanding it does have that minor impact of killing the treaty. So I will oppose it. Much as the Duma's action on START II killed that treaty, it never came into force because of our pulling out of the ABM Treaty. I don't think this amendment will advantage the position of our country. I know Senator LUGAR wishes to speak, but others are on the Senate floor already. I yield the floor.

Mr. MCCAIN. Mr. President, was the floor yielded before the Senator spoke? The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Massachusetts has the floor.

Mr. MCCAIN. I thank the Chair. Under any circumstances, I wanted to clarify that. I am glad to answer any question my friend from Massachusetts has. I cannot tell him at this time.

What the Senator from Massachusetts has done is sparked a strong response from this side. So this is not a situation where we come down and everybody just gives a statement. I had not planned on talking again, until I heard the comment of the Senator from Massachusetts. I am sure the Senator from Arizona, Mr. KYL, and the Senator from Wyoming feel the same way. I will try to get a list of speakers. I certainly cannot tell the Senator from Massachusetts when we will be voting on this. Obviously, result of debate. I have to challenge the assertions of the Senator from Massachusetts because that is what I think this ratification process should be all about. I am sure my colleague understands that.

I want to emphasize that I am not trying to drag this out. I want to make sure, because this is one of the most important parts of this debate—I don't want it to be short-circuited. I promise the Senator from Massachusetts that I am not trying to drag this out. Mr. KERRY. Mr. President, I completely understand and accept the Senator's desire to have this robust debate, and I welcome it. I agree that some of these issues are contentious and there are different points of view. This is exactly what we ought to be debating. I am in favor of that.

Mr. MCCAIN. I will try to get a limit on the number of speakers.

Mr. KERRY. Mr. President, I appreciate that. I am trying to help on both sides of the aisle who are trying to figure out where we are headed.

Secondly, I understand the powerful feelings on the other side about this particular issue. I thought we had addressed it. We have tried to. In fact, we took an amendment—where is Senator Risch's amendment? Was it Senator DE MINT's?

We accepted an amendment to the resolution of ratification from, I think, Senator DE MINT. I have it right here. No. Here it is. It is on missile defense. This was very important because Senator RISCH—as he came to the floor today—had talked about this entire way in which we deal with it. No, that's not it. This is a declaration—if I can say to my colleague from Arizona, Senator Risch—DE MINT proposed this amendment, and we accepted it.

It says: It is the sense of the Senate: A paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the U.S. Armed Forces, and United States allies against nuclear attack. Policy based on mutual assured destruction, or intentional vulnerability, can be contrary to the safety and security of both countries. The United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship that is assuredly assured destruction. In a world where biological, chemical, and nuclear weapons, and the means to deliver them, are proliferating, strategic stability can be enhanced by strategic defensive measures. Accordingly, the United States is and will remain free to reduce their vulnerability to attack by constructing a layered defense system capable of countering missiles of all ranges. The United States will welcome steps by the Russian Federation also to adopt a fundamental strategic posture.

That is very powerful language. In my judgment. I am very prepared, if Senator MCCAIN will work with me, to try to find a way that doesn't kill the treaty but that puts in the language that embraces the thoughts that we are trying to convey with respect to our rights.

Mr. MCCAIN. Mr. President, I will be brief. I know Senator LUGAR is waiting, as are two or three of my colleagues. I believe what the Massachusetts just said because it is the best argument for this amendment I have seen. It says the preamble is nothing, meaningless, doesn't have any effect. If that is the case, then let's get rid of it. Fine, let's throw it away. In fact, he called it a throwaway. Isn't that true, I ask the Senator from Wyoming?

Mr. BARRASSO. Yes, Mr. President. That is exactly what I see here. The senior Senator from Massachusetts just said—and this is a transcript from a few minutes ago. He said that the idea that we are going to try to take out of here is nonbinding, nonlegal, completely a throwaway statement.

Mr. MCCAIN. Then what could be the problem? Let's get rid of it.

The second point, of course, the Senator from Massachusetts gave various quotes from Russian leaders about the whole aspect of missile defense. Yet, on December 1, 16 days ago, Vladimir Putin, speaking on "Larry King Live"—I am not making this up—again, on December 1, 16 days ago, Vladimir Putin, speaking on "Larry King Live"—I am not making this up—said—and this is a transcript from a few minutes ago. He said that the idea that we are going to try to take out of here is nonbinding, nonlegal, completely a throwaway statement.

Mr. MCCAIN. What is that mean?

Mr. MCCAIN. I thank the Senator. I am not saying I agree with the Senator from Massachusetts. No, here it is. It is on missile defense. This was very important because Senator RISCH—as he came to the floor today—had talked about this entire way in which we deal with it. No, that's not it. This is a declaration—if I can say to my colleague from Arizona, Senator Risch—DE MINT proposed this amendment, and we accepted it.

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make a decision to deploy new strike systems.

That was 17 days ago. Who are we to believe? What are we to believe? Well, we can clarify it. Take that out of the preamble, and we can clarify that. Those statements were reported by the Russian Foreign Minister Lavrov—and on and on. I don’t think there is any doubt.

Also, there are recent press reports saying that “Russia develops new defense system to repel NATO forces.” That is on 16 December. There is another news report that says that “Russia has moved Russian missiles; fuels U.S. worries.” That is the Wall Street Journal.

U.S. believes Russia has moved short-range tactical nuclear warheads to facilities near North Atlantic Treaty Organization allies as recently as this spring, adding to questions in Congress about Russian compliance with long-standing pledges ahead of a possible vote on a new arms control treaty.

One of the reasons this is very important, I argue, is that, back in 1991, the Russians agreed they would not move any of their tactical nuclear weapons. That was a commitment they made.

So, again, I am baffled by the reluctance of the Senator from Massachusetts to just simply remove this preamble.

Finally, I will mention the difference between this administration and START I on this same issue. In fact, if you look at the statement the United States made, it is interesting. It says:

The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack—

That word “limited” is interesting—and as part of our collaborative approach to strengthening stability in the key regions.

Now, contrast that with what the United States said at the time of the ratification of START I. The United States said:

While the United States cannot circumscribe the Soviet withdrawal from the START Treaty, if the Soviet Union believes its security interests are jeopardized, the full exercise by the United States of its legal rights under the ABM treaty, as we have discussed with the Soviet Union in the past, would not constitute a basis for such withdrawal. The United States will be signing the START Treaty and submitting it to the United States Senate for advice and consent with this view. In addition, the provisions for withdrawal from the START Treaty based on Armie treaties clearly envision that such withdrawal can only be justified by extraordinary events that have jeopardized the parties’ security interests. The Soviet statements on a future hypothetical that a U.S. withdrawal from the ABM treaty could create such conditions are without legal or military foundation.

I ask my colleagues to look at the differences between the two comments. Finally, I emphasize, again, there is clearly room for some disagreement as to what the Russian intentions are. Should it be a one-sided treaty? Should we not have it clear and ask the Russians? Couldn’t we ask them tonight and say: What are your intentions regarding missile defense systems? There is contradiction.

On “Larry King Live,” your Prime Minister made a strong statement about it, so has the Foreign Minister and others. We have constant communications with the Russians. We can clarify by talking to the Russians for a statement of clarification.

I hope the Senator from Massachusetts might do that. That also would not change the fact that, given the contradictions in the Russian statements, we should get rid of that meaningless, throwaway provision that this amendment requires.

I thank my colleagues and yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, two major arguments have been made against the New START Treaty. They revolve around a missile defense issue that we have been discussing, and verification issues. There may be others, but those two have some importance.

The amendment before us now is to strike a part of the preamble. Let me just say, first of all—and I will conclude with this argument after a reasonable discussion of it. If, in fact, we were to adopt the amendment that is before us, we will kill the treaty. I think Members need to understand that fundamental proposition. We will not kill the treaty, but the amendment itself did not like the treaty to begin with. As a matter of fact, maybe they have not liked any treaties with the Russians.

There may be colleagues who, as a matter of fact, would not be opposed to a treaty with the Russians on occasion, but not at this particular time and even have stressed that other foreign policy issues are more important and that this is almost a diversion of our attention.

I am one who believes the treaty is important, and I think fundamentally we have to understand this amendment kills the treaty. As we vote yea or nay, we are deciding whether we are going to, in fact, continue to have a debate on this treaty.

Some critics of the New START treaty have argued that it impedes U.S. missile defense plans. Nothing in the treaty changes the bottom line that we will not build the best missile defense possible. I would not want to trade an ICBM to a launcher of defensive missiles, GEM, an ICBM, or a STOVL, command, of U.S. Strategic Command, says:

The missile tubes that we have are valuable in the sense that they provide the strategic deterrent, and I would not want to trade an SLBM, and how powerful it is and its ability to deter, for a single missile defense interceptor.

Essentially, our military commanders are saying that converting silos to missile defense purposes would never make sense for our efforts to build the best missile defense possible.

Another argument concerning missile defense centers on Russia’s unilateral statement upon signature of New START, which expressed its rights to withdraw from the treaty if there is an expansion of U.S. missile defense programs. Unilateral statements are routine to arms control treaties and do not alter the legal rights and obligations of the parties to the treaty. Indeed, Moscow issued a similar statement concerning the START I treaty, implying that its obligations were conditioned upon U.S. compliance with the ABM Treaty. Yet Russia did not, in fact, withdraw from START I when the United States did withdraw from the ABM Treaty in 2001, nor did it withdraw when we subsequently deployed missile defense interceptors in California and Alaska, nor did it withdraw when we announced plans for missile defense systems in Poland and the Czech Republic.

Russia’s unilateral statement does nothing to contribute to its right to
withdraw from the treaty. That right, which we also possess, is standard in all recent arms control treaties and most treaties considered throughout U.S. history. Some Senators have not fully understood this history, at least in my judgment. The prevailing assumption is that, having deployed the final phases of the European phased adaptive approach to missile defense,

In particular, some Senators appear to argue that phase four would involve the use of the Standard Missile-3 Block IIIB, a missile designed to intercept theater ballistic missiles. The Senators presume could have the capability to threaten Russian missiles. Consequently, they worry Russia may threaten withdrawal on deployment of this defensive missile which is being developed to meet the threat of a more capable Iranian missile. They claim such a threat might delay or inhibit the new defensive missile’s deployment.

In fact, we have learned, in scores of hearings and classified briefings, that our military went to great lengths to show that no missile interceptor under deployment could neutralize Russian strategic forces. Lieutenant General O’Reilly stated in June, before our Foreign Relations Committee:

I have briefed Russian officials in Moscow. I went through the details of all four phases of the Phased Adaptive Approach, especially Phase Four. And while the missiles that we have selected as interceptors in Phase Four provide a very effective defense for a regional-type threat, they are not of the size or have the range to be able to reach Russian strategic missile fields, and it is a very verifiable property of these missiles, given their size and the Russian expertise and understanding what the missiles’ capabilities will be, that they could not reach their strategic fields.

No witness has argued that the United States, under this or any future administration that will come to power under the duration of the treaty, will be counting on our defensive missile defenses of the kind that could reliably, economically, and persuasively defeat massive, strategic missile attacks on the United States of America wherein thousands of warheads were raining down upon us. This is a technical reality and not a political choice.

The resolution of ratification approved by the Foreign Relations Committee reaffirms the New START treaty will in no way inhibit other missile defenses, and an understanding is to be included in the instrument of ratification that the New START treaty imposes no limitations on the deployment of U.S. missile defenses other than the requirement to refrain from converting offensive missile launchers. It also states that Russia’s April 2010 unilateral statement on missile defense does not impose any legal obligations on the United States and that any further limitations would require treaty amendment subject to Senate advice and consent.

Consistent with the Missile Defense Act of 1999, it also declares it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible and that it is the paramount obligation of the United States to defend its people, its Armed Forces, and allies against nuclear attack, to the best of our ability.

The current resolution also states the Senate expects the executive branch to provide regular briefings on missile defense issues related to the treaty and on United States-Russian missile defense cooperation. The resolution also calls for briefings before and after each meeting of the Bilateral Consultative Commission. The executive branch has committed to holding these briefings.

In a recent statement before the Senate Foreign Relations Committee hearings on the treaty, Secretary Gates testified:

The Russians have hated missile defense ever since the strategic arms talks began, in 1969 . . . because we can afford it and they can’t. And we’re going to be able to build a good one . . . and they probably aren’t. And they’re going to have to live with it . . . so they try and stop us from doing it . . . . This treaty doesn’t accomplish that for them. There are no limits on service-life.

Again, that’s a quote from Secretary Gates, and I would paraphrase the Secretary’s blunt comments by saying simply that our negotiators won on missile defense. If, indeed, a Russian objective in this treaty was to limit U.S. Missile Defense, the Treaty failed, as the Defense Secretary asserts. Does anyone believe that Russian negotiating ambitions were fulfilled by nonbinding preamble language on the relationship between offense and defensive capabilities or by a unilateral Russian statement with no legal force or by a prohibition on converting silos, which cost more than building new ones? These are toothless, figleaves provisions that do nothing to constrain us.

Moreover, as outlined, our resolution of ratification states explicitly, in multiple ways, we have no intention of being constrained. Our government is not involved in an arms race. Strong bipartisan majorities in Congress favor pursuing current missile defense plans. There is no reason to assume this will change.

What the Russians are left with on missile defense is unrealized ambitions. At the end of any treaty negotiation between any two countries there are always unrelated ambitions left on the table by both sides. This has been true throughout our history. The Russians might want all sorts of things from us, but that does not mean they are going to get them.

If we constrain ourselves from signing a treaty that is in our own interest on the basis of unrealized Russian ambitions, we are showing no confidence in the ability of our own democracy to make critical decisions in the future. We would be saying we have to live with the diminished security environment that resulted from the end of START inspections because we fear the Russians might try in the future to limit missile defense.

Let us be absolutely clear. The President of the United States, the Congress, and the executive branch agencies, on behalf of the American people, control our destiny on missile defense. The Russians can continue to argue and maneuver over all these issues, but there is nothing in the treaty that says we have to pay any attention to them.

Therefore, I would say, first and foremost, fundamentally, if we amend the treaty text, the treaty is gone. I believe there is a second argument we may have later on with regard to verification. We have all pointed out that for over a year, since December 5, 2009, we have not had verification in Russia. Many of us feel that is very important. There may be arguments on what the treaty provides as verification, but if there is no treaty and there is no verification, those arguments are not particularly germane today.

Instead, the best course for the United States is precisely that we will pursue our missile defense plans, whether Russia decides now or in the future not to be a party to the New START treaty, and that Russian threats to withdraw from the treaty will not unduly affect the very program we and our allies are going to build. Russia’s threats should not deter us from pursuing our missile defense plans.

The ratification of the New START treaty recommitts the United States to this course. It contains an understanding to be included in the instrument of ratification that the New START treaty imposes no limitations on deployment of U.S. missile defenses, other than the requirement to refrain from converting offensive missile launchers. It also states that Russia’s April 2010 unilateral statement on missile defense does not impose any legal obligations on the United States, and any further limitations would require treaty amendment subject to the Senate’s advice and consent.

Consistent with the Missile Defense Act of 1999, it also declares it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible, and it is a paramount obligation of the United States to defend its people, its Armed Forces, and its allies against nuclear attack to the best of our ability.

For all these reasons, I urge Senators to reject the amendment before us because it would kill the treaty. It would kill the opportunities the treaty provides for us, and the reasons for doing so, it seems to me—those that have been stated—are very inadequate.

I thank the Chair.

The PRESIDING OFFICER (Mr. PAYNE). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am not going to keep the floor—
Mr. SESSIONS. I have been here for a couple hours.

Mr. KERRY. Mr. President, I am about to completely cover for the Senator. Senator KYL has been working with me. We want to make sure, as I said, everybody gets a chance, so I am just trying to do it.

This is coming from me Senator KYL. I ask unanimous consent that Senator SESSIONS be given 30 minutes; that following Senator SESSIONS, Senator KIRK have 15 minutes; that following Senator KIRK have 30 minutes; that following him, Senator GRAHAM of South Carolina have 10 minutes; and then Senator DEMINT from South Carolina have 15 minutes.

Mr. McCAIN. Reserving the right to object, I think the way I have it is that following Senator SESSIONS is Senator GRAHAM and then Senators KIRK and DEMINT. Senator KYL will also want time that is not specified at this time, and I would want time. But could I say to my friend, there will be no more—by unanimous consent there will be no more speakers from this side.

Mr. KERRY. Mr. President, I appreciate that very much.

Mr. SESSIONS. Reserving the right to object, I would not be able to finish my full remarks on this tonight. I mean, I could later tonight, at the end of that, in my 30 minutes, or tomorrow.

Mr. KERRY. Mr. President, could I ask, is the Senator from Alabama saying he can’t finish his remarks with respect to the treaty or to this amendment?

Mr. SESSIONS. The amendment, and I would ask to be added on at the end or in the morning.

Mr. KERRY. Mr. President, I think we would like, if we could, to wrap up the debate this evening. I ask unanimous consent as it follows, then, that at the end of the list of speakers on the Republican side, Senator SESSIONS be granted for what period of time would the Senator like?

Mr. SESSIONS. Thirty minutes.

Mr. KERRY. Thirty minutes at the end of that, so the Senator will have—Senator SESSIONS will have two sessions, and we will come back after that.

Mr. President, I ask unanimous consent that I reserve 30 minutes after Senator SESSIONS, and at that time, could I ask—at that time, could we agree—what I point to ask for the time for a vote perhaps tomorrow?

Mr. McCAIN. Reserving the right to object, the understanding, I ask my friend from Massachusetts, is that Senator KYL can be recognized at certain points after this, without a particular time agreement if that is agreeable?

The PRESIDING OFFICER. Will the Senator from Arizona restate the sequence of speakers on the Republican side, please.

Mr. McCAIN. Senator SESSIONS with 30 minutes; Senator GRAHAM for 10 minutes; KIRK, 15; DEMINT, 15; KYL and myself, unspecified time; and Senator SESSIONS an additional 30 minutes when it is appropriate, understanding that there will be speakers from the other side intervening in this sequence.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the other speakers on our side will be Senator DODD. As stated, he will come after Senator GRAHAM. I am reserving time, such time as I will use, either after Senator KYL or Senator McCAIN.

I ask unanimous consent that be the end of the speakers on this amendment, and we will agree to set a time for a vote according to the leadership.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object. What we were trying to do is simply indicate an order so people would know this evening roughly when they would be permitted to speak, what the order would be, how late we would go, and so on. It is my understanding that we will not be on the treaty tomorrow but, rather, that we will be on two other matters the leader has filed cloture on and that we would have some debate preceding the two cloture votes. Therefore, we would not be on the treaty tomorrow. When we go back on the treaty, obviously there may be something that needs to be set on the amendment before we vote.

Mr. KERRY. I really would like to lock it in, if I can, and I think this is a good effort and we can close it this way involving the other those kinds of things from the Foreign Relations Committee that is handling this bill.

I would say it is very important to know how we got to where we are. I think it is very important that we understand the significance of what is happening and the meaning of it. It is going to take some time to do that. A lot of things that have been said this afternoon I don’t think fully capture what has happened, and I believe it ought to be corrected.

I would say with regard to missile defense that I have been involved in that for 14 years since I have been in the Senate on the Strategic Forces Subcommittee of Armed Services. I think I know something about it. And I have to disagree with my distinguished colleague, one of the most distinguished Members of this Senate, that the Russians did not win on missile defense. They have already won and have attempted to codify it in this treaty. It is a very serious matter. I feel that we are going to have to take some time to go through it and understand how we got where we are.

I know it is late on this night, but it is not because I want to be here; it is because this Senate, under the majority, has not been able to move appropriations bills or pass other legislation, and it has all now been jammed up after this election into this lame duck Congress. Now we are not going to be ruled. We should put this first.

I would add one more thing. I cannot understand and I am deeply disappointed that the Russians have been
North Korea has attacked South Korea, our ally, with which we are bound in a mutual defense treaty, attacked them and killed civilians and military personnel just a few weeks ago. These are the critical issues this Nation ought to be dealing with, and we ought not to at this time be weakening our national missile defense system.

In London, in 2006, I made a talk in which I said I believe we reached a bipartisan consensus on going forward with a missile defense system for the United States and that we were going to plant a missile defense system in Poland, with radar in the Czech Republic, and that the budget had just been approved under the Democratic majority, and I thought that represented a bipartisan agreement to move forward with ground-based interceptors in Europe. And it could have been done. It was expected originally to be capable of being deployed by 2013. Because Congress was not always there, it was set to be deployed by 2016. Remember, the Iranians are capable of hitting the United States, according to the intelligence estimate, by 2015, and we were trying to be sure that we were ready. We were going to use physically the same system that is utilized in Alaska, utilized in California, that we have in the ground right now to be deployed in Europe.

Many leftists in the United States and some in Europe opposed that, and it was somewhat controversial. I never understood why. The Russians did not like it. They did not like it, but the Czechs and the Poles stood up, they faced down the people who objected, and they were supportive of it. We were planning to go forward when President Bush left office. That is the basic status.

It was in the summer of 2008 that the Bush administration actually signed the agreement with the Czech Republic to install the 10 ground-based interceptors and a fixed radar base in the Czech Republic. At the same time, Candidate Obama said he would support deployment of ballistic missiles that were ‘‘operationally effective.’’

The day after the U.S. Presidential election, November 5, 2008, President Medvedev in Russia stated that Russia would deploy short-range missiles to the region of Kaliningrad, Leningrad, which borders Poland, if the United States proceeded with their site. It was a threat to the new administration. In typical Russian fashion—issue a threat and test the new President.

Then on January 15, 2009, at the nomination hearing for Under Secretary of Defense for Policy Michele Flournoy, she was asked this by Chairman Levin:

‘‘On the European missile defense issue, do you believe that it would be important to re-examine the proposition of the defense deployment in the broader security context of Europe, including our relations with Russia, the Middle East, and to consider those deployment as part of a larger consideration of ways in which to enhance ours and Europeans’ security?’’

Ms. Flournoy replied:

‘‘Yes, I do, sir. I think it is an important, candid issue for the upcoming quadrennial defense review.’’

That is our internal defense review. What was that question? That question suggested we might not should go forward without Russia and we should consider how it could affect the relationship.

Within 2 weeks of that hearing, in late January of 2009, but not long after the President had taken office, the Russian media reported that Moscow had cancelled the deployment of these missiles in the Kaliningrad area because the Obama administration was not ‘‘pushing ahead’’ with the third site in Europe.

Now, that is pretty stunning. The third site has been a part of our strategic policy for years. The President and Secretary of State under President Bush said they had worked hard to negotiate with the Poles and the Czechs, had gotten their agreement. They had publicly stood up, their leaders had, to defend this third site. Here, the President is waffling right off the bat in the face of Russian pressure.

On February 7, at the annual Wehrkunde Conference, Vice President Biden stated:

‘‘We will continue to develop missile defenses to counter growing Iranian capabilities. We will do so in consultation with our NATO allies and Russia.

‘‘Well, Russia did not want this. They had never wanted this. But President Bush did not let it stop him. President Obama’s statement was followed by an announcement from Deputy Secretary of Defense, William Lynn, and Vice Chairman of the Joint Chiefs, James Cartwright, in 2009, in the summer, that the administration was reviewing its defense options in Europe.

‘‘Finally, on September 17, 2009, Presi
dent Obama delivered a bombshell announce ment, stunning and surprising and embarrassing our Czech and Polish allies, and announced his decision to cancel the European element of NMD: This new approach ‘‘will provide capabilities sooner, build on proven systems and offer greater defenses against the threat of missile attack than the 2007 European missile defense program.’’

‘‘So I have been involved. Let me parenthetically say this new system he talks about would be better was not even on the drawing board. There was no development planned for this new system, the SM-3 Block 2B. It was not on the drawing board. They cancelled it up out of thin air and said: We will have it developed by 2020, when we had a two-stage, ground-based interceptor capable of being deployed by 2016. The Iranian threat, remember, is to be ripe by 2015.

‘‘I would just say to generals and others who think this is such an easy deal, how many appropriations processes do we have to go through without falling on a single one to develop an entirely new system? They cancelled it up out of thin air and said: We don’t even on the drawing board today?’’

‘‘What kind of difficulties may occur? We had the bird in hand. We let it go...
for a bird in the bush. This was a huge concession. Let’s go a little bit further. How did it happen? The President, and his negotiators for this treaty, have insisted there is no connection between their negotiations and missile defense: We have not conceded a thing on missile defense. It is a win for us on missile defense. Senator Kerry said it would not lessen our ability to do a missile defense program.

So I go a little further. The New START negotiations with the Russians concluded in March of 2010. But they began in March of 2009, before the President canceled the Polish site. So what happened was, as part of the negotiations over this treaty, the Russians made absolutely clear they were not happy and did not want, and would not accept, a missile defense system in Europe, the same thing they told President Clinton.

But, President Bush did not acquire. They said: We do not have to have a treaty. We are going to reduce our weapons systems anyway. We will reduce our weapons system. We will not have to do anything. We are going to attack you, and we are not interested in attacking you. We do not have to have a treaty. But if we have a treaty, we are not conceding our missile defense system one with, and we believe Poland and the Czech Republic are sovereign nations. If they want to enter into an agreement with the United States to put a missile defense system there, you, Russia, sorry, do not have a veto over it. They no longer are under the Communist boot. They are a free nation.

That is the way all of that went down. I think that is a fair summary of what happened. The Bush GMD, the ground-based midcourse defense plan, was based on proven technology and was deployable and a new phase-adaptive approach is way out in the future. It is so far out in the future, this President will not be in office, if he is re-elected, to see how it happens. It is a promise in the vapors.

Now, what am I saying? Why am I concerned about this? I just want to repeat that the essence of what happened was, the administration, in negotiating with the Russians, faced a hard-headed approach, typical Russian negotiating strategy, and they blinked. They have always been defensive about it, however. They always did not want it to be believed that this treaty, in any way, compromised missile defense systems. And their Members have been on the floor defending that.

I am not sure they know all of what I am saying to you. But it is plain to me. It was involved in it. This little misquote recently in the Washington Post from Greg Thielmann, a former professional staffer on the Select Committee on Intelligence, stated, concerning the missile defense provisions in the New START treaty:

One of the greatest ironies is that he—President Obama—made sure there was no way to attack the treaty as being tough on missile defense.

You see, the President had a spin. That spin was, nothing in this treaty weakens missile defense. But the truth is it had already been weakened. They already conceded a decade-old policy of the United States to place a missile defense system in Europe and to advance an agenda of the hard sell, a bird in the bush way out in the future, a new system not even under development.

Why? Well, it was to walk a fine line, I would suggest, to give into the Russians, on the one hand, and to be able to throw back on the other and say they have not given in. The Russians issued a unilateral statement after the START treaty had been announced that the treaty would be viable only if “there was no qualitative or quantitative up” in U.S. missile defense capabilities.

Well, a lot of you say that does not mean anything. They can say what they want. But as we discussed earlier, at best, there is a very serious misunderstanding of how the parties in this treaty. When you have a serious misunderstanding that goes to the heart of what a treaty is about, you do not need to go forward, just like you would not do so with a contract that was being negotiated clearly have a misunderstanding of quite a significant nature—about the nature of the contract.

What about foreign policy experts? What have they said? Former Under Secretary of Policy, Doug Feith, wrote this in the Wall Street Journal very recently:

The incoming Obama administration was eager to repudiate its predecessor’s policy. Russian officials saw their opportunity. They asked again for the concessions that they had before unsuccessfully demanded of Mr. Bush. Mr. Obama agreed to treaty language linking offensive reductions with missile defense, limiting launch vehicles and restricting conversions of ICBMs for missile defense purposes. Mr. Obama’s poor negotiating skill is a cautionary tale: If you want it bad, you get it bad.

Well, I remember early on in this process, in private briefings—and I can say what I said to officials there; it is not in any way classified. I said: I am concerned you want this treaty! As I believe the Russians will take advantage of that.

I think that is what happened. They wanted this treaty so badly as a symbol, as an effort to express leadership, and to advance an agenda of the hard sell in America that does not always like nuclear weapons and things. They have never liked missile defense.

Former Secretary of State Condoleezza Rice, who had done her advanced work on Russia, said this recently—she would like to see the treaty confirmed. Very significantly, Secretary Rice said:

Still there are legitimate concerns about New START that must and can be addressed in the ratification process.

Must be addressed in the ratification process. She goes on:

The Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defense. The New START treaty preamble is worrying in this regard as it recognizes the interrelationship of the two.

They say, well, it does not mean much. But it was signed by both Russia and the United States. It means something.

The New York Times, on November 29, reported this, again, to show how not to do it when discussing diplomatic cables:

Throughout 2009, the cables show the Russians vehemently objected to American plans for a ballistic missile defense site in Poland and the Czech Republic. In talks with the United States, the Russians insisted that there would be no cooperation on other issues until the European site was scrapped. Six weeks later, Mr. Obama gave the Russians what they wanted: he abruptly replaced the European site with a ship-borne system.

That is my observation. I was in the middle of all of these negotiations. We had hearings on these matters. That is what happened. So I can only conclude that the administration negotiated away a necessary missile defense system in Europe, the ability to deploy a proven system at the expense of our national security, at the expense of our NATO allies’ security, because they were too anxious and too committed to this treaty, for what purpose I am not sure.

All this time we have been working on this and the biggest concern to America is other nuclear threats, proliferation and the like.

Mr. Hagland said in the Washington Post a few days ago that this treaty didn’t go far enough. We ought to go to 500 weapons or lower. If you continue to draw down the weapons system, we cease as a Nation to be seen as a credible nuclear power. We encourage others, in my opinion, to develop their own systems, even to the belief that there could be a peer competitor with the United States. This is not a step toward progress and security.

The steps we should take are steps that send clear, unmistakable messages that we believe in our freedom, our integrity, and we are prepared to defend it. We are going to maintain a strong nuclear arsenal necessary for that goal. Once that occurs and we are unequivocal in it and we are prepared to build missile defense systems to defend ourselves from Iran or North Korea or some rogue nation, to defend ourselves against even, I would say, an accidental launch from one of these nations or even Russia, those things are good for peace and good for security.

We cannot give them away after 30-plus years of development of a missile defense system that people said would never work. We have proven that we do have a system that can work. It can help protect America. It can give our President strength in negotiating with a nation that has missiles that can reach the United States because he can look them in the eye and say: Send off a missile. We will knock
Mr. LEVIN to have 10 minutes now and I yield the floor.

Mr. SCHUMER. Mr. President, I commend my colleague from Massachusetts and other pieces of legislation for votes with the bill concerning New York. The record quoted. I said fooling around on New York City.

Mr. MCCAIN. Mr. President, point of personal privilege. I understand the Senator from New York had some comment. I yield the floor.

Mr. MCCAIN. Mr. President, point of personal privilege. I understand the Senator from New York had some comment. I yield the floor.
is pursuing a variety of systems and capabilities to defend the homeland in different regions of the world against missile threats from nations such as North Korea and Iran. They talked about the phased adaptive approach to missile defense in Europe. The Secretary of Defense and the Joint Chiefs of Staff have recommended the phased adaptive approach unanimously. These are our top military people. They are advising us. This is not some political agenda which is being implemented by this administration. This is a military and a security necessity for this country. That is not just me saying that. This is the top military people of our country who are saying it.

The NATO strategic concept, this is what NATO is saying about that phased adaptive approach which has been criticized during an earlier statement. This is what the NATO folks say about it. These are our allies.

The United States-European phased adaptive approach is welcomed as a valuable national contribution to the NATO missile defense architecture.

The Armed Services Committee, in our authorization bill, section 231(b)(6), said the following:

These are the points contained in the New START treaty on the development or deployment of effective missile defenses, including all phases of the phased adaptive approach to missile defense in Europe and further enhancements to the ground-based midcourse defense system as well as future missile defenses.

Admiral Mullen—the top uniformed military official in our country—

I see no restrictions in this treaty in terms of our development of missile defense, which is a very important system. . . .

That was in front of the Foreign Relations Committee, chaired with such distinction by Senator KERRY. He said that in May of 2010.

GEN James Cartwright, Vice Chairman of the Joint Chiefs of Staff—he is our No. 2 top uniformed official—here is what General Cartwright said:

. . . all of the Joint Chiefs are very much behind this treaty . . . we need START and we need it badly.

General O’Reilly, again, director of our Missile Defense Agency:

Throughout the treaty negotiations, I frequently consulted with the New START team on all potential impacts to missile defense. The New START does not constrain our plans to execute the U.S. missile defense program.

And this is what he added:

The New START Treaty actually reduces previous START treaty’s constraints on developing missile defense programs in several areas . . . we will have greater flexibility in using it as missile defense test target with regard to launcher locations, telemetry collection, and data processing, thus allowing more efficient test architectures and operationally realistic intercept geometries.

This is not our civilian people who might, allegedly, have some kind of a political agenda which is being implemented by this administration. The people who are our top military people in our country are telling us there are no constraints on missile defense. Every single one of them supports it. The people who are in charge of our missile defense system strongly support it. The Chairman of the Joint Chiefs of Staff strongly supports it. The suggestion that there is sort of a political agenda behind this treaty flies smack in the face of the Senate. They were not under oath; we do not need them under oath—the testimony of our top uniformly official military in this country. The suggestion that what is driving this is some kind of a political agenda runs directly counter to the testimony of these officials.

In terms of the preamble language—

and this is where the pending amendment would seek to amend the treaty itself by removing the language, which, of course, kills the treaty: if you amend the treaty here, that is the end of the treaty—the full paragraph says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine and effectiveness of the strategic offensive arms of the Parties.

This statement is a longstanding, decades old recognition of an undisputable fact: There is a relationship between strategic offensive and strategic defensive systems. It has been recognized in our nuclear arms limitation and reduction treaties since the 1970s.

This is President George W. Bush on this subject. It is a joint statement with President Putin, on July 22, 2001. This is not President Obama. This is President George W. Bush. This is a joint statement, with President Putin:

We agreed that major changes in the world require concrete discussions of both offensive and defensive systems. . . . We will shortly begin—

We all ought to listen to this. Those who are charging this is some kind of an agenda of President Obama and is not totally in sync with what has come before in terms of START treaties should listen to what President George W. Bush said in 2001.

And I will finish. I think I have run out of time, so I will finish here. I thank the Chair.

I think this is the one statement which is the clearest of them all. This is President George W. Bush:

We—President Bush and President Putin—will shortly begin intensive consultations on the interrelations of subjects of offensive and defensive systems.

This relationship is as old as our treaties. Statements of interrelations have been made by Democratic and Republican Presidents, and I would hope that this language would not be changed. If it is, it will kill the treaty, and it will kill it for a reason which is totally insufficient. And argument here runs smack, again, into the statements of support from our top uniformed military officials.

Again, I want to thank the chairman and ranking member of our Foreign Relations Committee. They have done a superb job in handling these hearings and presenting this to the Senate. I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Carolina.

Mr. GRAHAM. Madam President, I think I am recognized for 10 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Let me know when 9 have expired. If you do not mind.

The PRESIDING OFFICER. Certainly.

Mr. GRAHAM. We are going to have a little exchange here in a minute about what the last week has been like. There have been some statements that Republicans have been offering amendments, that somehow we have sort of been letting time pass at the expense of a meaningful debate on the START treaty. I think we can catalog at least what three of us have been doing in the last week, and that would be informative to the body as to why it has been tough to talk about START in a meaningful way.

But to Senator Levin, who is a wonderful man, if this preamble language be taken out of the treaty is a fatal problem, then I think it does put us in a bind because if I do not know if any Russians are listening to this debate, but I have a simple question for your government. Your government has been saying publicly that if we deploy—the United States—four stages of missile defense, you believe that allows you—the Russian Government—to withdraw from the treaty.

We all intend to do that. Our President is saying that we are going to deploy four stages of missile defense to defend this Nation against missile attacks from North Korea, Iran, anywhere else it may come from. If you do not agree with that, let us know now because it is not going to help you or us to sign a treaty and it fall apart later.

So at the end of the day, this is a simple question that needs to be answered in a direct, simple way. Does the Russian Government believe the preamble language be taken out of the treaty is a fatal problem? And I think it does. And then I think it would be informative to the body as to why you say about that. So get back with me.

Wednesday of last week, Senator Kyl said we need to get the tax issue behind us, and we need to come up with a way
to fund the government, and we could start the debate on the START treaty—last Wednesday. I ask Senator KYL, do you remember saying that?

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Actually, if I could correct it a little bit.

Mr. GRAHAM. OK. Please.

Mr. KYL. I was involved in the negotiations over the tax legislation.

Mr. GRAHAM. Right.

Mr. KYL. And in an effort to prod the people in those negotiations to put their ideas on the table so we could complete work on the tax negotiations, I said: Given the schedule that the leader had announced—the desire to leave Washington this afternoon, December 17—I felt they needed to follow—and I laid out a schedule, the Senator is right—by which we would complete work on the tax legislation and the funding of the government, so we could get away last Wednesday. And if we were able to begin the treaty last Wednesday, and we did not have any interruptions in the interim, then a period of about 9 days would have existed, even working through the weekend, on the treaty, which—

Mr. KYL. And I would ask unanimous consent that the three of us be allowed to engage in a colloquy.

Mr. GRAHAM. I apologize.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. My only answer to that is, yes. There was a lot of work and effort and time spent on that issue, yes. Mr. GRAHAM. I say to Senator KYL, I do believe, in addition, you are our whip on the Republican side; is that correct?

Mr. KYL. Madam President, yes. Mr. GRAHAM. So one thing that has happened is we have been trying to make sure there was not a vote on the Defense authorization bill in a fashion where there could be no amendment by the Republicans. I think we were successful in beating that; is that correct?

Mr. KYL. Madam President, yes, that is exactly correct. And we were working on that at the same time—well, actually that has been going on now for about 10 or 12 days.

Mr. GRAHAM. How many efforts have there been since the Wednesday in question to defeat the DREAM Act?

Mr. KYL. Madam President, I have forgotten, I would have to tell my colleague; I think it is three. I am not sure. We are now on the sixth version of the DREAM Act.

Mr. GRAHAM. OK. As I understand it, there is going to be another vote on the DREAM Act coming up maybe tomorrow.

Mr. KYL. Madam President, I think that is the schedule, that we would have a cloture vote on the DREAM Act tomorrow morning.

Mr. GRAHAM. I and I would assume, as part of the Senator's duties, and some of us who have been involved in immigration, we have been very concerned about that, trying to make sure the DREAM Act does not pass this way because we believe it would be bad for the country; is that correct?

Mr. KYL. Madam President, yes, I have been consulting with our Members on the DREAM Act, on the Defense bill, as the Senator mentioned, on the tax legislation, on what we then called the Omnibus appropriations bill, which—

Mr. GRAHAM. Let's stop there. The Omnibus appropriations bill was defeated last night; is that correct?

Mr. KYL. Madam President, yes. The majority leader pulled it defeated. The majority leader pulled it down in order to reach an agreement with the Republican side on a much slimmed down version, a continuing resolution.

Mr. GRAHAM. Did that take much of your time?

Mr. KYL. Yes, that took a lot of my time, working on the Omnibus appropriations bill. As the Senator knows, when 2 days ago, we began debate on the START treaty, there was an assumption that I would speak immediately—on the first evening, I said, actually, let's get some business done here first. We need to do the funding of the government. So my first comments were on the Omnibus appropriations bill.

Mr. GRAHAM. As of right now, do we have a deal to fund the government that is firm?

Mr. KYL. Madam President, no. The House of Representatives, I understand, has gone home after adopting a very short-term, I think a 3-day continuing resolution to fund the government since its funding terminates at midnight tomorrow night. We will have to then take up either that—well, we will probably take that up, adopt that, I assume, I hope, by unanimous consent, and then work out the maybe 3-month continuing resolution that will have to be passed by both bodies before we go home.

Mr. GRAHAM. To my friend from Arizona, Senator McCAIN, are you aware of an effort to repeal the don't ask, don't tell policy, that would allow no Republican amendment, that could be as early as tomorrow or this weekend?

Mr. MCCAIN. I would say, Madam President, that not only on the don't ask, don't tell has the tree been filled but also on the DREAM Act. I have obviously been heavily involved in immigration issues for years, including things that have happened including the murder of a Border Patrol agent just in the last couple days in Arizona, obviously by someone from the drug cartels. So, yes, there will be, again, a vote with no amendments allowed, again, on either one of those pieces of legislation.

Mr. GRAHAM. Thank you. Feelings are getting a bit raw here and there is no use blaming anybody. It is hard to reach a consensus on how to fund the government. There was an effort to do it that fell apart that I thought was against the mandate of the last election. Thank God we defeated that, but it took a lot of effort. There is an effort to pass the DREAM Act that I think is unseemly and counterproductive.

The PRESIDING OFFICER. The Senator has consumed 9 minutes.

Mr. GRAHAM. Thank you. That has been counterproductive in immigration reform, and I don't think it is immigration reform more than it is politics.

So, in conclusion, it has been a week from hell. It has been a week where we have been dealing with a lot of big issues, from tax talks to funding the government to special interest politics. I have had some time to think about START but not a lot, and it is wearing the body.

This is a major piece of legislation. My good friend, John KERRY, whom I respect, I know has tried to get this debate going in a way we could—to find a conclusion we all could vote on and go home and explain to our constituents.
Senator Kyl laid that way out. Unfortunately, everything you hoped to have happen from Wednesday to this Friday has, quite frankly, just been unacceptable to a serious debate on START. Here we are, the week before Christmas Eve, and we have talked about a lot of stuff— pretty important stuff, as some might argue—and that is the first time I have had the chance to talk about START.

So I am not blaming anybody. But please don’t blame me, that I have somehow ignored START, because we have busy and important votes this week. I just want to stop some bad ideas or at least trying to.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I know another Senator is about to be recognized and I will not take very long.

Let me just say I understand the frustration of colleagues. I truly do. I think we have to give the good-faith efforts the President, the Vice President, myself, and others have made to try to move the schedule here. The fact is, we began debate on this treaty on Wednesday afternoon—Wednesday morning, but we have delayed Wednesday afternoon after Senator Lincoln’s farewell. We had opening speeches. Everybody argued it was important to have opening speeches and not necessarily have an amendment right away; we needed to have some opening speeches. Then we had the second day of debate. Today, Friday, we have had the third day of debate.

So tomorrow, Sunday, Monday, Tuesday, Wednesday, we have the opportunity to have the fourth day, fifth day, sixth day, which is what colleagues said we needed to try to accomplish this—maybe 6 days—and I believe we can do it in that period of time.

I have been here for 25 years. I have been here when we have had a Republican President and a Republican majority leader. I have been here when we have had a Democratic President and a Republican majority leader and a Republican House and every variation. Inevitably, we have had some tough choices to face which don’t please everybody. There are times when we are forced to try to deal with the business of our country. I respect completely—I take very long.

I know the Senator is upset about something—I am certain you have done nothing to stop them should they want to move forward with those amendments.

It strikes me that we are on our third day of debate, tomorrow will be the fourth day of debate, and historically treaties are completed in 2 to 5 days, if I am not mistaken. I ask the Senator from Massachusetts if we can work on this tomorrow, Sunday, Monday, Tuesday—I mean, we could consider the amendments that have been filed; could we not?

Mr. KERRY. Absolutely. Madam President, I would say, obviously, that depends somewhat on what the majority leader’s decision is with respect to some of that schedule, but in terms of what we are prepared to do, I believe we can work on it tomorrow. It is my understanding the majority leader said he thought we would be, as well as on Sunday. The majority leader is prepared to continue to proceed forward on this agreement.

Mr. DURBIN. If I could ask the Senator from Massachusetts, through the Chair—this is less question than a statement—but I would like to open with a question mark. I would like to let the Senator from Massachusetts know that I have withheld the entire day from coming to the floor and speaking about the DREAM Act, which we will be voting on first thing in the morning, although it is very important to me. I wished to give every Senator the opportunity on both sides of the aisle to discuss the New START treaty. I would like to say to the Senator from Massachusetts that when his debate on this DREAM Act, but I don’t want to interrupt what he is doing at this moment in his efforts to give everyone a chance to speak about this national security measure. So that this is in the form of a question, doesn’t that sound reasonable?

Mr. KERRY. I thank the Senator for his forbearance and his thoughtfulness with respect to what he is focusing on here on the floor. That is absolutely reasonable, as far as I am concerned.

I will yield for a question from Senator Corker. Senator Dodd is next in line, I am happy to answer a question from my friend.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. I have a few questions, Madam President, through you to the Senator from Massachusetts.

It is my understanding we have a cloture vote in the morning and should cloture be reached, we would then be on that matter for a couple days; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CORKER. So to talk about—I just want to get it straight. There is not going to be any debate on START; should one of the two matters that will be taken up in the morning pass cloture; the whole weekend will be spent on other issues?
Mr. KERRY. Madam President, I am happy to answer.

Mr. CORKER. Let me ask a second question.

Mr. KERRY. Let me answer the first question.

Mr. CORKER. OK. Go ahead.

Mr. KERRY. It doesn’t necessarily have to happen that way. That is a choice, I guess, Senators can make. It is entirely possible to yield back time. This is just well known to every Senator. It has been worked on. It has been voted on. Senators are already accountable for their votes on that issue. It is one that the Senate has debated at great length and had hearings on at great length. If the Senators decide they need the 30 hours, indeed, that can push us along. There is no reason to have to be on it for those 30 hours. I would say to the Senator, it is perfectly plausible we could be back on the START treaty tomorrow, depending on the choices made, first of all, in the votes, and then, secondly, depending on the outcome of the votes, the choices Senators make afterward.

Mr. CORKER. Secondly, Madam President—I appreciate the answer to the first question. My guess is, though, just based on the nature of the topic, I wouldn’t be surprised that most of that time is used.

But when a message comes over from the House, when they pass something, whatever one characterizes that as, we don’t automatically have to take that up. That can be sent to a committee or left at the desk. We don’t have to vote on that. We can leave it over from the House of the nature that we are going to be voting on in the morning; is that correct? That is a decision that is made, not something that is automatic.

Mr. KERRY. Madam President, to the best of my understanding, I think the Senator is correct. There are choices that can be exercised by those who are in the position to make those choices, and I think that choice has been made. We are where we are.

Mr. CORKER. So, Madam President, I know the senior Senator from Connecticut is getting ready to speak, someone we all respect. I just want to say, as I said 3 hours ago, as someone who has worked closely with the chairman of the Foreign Relations Committee, and I think I would say in a very constructive way, I think the decision to take up a House message is the middle of this debate—which I have to say that today there are not many things on the Senate floor that—well, I shouldn’t say that. This is one of the more interesting matters I have heard on the Senate floor, where lots of serious issues are being brought up. This is one of those fillibuster kinds of debates. The fact is, we are in the middle of this and we haven’t voted on the first amendment and the leadership of the Senate has decided to pivot off that on to other issues. And I think it is totally unrelated to eat up the rest of the weekend.

I just wish to say one more time, I can sense it has totally changed the nature of the debate and people’s seriousness or feeling of seriousness about this whole debate.

So I thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. To my colleagues, I probably don’t have the power or the ability to reach over some of these feelings. I would hope—and this is a prayer as well as a plea on a personal level—that sometimes things happen that are out of some people’s control here. I believe we can get through these votes tomorrow and still have time to do something that I know these colleagues—I have had private conversations with them. I know what they think about this treaty behind all of this that is going on. I know they understand the importance of our position in the world, of our capacity to not make foreign policy and to not tolerate the actions of these other forces. It is a reach. It is going to require—I understand. I am just asking as one person, one Senator, chairman of the Foreign Relations Committee.

We have put a lot of energy into this effort over the last year and a half. This matters I think to our country. I am not saying that as a Democrat, and I don’t think you would say it as a Republican. I think this matters to our country. I think Russia is watching what we are going to do. I think the world is watching what we are going to do. This is about nuclear weapons. It is about stability. We have enormous challenges with Iran and North Korea. Believe me, from all the conversations I have had as chairman of this committee with a lot of different leaders, they look to us for what we do and whether we make good on the things we say that matter to us.

I believe this is one of those things they will say: Wow, these guys can’t even get their collective acts together to do something as important as a bilateral relationship between the two countries that have 90 percent of the world’s nuclear weapons. My prayer is that we do that in these next 2 days, and I hope we can make that happen.

Mr. KYL. If the Senator will yield briefly, I ask to speak for just 60 seconds. I want to make it clear that I don’t think anybody on this side holds Senator Kerry accountable for the fact that this is a confusing and back-and-forth kind of debate between the START treaty and other issues on the floor.

Also, I started to say about 3 weeks ago that, knowing that other people would try to bring issues to the floor, and knowing that we had a lot of other business we had to conclude, I could see this situation developing where despite the best efforts of Senator Kerry and others, it would be very difficult to have the kind of debate we needed on the START treaty.

Unfortunately, my prediction has come true. It has been voted out because of the intercession of all of these other issues. But Senator Kerry bears no responsibility. The decision to move forward is a joint decision by all of the people on the Democratic side. That, I think, was the critical decision that gave us into this problem.

Mr. KERRY. My final comments: I hope the Senate will find the capacity in these next 4, 5, 6, or whatever number of days it is—and the majority leader said he is prepared to allow us to stay here as long as we want to get this business done. The President and the majority leader together have made it clear this is important business that must get done in order for us to complete our business this year. That said, I thank the Senator from Connecticut for his patience.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, with some reluctance, I rise to talk about the START treaty. Having thought it was my last set of remarks on the floor a week or so ago, I thought I would let it lie there rather than come over. But this is such an important matter. In fact, other than amending the Constitution or declarations of war, I don’t know of a more important matter than an arms control agreement like this one.

I will begin by commending our colleagues from Massachusetts and our colleague from Indiana. They have spent months and months on this, as has the administration, in terms of their negotiations with the Russians on this question. An awful lot has gone into this.

I have been involved in a lot of lameduck sessions over the years, and I can usually predict what happens during lameduck sessions—not much, unfortunately. But that is the way it is. After an election—and rarely does an election produce the same results in terms of membership coming out of the election as you have going in. This last election cycle is no exception. Obviously, the party that has gained seats or control of one Chamber or the other would prefer to wait until a later date. I understand that.

As I said, I have watched lameduck sessions. I am hard-pressed to name one that has produced much because of what happened and what goes on in these matters. So I begin with that observation.

There are matters, it seems to me, that rise beyond the normal predictions of lameduck sessions. I think this is one. Hence, the reason I decided to express some views on this.

I don’t claim to be an expert in this area. Other Members spend far more time on this than I. I don’t know all of the details. I have looked at it and
have read about it and I have listened to some of the debate. What motivated me to come and ask my colleagues to consider the moment is the fact that so many of the people we respect, who have been engaged over the years in the conduct of arms control and negotiation, I think this is one of those rare occurrences where a cross-section of some of the finest leaders this country has produced in the last 100 years, who have been deeply involved in arms control issues, have joined together in a common cause to ask us to ratify and support this treaty.

It is unique in many ways. So whatever expertise or knowledge some bring or don’t bring to this debate, I think it warrants our attention that former President George H.W. Bush, former President Clinton, Secretaries of State Albright, Baker, Christopher, Kissinger, Powell, Rice, Schultz, Brown, Carucci, Cohen, Perry, and Schlesinger, this section of the Senate Republicans and Democrats who have been deeply involved in the very subject matter of this debate, all of whom—every one of them—have said do not miss this moment to get this done. If you ask me, of all the issues we are debating that are on the present list, none comes close to this issue of arms control and verification.

For those of us who are knowledgeable, or less than knowledgeable about the subject matter—and I am not suggesting that because others have said we ought to do this, we should automatically do it, but others have said it is worthy of our support. It is subject matter that is critical to our country, to the national security of our Nation, and we ought to be able to take the time, in my view, despite the interruptions that have occurred on other matters that are important as well. I don’t minimize that.

If you ask me, of all the issues we are debating that are on the present list, none comes close to this issue of arms control and verification. That is, again, one of those rare moments that occur here when I think there is at least a strong potential of consensus—largely a consensus over the notion that we ought to ratify this agreement. I recommend that my colleagues read the statement of Senator Richard Lugar where he went into great detail and depth—it was a lengthy statement he made about why this particular treaty is worthy of our support, and he anticipates the arguments against it. It is thorough and comprehensive an analysis of why this agreement is important and why it is deserving of our support as Senators, regardless of party and the moment—being in a lameduck session, with other issues that I know have caused great division in this body and are not likely to be resolved. Maybe one or two will, but I doubt it. But this matter transcends that.

I wish, therefore, to offer my thoughts on the matter and to commend Senator Kerry and his staff, Secretary Clinton, Secretary Gates, Dick Lugar, and others who have been a part of this. There has been 10 long months of debate and discussion, and we are finally able to move forward on this issue. The Senate Foreign Relations Committee had over 20 hearings on this treaty. It has been analyzed and debated for over a year now. Senators Kerry and Lugar and巴菲特(?) and I have faith to address all of the concerns of both sides of the aisle. The facts and issues are clear to everybody. I think it is time for us to support this agreement.

I commend President Obama, Secretary Gates, and Secretary Clinton, and Secretary Kerry and his staff, Secretary Clinton, and the entire national security team for negotiating this vitally important treaty with our Russian counterparts and for providing the Senate with extensive information. As a member of the Foreign Relations committee, I recall last summer Senator Kerry deferring to several of our colleagues and agreeing to not even vote in committee on this matter but to wait until we came back—leave a little time to analyze and think about all of this. We did that. Then the issue was we would vote on it when we came back after the break. Well, don’t do that because we have an election coming up, and it could politicize it. Wait until after the election, and there will be a lameduck session and we can do it then. And here we are.

Again, I respect immensely how Senators Kerry and Lugar have conducted themselves, respecting the legitimate issues raised. But merely because an issue is legitimate doesn’t mean it can’t be answered. Ultimately, you have to vote. Nobody ever anticipates absolute unanimity, that there wouldn’t be those who felt this agreement was lacking in one aspect or another. The way to express that is vote against it. Those of us who feel this is the right thing to do ought not to be denied the ability to express our support for it.

Historically, weapons treaties in the Senate receive wide bipartisan support. The original START treaty was debated during the collapse of the Soviet Union. It reduced nuclear weapons from 10,000 to 6,000. It was adopted by a vote of 93 to 6 in 5 days. START II, which came 4 years later, took only 2 days of floor time, and it passed 87 to 4. Collectively, you have 9 days, and two major START treaties that were able to be adopted.

The reason the New START should not enjoy the same bipartisan support—maybe not in the same numbers. Nonetheless, it is time for us to act. Since the expiration of the original START treaty in December 2009, as you have heard over and over again, no verification of Russia’s nuclear weapons has occurred.

Simply put, this endangers our national security. The longer we fail to verify, the greater the danger our country faces. Inspectors on the ground and verification safeguards allow our intelligence community to have a better understanding and more knowledge of Russia’s nuclear arsenal. As President Reagan famously said, “Trust, but verify.” At the moment, we can only trust. I think we all agree that it is time to verify, as well.

The United States and Russia maintain over 90 percent of the world’s nuclear arsenal. Therefore, it is vital that we take the lead in securing these weapons to create a world with less risk of nuclear devastation, not to, of course, mention reducing the nefarious threat of nuclear terrorism. This new treaty improves upon and enhances the original START treaty signed in 1991 by President George H.W. Bush, ratified in 1994.

I remind my colleagues again that President Bush supports this agreement. One of the authors of the START treaty signed in 1991 urges us Senators—Democrats, Republicans, and Independents—to support this effort.

The New START treaty establishes lower limits—and I know you have heard a lot of this—for U.S. and Russian nuclear forces of 1,550 deployed strategic warheads. That’s 300 deployed intercontinental ballistic missiles, submarine-launched ballistic missiles, and heavy bombers equipped for nuclear armaments.

It will also limit to 800 the total number of deployed and nondeployed ICBM and SLBM launchers and heavy bombers equipped for nuclear armaments.

All of the new limit numbers were verified and are strongly supported by the Department of Defense. Flexibility will be a key result of the new treaty. It will give the United States the flexibility in deploying our own arsenal and in deciding what is put on land, in the air, and at sea.

In addition, this treaty will improve verification and inspection systems for Russia’s nuclear arsenal, which have not been monitored since the treaty expired a year ago. The new verification measures are less costly and complex than the original treaty, I might add.

Let me quote Secretary Gates on this treaty, who said it “establishes an extensive verification regime to ensure that Russia is complying with its treaty obligations. These include short-notice inspections of both deployed and nondeployed systems, verification of the numbers of warheads actually carried by Russian strategic missiles and unique identifiers that will track—for the first time—all accountable strategic nuclear delivery systems.”

That is our own Secretary of Defense, the Secretary of Defense of President Bush, and now the current Secretary of Defense. There has been a lot of talk about missile defense in recent months. Some have claimed that START will in some way inhibit the ability of the United States to defend ourselves in the future. I regard, I urge you to read Senator Lugar’s comments on that issue. He went into great detail to examine this allegation and did so in the most thorough manner.
I urge my colleagues, if they have any issues, read Senator LUGAR’s comments about this. Those claims are simply not true. New START does not constrain the United States from developing and deploying defenses against ballistic missiles, Secretary Gates, Admiral Mullen, and Lieutenant General Reilly, the Director of the Missile Defense Agency all concur on this point.

Again, I respect your knowledge, your expertise, and how much you have looked into this. But when you have a Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the Director of the Missile Defense Agency all saying you are wrong on this, respectfully, I suggest maybe when it comes to deciding which side of the argument you are on, I think history will demonstrate that relying on the people who are deeply involved in this ought to outweigh the concerns raised by others.

Concerns have also been raised over modernization of our nuclear weapons infrastructure stockpile. That is not an illegitimate issue. Senator KYL raised this as an important point. I think the President to address these concerns. I don’t know if he has done it to the complete satisfaction of those who raised it. He has committed $80 billion over the next decade to modernize our nuclear weapons. This is more than a reasonable sum, I am told by those who are knowledgeable about this. Once the President requests these funds, it is the job, obviously, of those who will be in Congress to appropriate the money.

I spoke with Senator FEINSTEIN a number of days ago, and others—those in a position to be responsible for this—and they have indicated they will support this and make a strong case for it.

Madam President, this treaty will ensure that we continue to build upon our close relationship with Russia as well—not an insignificant issue—in preventing the spread of dangerous nuclear weapons and creating a more stable and secure world at a time when we would all acknowledge it is becoming less and less so, as we have all painfully seen, even in things like the most recent WikiLeaks situation that occurred on cable traffic.

There are growing problems in Iran and North Korea, and all of the concerns we have about these hot spots around the world.

To be able to bring some stability and respect in this relationship with Russia could not be more important at this hour. So beyond the obvious provisions of the treaty, it is critically important to understand the larger context as well. Senator KERRY and Senator LUGAR have very eloquently described that for our colleagues over the last 25 years, and his counsel and his wisdom, and his eloquence, which we just heard, are indispensable. He knows how I feel about him and about his leaving, but I wish to thank him for his unflinching commitment to work for the disadvantaged in the world, for other countries, for our global relationships, and especially for peace, and I thank him for his comments this evening.

Mr. DODD. Thank you.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I would also like to share, Madam President, my words of appreciation for the Senator from Connecticut. I am just not so sure that is his last speech.

Mr. DODD. Yes, it is.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Madam President, this has been an important week for me, the Minnesota Senator. We passed bipartisanship legislation to prevent a huge scheduled tax increase from hitting our Illinois economy in the teeth of a great recession, and we did this with the support of our President, Barack Obama, whose name is on this very Senate desk. We stopped a 1,024-page, $1.1 trillion omnibus spending bill with 6,600 earmarks, which was a big victory for restraint on spending. We stopped a House effort this morning to permit Guantanamo Bay terrorist to be sent to the Heartland—likely to Thomson, IL. The revised House bill that just passed now prohibits such a transfer.
Now to the issue at hand. Madam President, I rise in support of this amendment. In my view, the underlying assumptions of the 20th century’s Cold War are breaking down. Under the old doctrine of mutual assured destruction, we assumed that the Soviet leaders did not want to commit suicide, and neither did we. In the balance of terror, defenses against attack were ignored—banned even, under an outdated treaty—because the assumptions were relatively sound.

These assumptions are breaking down in the 21st century. We face a future in which nations will have nuclear weapons and the missiles to deliver them. Recall that nuclear technology is 1930s-era engineering and missile technology is 1960s-era engineering. Since the laws of physics cannot be classified, it is only a matter of time before other countries, including enemies of the United States, will develop such weapons.

The difference between the 20th and 21st centuries can be described as a difference between capability and intent. In the 20th century, the United States was fairly assured that the Soviet Union lacked the intent to attack America or her friends. In the 21st century, Iran and possibly other countries now regularly demonstrate the intent to carry out an attack. Of the roughly 150 members of the United Nations, only one—Iran—regularly talks with its hand of state about waging nuclear war against another member of the United Nations off the planet.

In such an environment, the assumptions of our security in the 20th century become dangerously out of date. If the United States and our allies face a future in which America faces countries or institutions which have the capability and intent to attack, then the old doctrine of mutual assured destruction and agreements that depend on this doctrine cannot ensure our safety. In the 21st century, we need actual defenses to secure America and our allies.

Against the growing danger of Iran, the safety of America and Israeli families depends on missile defenses. We know Iran has shorter range scud missiles, used liberally against Iraq in a previous war. We know Iran has North Korean No Dong missiles—called Shahab III missiles in Farsi—that have a much longer range to reach Israel. We know Iran has launched a satellite into orbit using a very long range missile called the Safir. We know if Iran can orbit a satellite over anywhere on the Earth, it can orbit a warhead anywhere too. We know Iran has thousands of uranium cascades operating to refine uranium. We know the Bush administration’s rector has now been fueled and will soon begin the production of plutonium in Iran. The greatest emerging threat to the United States and Israel is Iran and its missiles and fissile material production linked with the other members of Iran’s own head of state, the future security of American and Israeli families depends on missile defense.

I worry about the administration’s missile defense intentions. Early in the administration’s term, it slowed down the planned upgrade for the missile defenses of the United States itself. It made plans to cut funding for the U.S.-Israeli Arrow System. When I heard about those cuts, I approached the late Jack Murtha, the chairman of the House Appropriations Defense Subcommittee, to stop that move, and I understand Chairman Murtha did exactly that.

The administration canceled plans to put an X-band radar in the Czech Republic and ground-based interceptors in Poland. It even continued to offer to include Russians inside United States defenses of NATO. Russia is a country that recently attacked Georgia with missiles. Russia fueled the Bushehr reactor in Iran. It may have also delivered air defense radars to Iran—a nation that is a defender of the Islamic Republic, among others.

The actions of the administration on missile defense appear uncertain. Under this administration, we will be confirming that a Russian wish be preserved—that they continue to have the capability to effectively attack the United States. I would regard this sentiment as part of the last century and not this one. About the new threat from Iran much more than the old threat from Russia.

It should be the policy of the United States to blunt or defeat any attack from Iran against United States or Israeli, no matter what. The statement in the preamble of this treaty should be deleted so that we give strong Senate direction to our policy of providing the strongest defenses possible against the growing and effective threat from Iran.

I am currently confused as to which Cabinet department is preeminent on this issue. The State Department largely negotiated the preamble, generating pressure for the United States to accept the wording that would prevent our “viability and effectiveness of strategic offensive arms of the Parties.” In plain English, we would run our defense programs to preserve the ability of Russia to attack. This outdated, 20th-century thinking is entrenched in the preamble.

Such a policy also preserves the future ability of Iran to deliver an attack against the United States. We are assured that a missile—which does not now exist and has not been deployed—will defend us. The Standard Missile 3 Block 2 Bravo is rumored to be considered for development and deployment. But we cannot be defended by a missile that does not yet exist and has not yet been developed.

What has happened is that the administration has canceled plans to deploy the GBI system to Poland, which would have defended us and would have been deployed. Much to the embarrassment of our Czech and Polish political allies, we withdrew a real defense system for a planned one—a real deployment for a hoped-for one.

It should be the policy of the United States to defend us against attack. It should be our policy to defend allies against attack. Therefore, we should sign no treaty which acknowledges a need to preserve Russia’s ability to attack the United States and that also would not affect the Iranian missiles to find their mark against American or Israeli families.

I am struck by this debate. If the treaty does not affect the ability of the United States to defend our or Israel against a missile attack, the amendment should go forward without affect on the treaty. If the treaty does limit the ability of the United States or Israel to defend themselves, then the amendment is absolutely necessary to fulfill the assertions of proponents that the treaty has no relation to defense.

Passage of this amendment improves this treaty for this very new Senator. It focuses the treaty on its key objective and makes this treaty much more likely to pass. Senator DeMINT bills that this amendment weakens this treaty. It focuses the debate on ancillary subjects and makes it much less likely to pass.

The 21st century should be a world in which fewer and fewer ways are available to nations to attack the United States or our allies and greater and greater means for the democracies—especially the United States—to defeat an attack, should war come. Therefore, I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I would like to ask a unanimous consent. Senator DeMINT will be next. After Senator DeMINT, Senator THUNE, according to the list, I ask unanimous consent, since there were three opponents in a row, if we could insert—I have been asked by Senator MCCAIN to put Senator RISCH in, and I would like to put Mr. Senator from South Carolina.

Senator FROM SOUTH CAROLINA be recognized for 10 minutes; subsequent to that, Senator RISCH for 10 minutes; and Senator SESSIONS would follow that for 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. Finally, quickly, before the Senator from South Carolina begins, I would just say to my friend from Illinois, I would point out to him that actually the Russians have helped Israel by cooperating with us. As a result of this cooperative arrangement we reached, they refused to sell the S-300 air interceptor missile to the Iranians, and that actually is very significant with respect to Israel. So the impact of this treaty is very positive for Israel, in the long run, and I think that is important to note.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. If the Senator will yield, I understand the S-300 has not been delivered, even though the Russians signed a contract to deliver this to the
Islamic Republic of Iran. But most of the missile threat to Israel is against Russian-built and designed missiles. The Russians have delivered hundreds of Scud missiles to Syria, which represent the vast bulk of the threat to the people of Israel.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. That is exactly why the Obama administration went out to have a reset button and that is precisely what it has created this new cooperation. Since there has been this new cooperation, we have been able to move down a different road.

I don’t disagree, there are tens of thousands of rockets in Lebanon and elsewhere that come from outside, but that is the whole purpose of moving in a different direction.

Obviously, as we have said previously, the substance of getting rid of this wouldn’t bother me. The problem is, it is technical, and it is in a place where we have a process that kills the treaty. That is the problem.

I think we have taken care of it. I ask my colleague from Illinois to look at the resolution, look at the DeMint amendment which we adopted, which is very very clear about our ability to change this entire “mutual destruction” relationship and move to an “adequate defense.” I think we could even strengthen it further. I am very happy to work with colleagues on a condition or declaration in the next hours that might even improve this further and, if people do not believe it has been adequately stated, we are happy to state it more clearly.

With that, I yield for the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, I thank my new colleague from Illinois and associate myself with his remarks. Since Senator Graham referenced my amendment, I appreciate his support of the idea of committing ourselves to developing a missile defense system that could protect against Russian missiles. But unfortunately during the debate in committee, when we offered this as a binding amendment on the treaty, it would not be accepted unless we moved it to a mere declaration, which has no force of law. But it is good we have brought it up and recognize it is a major point of contention in the adoption of this treaty.

I would like to begin by speaking in support of the amendment of my colleagues, Senator JOHN MCCAIN and Senator JOHN BARRASSO, to strike the language in the treaty preamble that links offensive and defensive systems and limits our ability as Americans to protect our citizens. We know the Russians would like to limit our missile defense capabilities. Before President Obama signed the treaty, he expressed his desire to make the United States more vulnerable to future attacks. While discussions about the treaty were underway, Prime Minister Putin commented on American missile defenses. Last December, he said: “By building such an umbrella over themselves, [the United States] could feel themselves fully secure and will do whatever they want.”

Prime Minister Putin got what he wanted. The Russians successfully linked missile defense to an offensive strategic nuclear weapons treaty.

After President Obama signed the treaty, the President issued a statement that said the treaty “can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively.” How much more clear could they be? The understanding of the Russians is that this treaty ties our hands and prohibits us from defending our citizens against Russian missile attacks.

By giving the Russians this lever, the treaty takes the U.S. ability to defend against missile attacks. This has the effect of making America and her allies vulnerable, not only to Russia but to rogue nations. Russia should not be permitted to dictate whether we can develop our missile defense capabilities. No negotiations should require us to sacrifice our sovereignty. The United States has a constitutional duty to protect its citizens and a moral obligation to protect its allies. Russia should not be permitted to dictate whether we can develop our missile defense capabilities.

The administration’s unilateral statement on limited missile defense does not resolve this ambiguity. This treaty’s flawed premise which I would like to talk about for just a few minutes. The treaty is crafted out of the idea that the United States and Russia play the same role in the world. This is not true. The U.S. security umbrella covers over 30 countries. America is a protector of many, Russia, however, is a threat to many but a protector to none.

America’s commitments are much greater and parity is unacceptable, especially given Russia’s large tactical arsenal, which is not covered at all in this treaty. Moreover, the New START treaty is intended to be a step toward the President’s goal of a world without nuclear weapons, which has been quoted at length during this debate, believed the only way to get to a world without nuclear weapons was by making them “impotent and obsolete” through a strong missile defense system outside of negotiations with the Russians rather than sacrifice our missile defense options.

Now I would like to go through the ways the New START will reduce the U.S. forces, while Russia is not forced to make any reductions. All the reductions will be on our side.

The Obama administration champions the fact that the treaty would limit both countries to 1,550 deployed strategic nuclear warheads each. However, given the loophole in the counting rules, the number that can be deployed is several hundred higher. That means no reductions are required on behalf of the Russians.

The treaty’s delivery vehicle limit is also troubling. The administration cannot even show the Senate how they intend to change the force structure to reach the new deployed delivery vehicles. Russia, however, is already well below the new limits.

To be clear, Russia does not have to destroy any nuclear warheads as part of this treaty. The treaty does not deal with nuclear warheads, it deals with tactical nuclear weapons. Russia can maintain its huge stockpile of roughly 4,000 tactical nuclear weapons, thousands more than the United States has, because the treaty does not restrict those types of weapons, which can also be affixed to rockets, submarines, and attack aircraft.

The administration lost a key opportunity to address the 10-to-1 disparity between Russia and the U.S. tactical nuclear weapons. The administration seems to believe that we will address tactical nuclear weapons during the next treaty, but that was said during the debate on the last arms control treaty with Russia. The administration has also subjected advanced conventional U.S. military capabilities to limitation in this new START treaty. Why were these included?

I also have questions about the verification measures in Russia’s compilations. The administration has refused to give Senators access to these. We have asked numerous times and there is a precedent from past ratification of arms control treaties, the weaker verifications and inspection provisions in this treaty will only exacerbate the problem.

I also have concerns about the negotiating records for this treaty. We have asked repeatedly for these records and the administration has refused. If given Senator’s access to these. We have asked the Obama administration to find out exactly what concessions were made during the negotiating process—particularly given the disagreement between what the Russians are saying about missile defense and what we are saying. We need to see what was agreed to during the negotiations. By not providing negotiating records, the administration has only increased concerns.

Supporters of this treaty would like everyone to believe this is a matter of unipolar nationalism, but this is not true. I would like to quote former Secretary of State Lawrence Eagleburger, who said:

They want to do [this treaty] before the lame ducks are out of there. That is not the way to move on this issue.

I agree with the former Secretary. This is not the proper way to move on this issue.
As the Washington Post noted in its editorial of November 19:

No calamity will befall the United States if the Senate does not act this year. The Cold War threat of a nuclear exchange between Washington and Moscow is, for now, nonexistent.

If it was so urgent, why did the administration allow the original START treaty, which included verification provisions, to lapse on December 5, 2009? Surely, they were aware it would be months before this treaty would be completed?

After the START I treaty expired, the two countries issued a joint statement pledging “to continue to work together in the spirit of the START Treaty following its expiration.” But that never happened.

Senator LUGAR even had legislation that would have allowed the inspections to continue after December 5, but his legislation was ignored. If these verifications are so urgent, it seems there would have been more of an effort to pass his bill. The administration’s promise to bridge the agreement with Russia to preserve verification has failed.

Special Assistant to the President Gary Samore stated last month he was “not particularly worried, near-term by the lack of inspections.”

As I said earlier today, I take my responsibility of advice and consent very seriously. We would be harming this institution if we ratified a treaty that does not address the many serious flaws in this treaty.

I worry about many of the long-term negative effects this treaty will have on our security, but I would also like to talk some and explain about why I oppose the treaty in the short term.

First, we should not be ratifying this treaty during the lameduck session.

It is unprecedented to do so. The Heritage Foundation crosschecked the dates of each lameduck session of Congress with the Senate date of treaty ratification for treaties going all of the way back to 1947 and found no major treaty has ever been ratified by a Senate during a lameduck session of Congress. Doing so would violate the principle of consent maintained by the government since the 20th amendment was passed in 1933.

The first two sections of the 20th amendment were created to shorten the length of the lame duck period, and before the new officials take office.

Treaties ratified during a lameduck session are undemocratic, because many of those who support ratification are no longer accountable to the voters. At a minimum, we should wait until the new Senators are sworn in before we consider voting on this treaty.

Let me note that this is only the second day of full debate of this treaty, during a very hectic session. And it is being dual-tracked or triple-tracked with other matters before the Congress and backed up to the Christmas break.

We are still working on a way to make sure the government is funded. This Chamber is also considering holding votes on the DREAM Act and don’t ask, don’t tell and no telling what else.

When the Senate considered the Intermediate Range Nuclear Forces Treaty, known as the INF, in 1998, the Senate gave it 9 days of floor time, and it was not due to be considered with other issues. We focused on it and had a debate. The first START treaty was available for the Senate’s review for over 400 days. I share the concerns expressed earlier today by my colleague from Texas, Senator Boxer. He objected to the dual tracking of matters of national security with partisan issues.

As we are debating this treaty, meetings are being held to strategize ways to get votes on other bills to reward special interests and fulfill campaign promises. The New START treaty will have many implications for our country’s security and, surely, something as important as this deserves the Senate’s full attention.

As I conclude, I wish to thank again Senators MCCAIN and BARRASSO for their amendment, and for their thorough explanations of why it is so important. They were right to point out that the administration worked very hard to break up the linkage between offensive and defensive missile systems.

That is why former Secretary of State Condoleezza Rice wrote in a recent New York Times editorial that the Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. New START’s preamble is worrying in this regard as it recognizes the interrelationship of the two.

By passing the McCain-Barrasso amendment, we can fix this, and we can make sure that this treaty does not limit our ability to defend our citizens.

I yield the floor and I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I too want to rise in strong support of the McCain-Barrasso amendment to strike language from the preamble of this treaty to link strategic offensive arms and strategic defensive arms. This language in the preamble is highly troubling because it reestablishes an unwise linkage between offensive arms and defensive arms that was broken when the ABM treaty came to an end.

More troubling is the fact that the new New START treaty contains specific limitations on missile defense in article V. More worrisome is Russia’s unilateral statement that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities, quantitatively or qualitatively, and Russia’s unilateral statement, amount to a Russian attempt to find a leverage point and exert political pressure upon the United States to forego deploying a robust missile defense capability by threatening to withdraw from the treaty if we seek to increase our missile defense capabilities.

The remedy for this concern is very simple. It is for the Senate to strike the offensive preamble language. That is why I wholeheartedly support the effort to strike this language from the treaty, as well as an amendment to strike paragraph 3 of article V of the treaty.

There have been conflicting statements made about the preamble and its significance. We have heard supporters of the treaty say that the preamble is a throwaway, and it means nothing. Then, on the other hand, you have got people saying that, well, if you change this, if you strike this language, it is a treaty killer. So we are hearing what are essentially contradictory statements that this means nothing and it means something. That cannot be. So I would say it is critically important that we as a nation continue to quantitatively and qualitatively build up our missile defense systems. We know that rogue nations such as Iran and North Korea are rapidly building up their ballistic missile capabilities to eventually be able to strike our country.

We cannot let another nation have a vote on whether we build up our missile defenses. I am very confident that if Russia threatens to withdraw from this treaty when we seek to quantitatively and qualitatively improve our missile defenses, the administration will cave in to the Russians. We have already seen something similar happen with the administration abruptly ending the Bush administration’s efforts to build a third missile defense site in Poland and the Czech Republic. Why should we have any confidence that they will do the same thing when something like this happens again?

That is why it is critically important that we remove this language from the preamble to eliminate any pretext by the Russians to threaten to withdraw from the treaty because we are improving our missile defense capabilities.

It is particularly galling that the administration inserted this missile defense language into the treaty, when one considers that Congress made it abundantly clear at the outset of negotiations on this treaty, specifically in section 1251 of the fiscal year 2010 Defense authorization bill, that there should be no limitation on United States ballistic missile defense systems.

Specifically, we said:

It is the sense of Congress that the President should maintain the stated position of the United States that the follow-on treaty to the START treaty not include any limitations on the ballistic missile defense systems of the United States.
We also received repeated assurances by senior State Department officials that the treaty would do nothing to constrain missile defense. So I was surprised to see that the treaty ended up containing specific limits on some missile defense options in article V, paragraph 5.7, of the preamble. I simply cannot understand how any of this language in the preamble that we are currently considering in the McCain-Barrasso amendment.

When those of us who criticize this treaty point out that Russia may rely on language in the treaty’s preamble as a pretext for withdrawal if the United States builds up its missile defense, the administration response is usually to say, the preamble is not legally binding.

Obviously if this language is not legally binding, then it should not be a big deal to delete it from the preamble. But it can be no accident that Russia used the words “effective” and “via” in its unilateral statement that it would use this as grounds for withdrawal from the treaty, thereby creating a textual hook to the treaty for its position.

The unilateral statement is certainly a sign of how Russia interprets the preamble. I believe, therefore, that there is ample reason to be concerned that this administration will not dedicate itself to deploying a robust missile defense that in any way irks Russia. In the preamble Russia has established a pressure point to dissuade this administration from improving our own missile defense system in a quantitative or qualitative way.

Therefore, it is extremely important that the Senate simply remove that preamble language. I wholeheartedly support the McCain-Barrasso amendment. I urge its passage, and ask unanimous consent that I be added as a co-sponsor.

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

Mr. THUNE. I would also simply say, again, that I do not think you can have it both ways. You cannot say that this means nothing, and at the same time that it means everything. If it is a throwaway, some language that does not mean anything, that is one thing. But if it is a deal killer for us to suggest that we ought to remove this language, which we think means something, and a deal killer, then somehow it means a lot more and it matters a lot more than I think the supporters and proponents of this treaty are letting on.

So I would ask that as we continue the debate, this issue be fully aired. I think we have a lot of people who have come down and talked about it. I think this is at least one amendment that I am aware of on the issue of missile defense. But I do know that in terms of the overall treaty and the concerns that some people have about dual issues, that is a critical issue when it comes to our national security. It is one that we need to take very seriously, and particularly, as has already been mentioned, the threats that we face from rogue nations such as Iran and North Korea. We cannot do anything that would lessen or weaken our ability to defend ourselves from threats from those types of countries.

I would say when it comes to this issue, it would make it a lot easier for those who are advocating support for this treaty if the McCain-Barrasso amendment is adopted. We simply delete it and strike this language, which, if it does not mean anything, should not matter all that much. And if it does mean something and it matters, I think that tells us everything we need to know about what the Russians’ intentions are with regard to having that language in the preamble.

Couple that with the statements they have made in the unilateral signing statement, along with the article V language in the treaty that this is an issue of great importance, and we should not take it lightly, we should not minimize it. We need to have a full debate on it.

I hope we can stay on this issue. I know of the leader’s plan to move tomorrow to some other legislative business. But if this particular agreement is that important to the administration and to this country and to the Senate, then we ought to be able to stay on this, and delete this language. Many of which are political items that are sort of what I would call check-the-box items that the Democratic leadership wants to get voted on, ought to be put off. We can deal with those issues another time, another year.

If we are serious about getting this treaty done, then we ought to stay on it, keep our focus on it, and allow the Senate to have a full, fair debate, open to amendments, and hopefully, ultimately, get this thing disposed of one way or the other.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I wish to address some of the objections and concerns that are being raised by the critics of the treaty this evening. First, I want to point out that if the Senate were to approve the amendment that Senator MCCAIN and Senator BARRASSO are proposing, that effectively kills the treaty, I think those people who support that amendment understand that. So that is No. 1.

Secondly, one of the issues that has been raised in a number of the statements this evening has had to do with the concern about dual track. Can the Senate and this country while we have so much other business to deal with? Well, I happen to think that in the Senate we can deal with more than one issue at a time. I believe we can walk and chew gum at the same time.

In fact, during consideration of the original START treaty back in 1992, a treaty that was much more complicated than the one that is pending before us, at the first time the Senate considered it, they debated and held two rollcall votes on the Foreign Operations bill. So the concern that we cannot deal with this while we are dealing with other issues is not borne out by the historic precedent.

One of the other issues that has been raised this evening by the critics is that we do not need to do this right away; there is no overwhelming national security concern to get this passed now.

I would point out that we have a number of military leaders in this country who disagree with that. Yesterday GEN James Cartwright, the Vice Chair of the Joint Chiefs of Staff, said:

All the joint chiefs are very much behind the treaty. We need START and we need it badly.

Today GEN Frank Klotz, who is considered one of the military’s most experienced and respected nuclear arms experts—he is commander of Air Force global strike command, which is the command that oversees the Air Force’s nuclear enterprise—says that the New START treaty with Russia should be ratified immediately.

Again, quoting the general:

I think the START treaty ought to be ratified and it ought to be ratified right now, this week.

With respect to the issues raised about how this treaty impacts missile defense, it is important to point out that none of the foreign relations bills—such as the Foreign Operations bill, a DC appropriations bill, which the Senate has already considered—such a bill has ever constrained the United States builds up its missile defense, the administration response is usually to say, the preamble is not legally binding.

Obviously if this language is not legally binding, then it should not be a big deal to delete it from the preamble. But it can be no accident that Russia used the words “effective” and “via” in its unilateral statement that it would use this as grounds for withdrawal from the treaty, thereby creating a textual hook to the treaty for its position.

The unilateral statement is certainly a sign of how Russia interprets the preamble. I believe, therefore, that there is ample reason to be concerned that this administration will not dedicate itself to deploying a robust missile defense that in any way irks Russia. In the preamble Russia has established a pressure point to dissuade this administration from improving our own missile defense system in a quantitative or qualitative way.

Therefore, it is extremely important that the Senate simply remove that preamble language. I wholeheartedly support the McCain-Barrasso amendment. I urge its passage, and ask unanimous consent that I be added as a co-sponsor.

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

Mr. THUNE. I would also simply say, again, that I do not think you can have it both ways. You cannot say that this means nothing, and at the same time that it means everything. If it is a throwaway, some language that does not mean anything, that is one thing. But if it is a deal killer for us to suggest that we ought to remove this language, which we think means something, and a deal killer, then somehow it means a lot more and it matters a lot more than I think the supporters and proponents of this treaty are letting on.

So I would ask that as we continue the debate, this issue be fully aired. I think we have a lot of people who have come down and talked about it. I think this is at least one amendment that I am aware of on the issue of missile defense. But I do know that in terms of the overall treaty and the concerns that some people have about dual issues, that is a critical issue when it comes
that defend our homeland. We are also moving forward with plans to field missile defense systems to protect our troops and partners in Europe, the Middle East, and Northeast Asia. These dangerous threats posed by rogue nations like North Korea and Iran. Separately from the treaty, we are discussing missile defense cooperation with Russia, which we believe is in the interest of both nations. But such talks have nothing to do with imposing any limitations on our programs or deployment plans.

One of the earlier speakers talked about concerns about those within our security umbrella, our allies and NATO, and how they might be affected by the START treaty. The fact is, every one of our NATO allies has come out in support of passage of the New START treaty. They have all said it is in the interest of the NATO countries. To go back to what some of the experts have said about missile defense, GEN Kevin Chilton, commander of the U.S. Strategic Command, said:

As the combatant command also responsible for synchronizing global missile defense plans, operations and advocacy, I can say with confidence that this treaty does not constrain any current or future missile defense plans.

Former Secretary of Defense James Schlesinger said:

I don't think it inhibits missile defense in a serious way. I do not think that we will be inhibited by this treaty or even by the Russian pressure with respect to defending ourselves against North Korea and ultimately naturally against Iran.

Former Secretary of Defense William Perry said:

The treaty imposes no meaningful restraints on our ability to develop and deploy ballistic missile defense systems.

Former Secretary of State Henry Kissinger said:

The treaty does not unduly restrict our ability to build and deploy an effective missile defense system.

Finally, former Secretaries of State Kissinger, Shultz, Baker, Eagleburger, and Powell wrote in the Washington Post:

New START preserves our ability to deploy effective missile defenses.

The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans.

I know we have a lot of experts in the Senate on this issue, but I certainly believe the experts who have spoken about the lack of an impact on our ability as a country to develop a missile defense system are people who should be believed, because they know what they are talking about.

The other thing it is important to point out—and I know Senator KERRY did this earlier—is with respect to the resolution of ratification and some of the concerns that Senator DEMINT raised this evening. I want to read what is in this resolution of ratification. This is language that Senator DeMINT had amended into the resolution of ratification, and it is a section of the concerns that Senator DeMINT raised this evening. I want to read what is in this resolution of ratification. This is language that Senator DeMINT had amended into the resolution of ratification and some of the concerns that Senator DeMINT raised.

(2) DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK—It is the sense of the Senate that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and the United States against nuclear attacks to the best of its ability;

(B) policies based on “mutual assured destruction” or intentional vulnerability can be counter strategic by both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from this strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them in their strategic capabilities can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is consistent with and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty.

This is language Senator DeMINT proposed that is adopted in the resolution that makes very clear that missile defense is not affected by the treaty.

The PRESIDING OFFICER. The time of the Senator from Arizona.

Mr. KYL. Madam President, I had hoped to be able to respond to some of the things the chairman of the committee said earlier. A lot of words have been spoken about whether or not what he said and what I will say now. I think I have correct what his arguments are. If I don't, I am sure he will set me straight. Let me respond to some of the things Senator KERRY talked about.

One of the most significant is this. It is the question of whether the preamble is important. Is it binding. Is it significant. While on the one hand the argument is made that it is an insignificant instrument, it is not binding and it is a throwaway statement that is sometimes done for domestic consumption, it has also been portrayed as a treaty killer. Both of those things cannot be true. It cannot be insignificant but also be so important as to be a treaty killer. I suppose it is possible for one side to treat it as insignificant and the other side to treat it as very significant. Thus, insofar as the Russians are concerned, it is a treaty killer. That is obvious because it means something to the Russians. That is the point. We have to appreciate the fact that the preamble, combined with their unilateral statement, represents the case that they make legally for withdrawal under article XIV, if we develop missile defenses that they believe qualitatively improve our situation vis-a-vis themselves.

That is the importance of it. It is important whether they are laying the foundation for withdrawal in the treaty. Think of it. You have two parties to a contract. There is a dispute about what a critical term in the contract means. One party says: It is that big a deal. The other party says: Yes, it is. That enables me to vitiate the contract. That is a big deal, because it sets up a future conflict. That is precisely what the problem is in the preamble. So we can't say on the one hand it is insignificant and on the other hand it is a deal killer, a treaty killer.

Second, it is true that either party can withdraw, but only under certain circumstances. When Senator KERRY makes the argument that the Russian threat of withdrawal is not that important because other party can withdraw, that is only true as far as it goes and misses the point. The Russians are setting up, in the instrument, in the preamble and in their unilateral signing statement that accompanied the signing of the treaty, the groundwork for withdrawal. What they have said is they believe that if we develop our missile defenses, as we have said, then that constitutes the extraordinary circumstances that would give them a right under article XIV to withdraw, that either party can withdraw, the question is, is it a withdrawal that is important, that is significant, that we can't ignore, or is it something they will do no matter what and there is nothing we can do about it?

Let me tell you why this is important and go back to the START I treaty. What countries say about these treaties is very important. It sets the groundwork for their approach for treaties while they withdraw. While either party can withdraw, the question is, is it a withdrawal that is important, that is significant, that we can't ignore, or is it something they will do no matter what and there is nothing we can do about it?

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this New START treaty. Here is the United States unilateral statement at that time:

While the United States cannot circumscribe the Soviet right to withdraw from the START treaty if it believes its supreme interests are jeopardized, the full exercise by the United States of its legal rights under the ABM treaty—

The treaty that permitted us to have missile defense—
as we have discussed with the Soviet Union in the past, would not constitute a basis for such withdrawal.

In other words, directly contradicting the Russian claim that they could withdraw on that basis.

Continuing the quotation:

The United States will be signing the START treaty and submitting it to the U.S. Senate for advice and consent to ratification with this view.

In addition, the provisions for withdrawal from the START treaty based on supreme national interests clearly envision that such withdrawal could only be justified by extraordinary events that have jeopardized a party’s supreme interest. Soviet statements that a future hypothetical withdrawal from the ABM Treaty could create such conditions are without military or legal foundation.

In other words, the United States rejected the argument that the Russians were making, that the United States withdrawal from the ABM Treaty would constitute a legal right of withdrawal under Soviet Union law.

You can argue about the merits of that. But the point is, we did not want to leave unresponded to a view of the Russians that we thought was fallacious, that was antithetical to the interests of good relationship between the two countries, or that could potentially impact our decision on whether to stay within the ABM Treaty. It was important then to push back. So why did not our negotiators in Geneva push back harder when the Russians sought to do the same thing?

My colleague from Massachusetts said: Well, actually Secretary Rumsfeld and even President Bush at one point said we are going to talk to the Russians about our missile defense and strategic offensive weapons. That is true. However, the United States was never prepared to take a position that those two items should be linked in the treaty.

As Doug Feith, the former Under Secretary of Defense, who actually helped to negotiate the treaty of 2002 with the Russians, wrote in the Wall Street Journal recently that when his Russian counterpart said we need to have missile defense tied into this treaty, Doug said: No, we don’t. We have relations with 200 countries. We have no treaty like this to establish a structure for our relationship. Doug said: Look, we don’t need a treaty with you to bring down our weapons. We are going to do it anyway. If you want a treaty to conform your withdrawal and ours, that is fine. But we are not going to concede missile defense to you. And the Russians finally backed off.

The point was, in these situations we did not allow the Russians to successfully make this linkage. But in the case where we did not push back but we issued our own unilateral statement that essentially confirmed that we were not going to push the issue with the Russians because our missile defenses would only be good against “regional or limited threats” was the language that was used.

This is a problem because while it is true that the resolution of ratification has some language relative to the establishment of our missile defenses—by the way, let me quote what was not in the language but was offered by Senator DeMint at the time. What Senator DeMint said was that:

Accordingly, the United States is and will remain committed to reducing the vulnerability to ballistic missile defense system capable of countering missiles of all ranges.

The administration was not agreeable to that. They did not want language to say we were committed to this. They insisted on wording instead that we were free to do it. That is part of the problem. We do not know what this administration’s real commitment is to the development of such a system. What we do know is that we should not allow the Russians to believe they have a legal right to withdraw from the treaty based on our future development of missile defenses, because they might well threaten to do that. And if they do, it becomes a big deal whether the United States says: Fine, leave the treaty, because we are going to develop these missile defense instead or a President says: Well, I am afraid you are going to leave the treaty, so maybe I will pull my punches and we will not develop the missile defense. That is the problem here.

Condoleezza Rice, in an op-ed in the Wall Street Journal, on December 7, made precisely this point. Here is what she said. After saying on balance she would support the treaty, she said:

Still, there are legitimate concerns about New START that must and can be addressed in the ratification process.

And here is the second point she makes:

The Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reestablishing the Cold War link between offensive forces and missile defenses. New START’s preamble is worrying in this regard, as it recognizes the “interrelationship” of the two.

Further: Administration officials have testified there is no link and the treaty won’t limit our missile defenses.

She says:

Congress should ensure that future Defense Department budgets reflect this.

Continuing:

Moscow contends that only current U.S. missile defense plans are acceptable under the treaty. But the U.S. must remain fully free to explore and then deploy the best defenses—not just those imagined today. That includes pursuing both potential qualitative breakthroughs and quantitative increases.

We personally will resist Moscow’s tendency to interpret every utterance as a binding commitment. The Russians need to understand that the U.S. will use the full range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

She is saying that the preamble is especially worrying in this regard and we need to do something about it. That is what the McCain-Barrasso amendment does. It removes that thorn, it removes that issue, that potential conflict between Russia and the United States if we do go forward with the missile defenses that most of us would hope we intend to do.

Two final points, I think.

Senator Kerry made the point that it is merely a statement of fact that merely its relationship to offense and defense, and in one sense it is true. It is a statement of fact there is a relationship between the two. The point, however, is in a diplomatic agreement has between two countries, it is not always appropriate to acknowledge a particular fact if the purpose of that by one of the parties is to build a foundation for later withdrawal from the pact.

We have never conceded in an offensive weapons treaty a relationship that could infer a quid pro quo between missile defense and strategic offensive weapons, and President Reagan explicitly rejected it at Reykjavik.

My colleague policy points out that at least in his view one side should never have an advantage over the other or there is an arms race that will occur. I do not agree with that. I think we should have an advantage. I think we should have missile defense. That is the overall response. That is what Ronald Reagan believed.

To the extent the question is: Must the United States give up missile defense as a condition on offensive weapons, President Reagan was willing to take a chance on a new arms race, knowing that the Soviets could not afford to do it. And they did not. He took the chance, and I think it worked out rather well.

So I think to the point of: What is the harm in recreating this relationship, that is the harm, and Condoleezza Rice has made it very clear that in our ratification process, we should eliminate any hint of linkage pointing to the preamble, and that is what the McCain amendment would do.

A final point, I do not think this requires much elucidation. The question is: What do the Russian officials say? I do not think we have spent a lot of time on arguments that they believe this would give them a right to withdraw from the treaty. But there was one comment made by my colleague that: Well, who are you going to believe the Russians or the United States?

The point is, on Russian intentions and interpretations, I would take into...
Russia will have the right to exit the accord if “the U.S.’s build-up of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces,” Lavrov told reporters in Moscow today.

The issue of missile defense was the major sticking point in negotiations over the treaty, particularly after the United States announced plans to build new facilities in Bulgaria and Romania.

As FP’s Josh Rogin reported last month, a workaround solution to the issue was reached, in which missile defense is not mentioned in the body of the treaty itself, but discussed in the preamble sections written by each side. The Obama administration has been adamant that the treaty does not limit the U.S. right to expand missile defense, and will likely make that case to skeptical Senate Republicans. Lavrov, apparently, didn’t get the memo.

Russia insists that the agreement includes a link between offensive and defensive systems. “Linkage to missile defense is clearly spelled out in the accord and is legally binding,” Lavrov said today.

Despite it’s best efforts to separate the issues of arms reduction and missile defense, Russia doesn’t seem likely to let its opposition to the new system go. Lavrov knows that ratification of the treaty won’t be a cakewalk for the Obama administration and that his statements can be used as ammunition. So while Obama and Medvedev may put pen to paper this week, the next stage of the missile defense fight is just beginning.

Mr. SESSIONS. Will the Senator yield for a question? Mr. KYL. Sure.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I say to Senator KYL, you, as a lawyer, have negotiated agreements. It seems to me, what I hear you saying is, the United States enters into a binding treaty, equivalent to a party entering into a binding contract, but the other party has laid a groundwork that allows them to exit the treaty and the contract whenever they want to, in essence. Is that correct?

Mr. KYL. Madam President, that is the point I am making, and in contrast to the START I negotiations, where when the Russians said essentially something very similar to this, we pushed back and said: No, you are wrong, that would not be an appropriate reason to withdraw from the treaty. This time we did not do that. We let it pass, therefore, I would suggest, tacitly accepting the legal position of the Russians.

Mr. SESSIONS. Further, it is not a question of whether the U.S. diplomats and negotiators are telling the truth and the Russians are not telling the truth. It is a question of, is there a meeting of the minds? It is a question of what is in the Russian mind as to whether they could have a right to leave the treaty if we proceed with the missile defense.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, that is correct.

Mr. SESSIONS. I thank the Chair.

Mr. KYL. Madam President, that concludes the point I am making, and is well made by Senator Sessions right now. That problem can be cured by the amendment that would fix the preamble by eliminating the words that create this conflict. I think that is something we should do by adopting the McCain-Barrasso amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me ask my colleague from Arizona something, if I could.

I do not think—I do not think—that it is necessary for us to actually have the divide that is sort of being drawn here over this issue of this preamble, given what the preamble says, and also measured against the realities of this treaty, and without the preamble.

Let’s pretend for a moment there is no preamble. I will come back to the preamble in a minute. But let’s pretend there is no preamble, and we go ahead and we do a very extensive layered defense, as we are planning, and somehow, and what, and the Russians do not like it. Even without the preamble, is it not true that according to article XIV, paragraph 5, they have a right to say: ‘We are going to alter the balance of power. If you do that, we do not like it, we are pulling out of the treaty’? Each party shall in exercising its national sovereignty, have the right to withdraw from the treaty if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests. It shall give notice of its decision to the other party.

And that is it. They are out. In 3 months, they are gone. Is that not true?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I say to my colleague, the answer is, yes and no.

Mr. KERRY. Whoa, whoa. It is true they have the right to withdraw; is it not? There is no yes and no. They either have the right to withdraw or they do not. Do they have the right to withdraw?

Mr. KYL. The answer is that while they have the right to do anything—

Mr. KERRY. Do they have the right to withdraw? Madam President, that is the question.

Mr. KYL. Madam President, I say to Senator KERRY, you have asked me a serious question, which requires more than just a yes or no answer.

Mr. KERRY. OK.

Mr. KYL. The answer is, under the terms of the treaty, they have a right to characterize something as an extraordinary event which qualifies under the terms of the contract between the two parties to withdraw. And it is also true that, technically speaking, that is not a decision which we can determine in any sense. It is true that they can withdraw. But it is also true that this treaty, like any other contract, sets up terms
of reference. One of the terms of reference is the supreme national interest clause or the extraordinary circumstance clause. We both agree that clause has to be satisfied in order for a party to be proper or to be— or to properly withdraw from the treaty.

When the START treaty—excuse me, if I could finish. When START was ratified, we pushed back against the Russians when they said: Well, this gives us a right to withdraw from the treaty. We said: No. We made it clear to them they shouldn’t withdraw under that circumstance. Here, by being silent, in effect, on it, we are tacitly agreeing with their interpretation, and that is dangerous because I would assume we don’t want them to withdraw from the treaty, but they have set up a circumstance which is virtually inevitable because we planned to do the very thing they say will give them the right to withdraw from the treaty.

Mr. KERRY. I appreciate the answer of the Senator. Let me be clear. There is no language in here, none whatsoever, that suggests any measurement or judgment as to the weight or rationale or propriety of their notice. It simply says they shall give notice, and having given notice, automatically, the treaty is over in 3 months. There is no measure. There is no court you go to. There is no measure here. You are out. The point I am making is, no matter what, you can get out.

That said, there is a difference here of opinion. The Senator from Arizona chooses to take these outside statements, which are sending us a signal that obviously they are not going to take lightly to some massive, layered defense that they think affects their offense. I think the Senator understands that. I am convinced the Senator knows that. He is too smart about this stuff, and he knows too much about it not to understand that if the Russians think all of a sudden we are going to react to that somehow. He has chosen to take these outside statements, which are sending us a signal that obviously they are not going to take seriously our responsibility to make changes in the treaty or the pre- emptive withdrawal, which is our judgment and if we do that, if we eliminate these words in the McCain-Barrasso amendment from the preamble, then the Russians would have to decide either to accept that change or they would negotiate something with the administration that would then be resubmitted, that is correct, and/or there also could be a side agreement that would be entered into.

Mr. KERRY. I agree. But the bottom line is, the Senator has agreed with my statement that we have to go back to the Russians, and that means this treaty doesn’t go into force. It also means you don’t know what other parts of the negotiation come forward.

If the choice before the Senate is whether you want to take language, which the Senator has agreed is not legally binding, and you want to go back to the Russians and reopen the negotiations for something that doesn’t even bind you, when you already have this remarkable amount of evidence saying we are going to go ahead and do what the Senator is interested in doing.

Even further——

Mr. KYL. Would my colleague yield for one quick question?

Mr. KERRY. I am happy to yield.

Mr. KYL. You said, then, the treaty would have to go back to the Russians. Of course, the Russian Duma is poised to veto this treaty after the Senator does so. The treaty is going to go to the Russians, and unless my colleague is suggesting the Senate has no right to change anything in it, of course, if it is modified, it goes to the Duma and then the Duma decides do they want to accept that change or not.

Mr. KERRY. Madam President, that is a good point by the Senator, and I don’t disagree. He is absolutely correct. The Duma does have to ratify this treaty.

But the point I am trying to make is, it doesn’t seem worth trying to have that fight—I mean, if this were a matter that went to the core and essence of where we are heading with the treaty, I would say that is different. But it is not binding. If there was something binding here that required us to do something against our will, sure. But there is no rubberstamp involved in something that has no affect on the actions we have already guaranteed in so many different ways we are going to take. Let me just point out——

Mr. KYL. Madam President, the answer to the question is, if the Senate, which is supposed to provide its advice and consent, is not in the other half of the equation to the Presidency, and if we are not to be a rubberstamp, and presumably we can take seriously our responsibility to make changes in the treaty or the preemptive withdrawal, which is our judgment and if we do that, if we eliminate these words in the McCain-Barrasso amendment from the preamble, then the Russians would have to decide either to accept that change or they would negotiate something with the administration that would then be resubmitted, that is correct, and/or there also could be a side agreement that would be entered into.
Mr. KERRY. Sure.

Mr. KYL. If it is not binding, then why does my colleague assume the Duma would have such a hard time accepting the modest change we are proposing?

Mr. KERRY. It is simply a matter of before you get to the Duma, you have to go back and renegotiate this, the treaty doesn’t enter into force, and we don’t begin what our intelligence community has told us they would like to see happen sooner; the quicker, the better. They want to get to this process.

Moreover, it is also important in another respect. I don’t know how much more clear we can be, but I am willing to work with the Senator, and I would love to see if we could sit down in the next hours and come up with something here. We work pretty effectively together, and I think we may be able to do this.

But I don’t think these words that are in here are meaningless. In the resolution of ratification, we are saying: A paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States armed forces, and United States allies against nuclear attacks to the best of its ability. Policies based on mutual assured destruction or intentional vulnerability can be contrary to the safety and security of both countries.

That is a pretty—that is even a new—statement the Russians made. Re-assuring that we are committed to doing this. I think that makes a very important point.

The whole point of what we are arguing is that the Russians would like to put whatever pressure they can on the United States not to deliver—excuse me—not to deploy missile defenses that could be effective against Russian strategic systems for their goal for decades. I think we can all stipulate to that. They would like to bring whatever pressure they can bear against the United States to avoid us developing those kinds of systems.

Unfortunately in the negotiation of this treaty, we have opened ourselves to that kind of pressure by, for the first time, not pushing back against the Russians when they tried to make their usual interrelationship between defense and offense and say that if we develop missile defenses effective against them, then that gives them the legal and binding right to withdraw from the treaty. We didn’t push back on that.

Instead, our signing statement said: Don’t worry. We are not going to develop that kind of system. We are only going to develop systems that deal with intermediate threats or regional threats. So even though the Secretary of Defense had announced a missile defense plan on the drawing board here that would go beyond that, A, we didn’t push back. We agreed to the preamble language.

We didn’t push back against the signing statement that the Russians made. Recently, in the briefing in Lisbon, we seemed to confirm our unilateral statement that we were only dealing with regional or limited threats. Then you can throw in the fact that we pulled the ground-based missile defense GBIs, ground-based missile interceptors, out of Poland, and the radars associated with that out of the Czech Republic.

All of that suggests the Obama administration is not as serious about missile defense as we would like them to be. It also gets to the question of the Russians is because it will anger or upset Russia. So the more pressure Russia can put on the United States not to do it, the more likely the Obama administration is not to do it. The whole point is a matter of pressure—subtle pressure or bullying pressure, which the Russians are pretty good at too.

If this achievement of the START treaty is so important, President Obama and I think it is—the question is whether he is willing to jeopardize or risk that treaty if the Russians came to him some time later and said: You are developing something on missile defense that bothers us, and if you do that, you are withdrawing. President Obama might say: Don’t do that, we will back off.

The evidence suggests that is the approach this administration may be taking. It is worrisome, as Dr. Condoleezza Rice pointed out. That is why she suggested that we fix that problem in the preamble in the ratification process of the treaty.

Mr. KERRY. Mr. President, let me ask my friend this: First of all, I forgot to ask this in my comments what we included with the DeMint language in the resolution, which I think you guys ought to be jumping up and down about which is the following:

The United States is committed to improving the United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the treaty.

Is that about as boldface a statement as we could make about where we are heading. I ask the distinguished Senator from Arizona this: If the President clarified that for the Senator in the next 48 hours, or 72 hours, and he were to make more clear to him—to try to address that question particularly for Senator KYL, Senator MCCAIN, and others, would the Senator vote for the treaty?

Mr. KYL. Mr. President, that is a good question. I think the answer is, first of all, that I don’t think at this moment in time he can clarify it in that regard because he can’t predict what concerns the Russians will bring to him and what his response at that point will need to be. If, for example—

Mr. KERRY. With all due respect—

Mr. KYL. Let me finish my point. If we were developing a system which the Russians say will bother them because we could use that against them, and they want us to change it in some way, my best guess is that he will be inclined to change it, even though he wrote a letter to us saying: Rest assured I am committed to developing good, strong missile defense for the United States.

I think the Russians are trying to bully this administration, or future administrations, into a position where we will be less certain to do the kind of things that are just in our best interest because we will have to be concerned about the Russian response.

Mr. KERRY. That is fair. Mr. President, if the Senator wants every eventuality of the future covered, that is a hard one. I think the President of
United States—when he speaks and puts something in writing, in whatever form, or tells a Senator to his face, then gives him his word, that is pretty meaningful where I come from.

Mr. K. I. Y. I am not questioning the President's integrity or his honesty or his current intentions. But nobody can predict the future. President Obama is smart, but he can't predict out into the future the kinds of things that could be implicated as a result of the agreements that are reached.

I agree that, the whole problem with this is that the Russians are attempting to create a ground for claiming the legal right, as both of us interpret the term in the treaty, to withdraw from the treaty. Why? For only one reason. It is not to create flexibility, as the Senator said. They have the flexibility. It is to create the pressure to apply on this President, or a future President, not to do what we may want to do because of the concern by the Russians as to how that will affect them.

I don't think one can deny the significance and importance of that kind of diplomatic pressure. When we are asking the Russians to help us with the Iran核 threat, or North Korea or some other situation, they can say: That's fine except you are trying to do something we don't like in missile defense and then the President doesn't want to have them withdraw from the treaty and wouldn't like for cooperation you something else. These things matter.

In the area of diplomacy, you cannot ignore words in a preamble, though it may not be legally binding. Even as my colleague says, they are so important they could be a treaty killer.

Incidentally, I would like to correct something else. I think I am right on this issue. If we modify the treaty in this regard, I think the question to the Duma is: Do you want to accept this? It is not going to modify our negotiations. As a practical matter, we might well do that in order to smooth the relationships. But I think the treaty is sent to the Duma with whatever understandings or amendments we attach to it.

Mr. KERRY. Mr. President, let me say to the Senator that, for better or worse, the way it works—and I think the Senator acknowledged this in his answer to my question—you do have to go back to theadmirals and the Joint Chiefs and get a negotiation and there has to be an agreement. If it was changed further, we would have to come back and go through the entire process again, in order to review or do a new treaty because it would be a different treaty submitted to us.

Let me say, through the Chair, to my friend, that said, I want to clarify this is not the weight of the words that makes this complicated—and it is not. I am not trying to have it both ways and say the words are irrelevant, but therefore he is saying why don't you change them. But it is the process. It is what happens as a consequence, in terms of

when we ratify a treaty, if we ever ratify a treaty. And because they are not binding and, therefore, don't affect what we are obligated to do, and every bit of our obligations have been defined by the generals, admirals, various agency heads, et cetera, that has all been defined.

We have a clarity about where we are going. Here is what is important, and I say this to the Senator from Alabama and the other Senators on the floor, this is part of our advice and consent, because that is what we have done different. We have gone beyond what they did. We are adding our stamp to this in the resolution of ratification, where we have accepted the DeMint language, which is as forward-leaning as you could be in sending the Russians and the world a notice, regardless of what the administration may or may not have said. We have said it and we control the purse strings and we make that policy about what we are prepared to spend for and develop, and that is a robust missile defense system.

That said, let me come back to one other point the Senator raised about the meaning of what happened in the Polish—with the Poles and the switch of structure, and phased adaptive system. The fact is—and this is very important—the Obama administration did not come up with this idea for this change. This was not motivated by some different world view of the President or the Obama administration, this was the意见建议. As the chairman of the Armed Services Committee laid out fairly clearly and in detailed fashion, the military came to us. They are the ones who came up and said this is a better way to do this system. In fact, I have a letter from Admiral Mullen. I ask unannounced consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE JOINT CHIEFS OF STAFF,


HON. CARL LEVIN AND OTHERS,
Chairman, Senate Committee on Armed Services,
Washington, DC.

DEAR MR. CHAIRMAN: In a meeting on 6 May attended by Secretary Gates and General Cartwright, you asked General Cartwright whether the Joint Chiefs and I were on the record as supporting the New START Treaty and the Phased Adaptive Approach for Missile Defense. I have publicly stated that we support these important elements of our national security posture, and I want to provide you the opportunity to respond to your query in writing.

The Joint Chiefs, the Commander, U.S. Strategic Command; and I fully concur that the United States should accede to the New START Treaty. It will enable the United States to maintain stability at lower levels of deployed nuclear forces, strengthen its leadership role in non-proliferation of nuclear weapons throughout the world, and provide the necessary flexibility to structure our strategic nuclear forces to best meet national security needs.

I want to emphasize that, if ratified, the treaty will make our country more secure and advance our core national security interests. In addition to reducing and limiting stockpiles of strategic nuclear arms, it promotes transparency between the parties.

With regard to this treaty and the phased approach it provides, both sides would be less certain about the strategic nuclear balance, which in the past led to the huge stockpiles we are now trying to reduce.

The treaty's reductions and limits were based on deliberate and rigorous analysis in the Nuclear Posture Review and borne out of intense negotiations. These played a crucial role in the treaty negotiations in Geneva and the interagency backstopping process in Washington, D.C. In addition, I met with my Russian counterpart General Makarov, in both Geneva and Moscow to expedite its negotiations. I firmly believe that this treaty is sound in principle and will provide security and stability in the international security environment.

The Joint Chiefs, combatant commanders, and I also fully concur with the Phased Adaptive Approach as outlined in the Ballistic Missile Defense Review Report. As with the Nuclear Posture Review, the Joint Chiefs and combatant commanders were deeply involved throughout the review process.

The Phased Adaptive Approach more directly addresses the threats we face and offers several distinct advantages. The approach utilizes existing and proven capabilities and matches the expected capabilities to the threat. It employs land- and sea-based missiles, radars, and defense systems provide the flexibility to upgrade, adjust, position, and reposition assets in a cost-effective manner as the threat evolves and our capabilities develop. In addition, the Phased Adaptive Approach would enable forward-based radars to augment missile defense coverage of the U.S. homeland and offers increased opportunities for allied participation and burden-sharing. Importantly, this Phased Adaptive Approach offers meaningful capability several years earlier than our most optimistic estimates for our initial approach.

We believe that the Phased Adaptive Approach will adequately protect our European allies and deployed forces, provide the best long-term approach to ballistic missile defense in Europe, and support applying appropriately modified Phased Adaptive Approaches in other key regions as outlined in the Ballistic Missile Defense Review Report.

We appreciate your consideration of the importance of the New START Treaty ratification and stand ready to fully implement the Phased Adaptive Approach for European Ballistic Missile Defense.

Your continued concern and support of our men and women in uniform is greatly appreciated.

Sincerely,

M.G. MULLEN,
Admiral, U.S. Navy.

Mr. KERRY. Admiral Mullen says:

We believe that the Phased Adaptive Approach will adequately protect our European allies and deployed forces, provide the best long-term approach to ballistic missile defense in Europe, and support applying appropriately modified Phased Adaptive Approaches in other key regions as outlined in the Ballistic Missile Defense Review Report.

They are the ones who requested to CARL LEVIN and others, the Joint Chiefs, combatant commanders.

Mr. KERRY. Mr. Chairman, let me say that, for better or worse, the way it works—and I think the Senator acknowledged this in his answer to my question—you do have to go back to the Generals and the Joint Staff and get a negotiation and there has to be an agreement. If it was changed further, we would have to come back and go through the entire process again, in order to review or do a new treaty because it would be a different treaty submitted to us.

Let me say, through the Chair, to my friend, that said, I want to clarify this is not the weight of the words that makes this complicated—and it is not. I am not trying to have it both ways and say the words are irrelevant, but therefore he is saying why don't you change them. But it is the process. It is what happens as a consequence, in terms of...
Chiefs and combatant commanders were deeply involved throughout the review process.

Mr. KYL. Mr. President, do I have the time?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KYL. I thought I had been recognized.

Mr. KYL. Let me jump in on a couple of points. First of all, it is in my opinion it is incoherent to suggest that the phased adaptive approach is superior to the ground-based or GBI approach. I know there are people in the military who came up here and testified that it was a good idea to do that. Secretary Gates himself said that. I believe, however, if one understood the debate fully, one would appreciate that this was also a political decision made by the President and influenced by other considerations.

This administration has never liked the GBI that the Bush administration developed. It is my opinion that the GBI is more effective than the phased adaptive approach, especially since the administration is not talking about deploying but merely having available the forth stage. But GBI is a more effective system.

We could have that debate, and I am happy to have that at another time. All I was trying to suggest is that the decision to remove GBI from the plan for Poland and substitute this other approach that is available at a later time, and, in my view, less effective, and also not have the GBI as a contingent backup until 2017, rather than 2015, were mistakes on our part at least, and at worst were decisions made to placate the Russians. That would not be a good thing.

I am simply trying to illustrate the fact that some believe that already in an effort to try to placate the Russians—maybe that is not the right word—cooperate in concert with their wishes—choose to characterize it however you wish—the United States has pulled its punches on missile defense. I don’t want that to happen.

With this construct, I am afraid that is the kind of influence they would bring to bear. I will ask my colleague a question. Do I understand the Senator to say that if the United States, for example, attaches understandings and conditions to this treaty, if the Senate were to ratify it, and if we make a change in the preamble, that the treaty does not go to the Russian Duma with those conditions or understandings and the change in the preamble but, rather, has to go back to some negotiating process? I thought the process was that the Russian Duma could add its own conditions or understandings and could either accept or reject the treaty as it came to them from the Senate.

Mr. KYL. Mr. President, the process is, it goes from us under any circumstances, if we have acted on it, to the Government of Russia. The Government of Russia makes the decision as to whether they are going to negotiate and whether it is a substantive kind of change they object to. They may refuse to put it to the Duma or they may want to renegotiate it. It opens it up to renegotiation. It is not automatic to send it to the Duma. They can sit on it.

Mr. KYL. I appreciate that clarification. I hope my colleague is not suggesting that, under no circumstances, would the United States negotiate a treaty, so that the other party to the treaty would have to, in effect—well, the Senate would never be able to change a treaty. Put it that way.

Mr. KYL. No, I agree. I already spoke to that. I said it is in the four corners of the treaty and has fundamental operative impact on us. I would say, OK, we have to go back and do it. That is not the case here. We are talking about an innocuous, nonbinding, and a recognized important thing reality that the administrations on both sides have already acknowledged. And Dr. Kissinger and others have said ignore the language, it is meaningless. It is simply a statement of the truth.

Mr. KYL. It is not true. If it is no more than that, I cannot imagine that it would be a treaty killer for the Russians unless there was something else afoot. And that something else—they deem it very important. Why? This is the legal grounds for them to withdraw from the treaty. That is the point.

This is precisely what Lavrov, the Foreign Minister, said. Linkage to missile defense stands out in the accord and is legally binding and they talked about their ability to withdraw under article XIV based upon the U.S. improvement of our missile defense qualitatively or quantitatively. That is why it is so important to the Russians.

I don’t know if it is a treaty killer because I think there is so much else in this treaty the Russians want, they are not likely to walk away from this if that language is eliminated. But I do think it is a linkage because it may be that they are trying—this is the first time they have been able to get their foot in the door and establish that linkage, even though in the preamble—not in the body, although they did put article V in there, they did not have it in the preamble. It is so important to them that it may be a problem for ratification on their side because then they would not have established this binding legal right to withdraw from the treaty.

Again, as Senator KERRY has pointed out, either side can make up a reason to withdraw from the treaty. But it is difficult for either side not to have a reason that is the whole point, and that is what they are creating here. The legal pretext is the United States developing a missile defense system that goes beyond what the Russians think it should vis-a-vis their strategic offensive capability. That is the whole point, and that is the reason for the amendment.

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

Mr. KYL. I have taken the time here, so I will yield the floor to Senators SESSIONS and KERRY, if they want to continue.

Mr. KERRY. I will yield too and Senator SESSIONS has been very patient. I would like to say two things, if I can, in closing, very quickly.

No. 1, the point that the Senator just made about the legal pretext for withdrawing from this treaty, let’s go back to the colloquy we had a few minutes ago. You do not need a legal pretext. You do not need anything except a judgment on your part there is an extraordinary circumstance that says you want to get out, and the extraordinary circumstance can be that you see your offensive weapons have been dramatically reduced in their impact by our defense. So they do not need a legal pretext. It has nothing to do with what the Senate has just suggested.

The final comment I would make is, perhaps the Senator and I—and I invite this one more time because I think we have moved enormously with the language we have in our resolution of ratification from Senator DeMint: We talked about it today exactly. I think it is an important statement. Perhaps the Senator and I can find some further way to include that in here so we are not taking the risk of what they might or might not do.

Neither of us have the ability to predict what their reaction will be. Although I think some people would be pretty clear about the fact that it would not be well received, it could be a serious issue for a lot of different reasons. So if we can avoid that, we have a responsibility to do that in the next day or two. I look forward to working with my colleague, and I thank him for the colloquy.

I yield the floor.

SIGNING AUTHORITY

Mr. KERRY. Mr. President, as if in legislative session and in morning business, I ask unanimous consent that Senator DURBIN be authorized to sign any dual-enrolled bills and joint resolutions during today’s session.

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

FURTHER CONTINUING APPROPRIATIONS, 2011

Mr. KERRY. Mr. President, as if in legislative session and in morning business, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 105, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.