and airmen who have laid down their lives defending our country. We also lift in prayer all those serving our country today, spreading freedom and democracy abroad. May God bless them and their families.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask I be permitted to take whatever time I may consume in my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

START

Mr. KYL. Mr. President, there are three things I would specifically like to address today. First, briefly, a matter of concern to the Senate, namely the ongoing negotiations between the United States and the Russian Federation on the so-called START follow-on. Specifically, I am concerned that the administration is heading toward a confrontation with the Senate that could easily be avoided.

I ask unanimous consent to have two letters printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. KYL. Mr. President, the first is one I sent as Administrative Co-Chairman of the successor to the Arms Control Observer Group—to Assistant Secretary of State Rose Gottemoeller, prior to her confirmation by the Senate. The second letter is the response that I received from her.

The response makes clear that Assistant Secretary Gottemoeller would regularly consult with Senate committees and the National Security Working Group. In fact, the response from Ambassador Michael Polt, the then-Acting Assistant Secretary of State for Legislative Affairs, quotes Ms. Gottemoeller in her confirmation hearing: ''For me, consultation is not a catch word. It is a commitment.''

The National Security Working Group was established to provide a forum for the administration, any administration, to meet with and consult with a bipartisan group of Senators concerning matters that the administration may seek to advance through the Senate, especially on matters requiring the Senate's advice and consent.

The value of this working group was also recognized in the recent final report of the Perry-Schlesinger Commission.

I remind the administration: this is advice and consent.

If the administration wants to have the Senate on board when it concludes the treaty negotiation process—for example, when and if it attempts to have a treaty ratified by this body, it would be prudent for the administration to live up to its commitments and ensure thorough consultation with the Senate so it is on board at the beginning of the process.

I hope that this is possible. I believe it still is, but the administration must reverse course quickly.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 1, 2009.

Hon. ROSE GOTTEMOELLER,
Assistant Secretary of State for Verification, Compliance and Implementation—Nominated, Department of State, Washington, DC.

DEAR MS. GOTTEMOELLER: Congratulations on your nomination to be Assistant Secretary of State for Verification, Compliance and Implementation. This is an extremely important position; if confirmed, you will be the point person on matters with the greatest impact on the national security of the United States.

I was reassured by your response to Senator Lugar during the Foreign Relations Committee hearing on your nomination regarding your familiarity with the historical role played by the Arms Control Observer Group, now known as the National Security Working Group (NSWG), which, as you know, has the responsibility—by Senate Resolution—to support the Senate's advice and consent role by understanding in real time the Administration's negotiation positions on arms control matters and providing the Administration with feedback as to the perspective of Senators on those positions.

As Senator Lugar noted, the Arms Control Observer Group was created at the behest of President Reagan, who understood that it was vital for the Senate to be well-versed in ongoing negotiations—in that case, on arms control treaties—from the very beginning, so that it would be more likely the Administration could negotiate a treaty that the Senate would be able to support and ratify.

As you know, the National Security Working Group has been given the responsibility, on behalf of the Senate, to ''act as official observers on the United States delegation to any formal negotiations to which the United States is a party on the reduction of nuclear, conventional, or chemical arms.'' In the past, it has been helpful for the Administration to provide regular briefings to the Members and designated staff of the Arms Control Observer Group throughout the formal and informal negotiation process.

In reviewing your response to Senator Lugar, it is clear to me that you understand the statutory and historical role of this Senate body. As an Administrative Co-Chairman of the National Security Working Group, I look forward to ensuring that this productive relationship between the Administration and the Senate continues.

I agree with Senator Lugar that this will be all the more important this year. In fact, in view of the commitment of Presidents Obama and Medvedev to reach an agreed draft on the next START treaty well in advance of the December 5th expiration of the current START treaty, we should probably begin briefings and consultation between the Administration and NSWG soon.

I hope you could begin discussing these matters with the NSWG Members and staff immediately upon your confirmation.

Sincerely,

JON KYL,
United States Senator.

DEPARTMENT OF STATE,
Washington, DC, April 2, 2009.

Hon. JON KYL,
U.S. Senate.

DEAR SENATOR KYL: Thank you for your letter of April 1 to Rose Gottemoeller, the President's nominee for Assistant Secretary of State for Verification and Compliance, regarding the importance of consultation with the Congress and the National Security Working Group.

In Ms. Gottemoeller's testimony on March 26 before the Senate Foreign Relations Committee, she quoted a phrase from Secretary of State Clinton's statement before the Committee. She said, ''For me, consultation is not a catch word. It is a commitment.'' Ms. Gottemoeller fully shares the Secretary's commitment.

If she is confirmed by the Senate, Ms. Gottemoeller would be working with the Congress as a partner in addressing our national security challenges. She would provide regular and complete briefings to the Senate Foreign Relations Committee, the Armed Services Committee, the Select Committee on Intelligence, the National Security Working Group, and other relevant and interested organizations.

We expect the future Assistant Secretary to engage in a dynamic consultation process with you and others in the Congress on the key national security issues in the Bureau's portfolio, including the follow-on to the Strategic Arms Reduction Treaty.

Sincerely,

MICHAEL C. POLT,
Acting Assistant Secretary, Legislative Affairs.

COMMISSION ON STRATEGIC POSTURE

Mr. KYL. Mr. President, the next matter I wish to address is a follow-on also to the bipartisan Commission on the Strategic Posture of the United States. I called it the Perry-Schlesinger Commission a moment ago. As part of the 2008 National Defense Authorization Act, Congress created this bipartisan Commission and charged the Commission of six Democrats and six Republicans to assess the needs of the United States with regard to nuclear weapons and missile defense and asked that it make recommendations regarding the role each should play in the Nation's defense.

As its Chair and Vice-Chair, former Secretary of Defense for President Clinton, William Perry, and former Secretary of Defense for Defense and Energy for Presidents Nixon, Ford and Carter, James Schlesinger, respectively, stated in testimony to the House and Senate Armed Services Committees, the Congress wanted the Commission to reach a bipartisan consensus on its recommendations and

findings to provide a roadmap for action by the administration and Congress.

The final report issued by the Commission on May 6th did that to a remarkable degree.

In fact, the Commission reached bipartisan consensus on all but one issue, the merit of the Comprehensive Test Ban Treaty, which this body rejected 10 years ago.

It now falls to the administration and the Congress to act on the findings and recommendations of the Commission. And the recommendations come at a propitious time because the administration and Congress have been following a course significantly at odds with the Commission's findings.

It is not too late for the President to change course and pursue the bipartisan recommendations of this esteemed panel to recreate the basic building blocks of the U.S. strategic deterrent.

First, let me discuss the Commission's recommendations. The unifying theme of the Commission on the Strategic Posture was a simple one: nuclear weapons will be needed to guarantee U.S. national security—and that of our allies—for the indefinite future.

There has been a great deal written about ways the U.S. should lead the world toward the elimination of nuclear weapons.

The President himself has endorsed this goal.

The Commission, however, urged caution:

[t]he conditions that might make the elimination of nuclear weapons possible are not present today and establishing such conditions would require a fundamental transformation of the world political order.

It necessarily follows that if the United States needs to possess nuclear weapons for the foreseeable future, it needs a safe, reliable and credible nuclear deterrent.

As the Commission stated:

[t]he United States requires a stockpile of nuclear weapons that is safe, secure, and reliable, and whose threatened use in military conflict would be credible.

However, the Commission issued ominous warnings about the current state of our weapons, and the programs to extend their life, stating:

The life extension program has to date been effective in dealing with the problem of modernizing the arsenal. But it is becoming increasingly difficult to continue within the constraints of a rigid adherence to original materials and design as the stockpile continues to age.

Of course, this is not breaking news. Those with responsibility for the safety and reliability of our nuclear weapons have been issuing similar, and, in some cases, more dire, warnings.

For example, Secretary Gates stated in his October 2008 speech at the Carnegie Endowment:

[L]et me first say very clearly that our weapons are safe, reliable and secure. The problem is the long-term prognosis, which I would characterize as bleak.

He went on:

[A]t a certain point, it will become impossible to keep extending the life of our arsenal, especially in light of our testing moratorium.

Add to this the warnings of our lab directors, like Director Michael Anastasio at the Los Alamos National Lab who said in open testimony last April:

[T]he weapons in the stockpile are not static. The chemical and radiation processes inside the nuclear physics package induce material changes that limit weapon lifetimes. We are seeing significant changes that are discussed in detail in my Annual Assessment letter.

Sadly, these warnings have fallen on the deaf ears of Congress, which has killed, with next to no debate, even the most restrained modernization programs and has even been underfunding the tools by which we maintain the weapons we have.

As Director Anastasio said in that same testimony:

At the same time, there are ever-increasing standards imposed by environmental management, safety, and security requirements driving up the costs of the overall infrastructure. When coupled with a very constrained budget, the overall effect is exacerbated, restricting and, in some cases eliminating, our use of experimental tools across the complex. This puts at risk the fundamental premise of Stockpile Stewardship.

That is a profound statement. Stockpile stewardship was the promise made—the bargain, so to speak—when Congress imposed the testing moratorium in the early 1990s and then again when President Clinton urged ratification of the Comprehensive Test Ban Treaty.

We were told testing wasn't necessary because we would undertake a robust science-based stockpile stewardship program. But, as the Commission recognized, it isn't adequately funded. In fact, inadequate funding is now a recurring theme for the U.S. nuclear weapons enterprise. Director Anastasio warned last year that, at least regarding Los Alamos, the purchasing power of his laboratory has declined by more than half a billion dollars over the last 5 years and that according to preliminary planning—of the kind reflected in the President's budget for fiscal year 2010—the next 5 years will see a further erosion of about another $400 million. These are significant cuts.

Perhaps the most troubling impact of these budgets is the human capital, the scientists, engineers and technicians who possess skills and experience that can't be replaced.

In an understated fashion, the Commission warned that the ''intellectual infrastructure is also in serious trouble'' and that budget trends show further workforce elimination is imminent.

Secretary Gates expressed his concern about the nuclear weapons workforce this way:

The U.S. is experiencing a serious brain drain in the loss of veteran nuclear weapons designers and technicians. Since the mid-1990s, the National Nuclear Security Administration has lost more than a quarter of its workforce. Half of our nuclear lab scientists are over 50 years old, and many of those under 50 have had limited or no involvement in the design and development of a nuclear weapon. By some estimates, within the next several years, three-quarters of the workforce in nuclear engineering and at the national laboratories will reach retirement age.

This is playing out today on the newspaper pages: just look at the May 29 Los Angeles Times report on delays in the Lifetime Extension Program for the W76 warhead, the submarine-based mainstay of America's nuclear deterrent.

The L.A. Times reported:

At issue with the W76, at least in part, is a classified component that was used in the original weapons but that engineers and scientists at the Energy Department's plant in Oak Ridge, Tennessee, would not duplicate in a series of efforts over the last several years.

As Philip Coyle, a former deputy director of the Livermore Lab, stated in this article:

I don't know how this happened that we forgot how to make fogbank, it should not have happened, but it did.

Related to the safety and reliability of our nuclear weapons stockpile, said the Commission, is the design and size of the nuclear force itself. On this point, it is not only U.S. security that is threatened, so is the security of the 30 or so friendly and allied nations that rely on the so-called U.S. extended deterrent, aka the nuclear umbrella.

As Secretary Schlesinger explained at the Senate Armed Services Committee on Thursday, May 7th:

The requirements for Extended Deterrence still remain at the heart of the design of the U.S. nuclear posture.

While this may seem like an onerous responsibility for the United States, it is one, Secretary Schlesinger explained, we must continue to pay, because ''extended deterrence remains a major barrier to proliferation.''

And restraining proliferation is definitely a top national security interest of the United States.

In essence, what this means is, numbers matter. We cannot just reduce the numbers of our weapons to some arbitrary number, like 1,500 or 1,000, significant only because they end with zeroes, we must have a nuclear arsenal sufficient to cover both the U.S. and the allies who rely on us. And if we do not, our allies could conclude they need to develop their own.

The Commission also recognized that specific platforms matter; this is why the Commission stated that the triad, the submarines, bombers, and ICBMs, must be retained as well as other delivery systems, such as our nuclear-capable cruise missiles, which are of interest to key allies in strategically vital areas of the world.

It is my hope that the administration and Congress will take these findings and recommendations seriously.

We owe the Commissioners a debt of gratitude for their service. The best

way to show our gratitude is by listening to them and charting our course based on where they revealed consensus is possible.

Will Congress and the administration heed the Commission's bipartisan findings and recommendations?

I am fearful that that will not be the case. Why do I say that?

It appears the administration is preparing to take big risks in the negotiation of a START follow-on treaty with Russia.

Specifically, the President announced at his G–20 meeting with Russian President Medvedev that he intends to seek a START follow-on treaty that moves below the lower level of strategic nuclear forces permitted by the Moscow Treaty.

Some press reports suggest that administration is seeking to go as low as 1,500 deployed strategic nuclear weapons, or about a 30-percent reduction from present levels.

I am not going to prejudge the correct number of nuclear forces for the U.S.

I will, however, say that I agree with the Commission, which referred to the ''complex decision-making'' process involved in determining the size of the U.S. nuclear force.

What this means is that careful and rigorous analysis is needed before pursuing reductions below Moscow levels.

Congress has ordered just this analysis in the form of a Quadrennial Defense Review and Nuclear Posture Review.

But there is every indication that our arms control negotiators are working off of some other kind of analysis.

Presumably, the next NPR would then have to conclude that the level agreed to in a START follow-on is the right number.

This is like writing the test to suit what the test taker knows, and not what the test taker should know.

The last NPR looked at the world as it stood in 2001 and its recommendations resulted in reductions of U.S. nuclear forces to approximately 2,200 strategic nuclear weapons.

Is the world more or less safe than in 2001? Is Russia more or less aggressive that it was then? Is Pakistan a more or less significant threat? Is Iran closer to a nuclear weapon? How many more nuclear weapons has China built since 2001?

These are all questions that must be answered.

And the needs of our allies must be understood in this threat context. They are similarly concerned about the size of our deterrent, as I noted before.

We must engage in consultations with each of them about what U.S. nuclear force posture assures them of their security, not what we think should assure them.

And we must understand what threats they need to deter for their security. We must understand whether they are concerned about Russia's tactical nuclear weapons, which Russia insists absolutely cannot be discussed.

If so, how do further U.S. strategic nuclear reductions affect the balance of forces between the hundreds of tactical nuclear weapons the U.S. possesses versus the several thousands of tactical nuclear weapons Russia possesses?

Equally concerning is the fact that the cart appears to be before the horse. And by that I mean, it appears we may be presented with a START follow-on that compels a new nuclear posture, with significant reductions, but does not explain how that posture will be supported.

What kind of modernization program will be undertaken to support the requirement articulated by the Commission that the U.S. maintain a safe and reliable deterrent for so long as one is necessary? And what about the Manhattan Project-era complex of physical infrastructure that sustains it—what will be done to modernize it?

It is unclear how we can safely put further reductions ahead of long overdue modernization. All of this argues for slowing down and taking a breath.

The START Treaty of 1991 expires early this December. I agree with those who say that the verification and confidence building elements of that treaty are too important to allow to expire. It is also significant that that treaty's provisions undergird the Moscow Treaty.

So why not simply negotiate a 1- or 2-year extension to permit time to perform the complex analyses that are involved in appropriately sizing the U.S. nuclear force posture?

At the same time, the administration could devise a plan for the modernization of our nuclear weapons and the complex which supports it.

Otherwise, the administration will be asking the Senate to ratify a START follow-on that may include significant strategic arms reductions, which compels serious and lengthy review based on the panoply of issues the Commission addressed, without the necessary modernization plan, which, in light of the fiscal year 2010 budget request, would have to be included in the fiscal year 2011 budget request that will not be submitted to the Congress until February of 2010.

So the administration either needs to slow down on this ambitious START follow-on, move forward on a follow-on that only deals with the necessary issues, or submit an amended budget request that reflects modernization programs recommended by the last administration, such as the NNSA complex transformation, which the Commission endorsed, and RRW.

In fact, with or without nuclear weapons reductions, this is a critical exercise.

We maintain a significant nondeployed reserve of nuclear weapons today because we are concerned about the reliability of our aging weapons, the last of which was designed in the 1980s and built in the 1990s and we have no viable production capability.

We worry about the failure of a weapon that could affect an entire class of weapons, possibly knocking out a leg of the triad.

We worry about this because the weapons are old and we have do not have the capacity to respond quickly to a significant failing in these weapons because of the age and obsolescence of the nuclear weapons complex.

Additionally, because of the ancient state of much of the nuclear weapons complex, we must also be worried about the danger of a strategic surprise, put another way, a new global threat.

If a new threat emerged, a real prospect given the instability in Pakistan and North Korea's proliferation to Syria, we do not presently have the capacity to quickly build up our stockpile or develop a nuclear weapon capable of dealing with the threat.

So, we maintain many more nuclear weapons than necessary.

A modernization program for our stockpile and infrastructure would permit the administration to pursue all of its objectives now, including reducing the number of warheads.

The administration should fund the NNSA transformation plan, which would allow us to build a smaller, more efficient, and modern laboratory and production infrastructure, and finally replace the Manhattan Project-era facilities we are currently spending so much money to maintain. In fact, the NNSA complex transformation plan was specifically endorsed by the Commission.

It can pick up and fund the Reliable Replacement Warhead studies, which would, for the first time since the 1980s, put our weapons designers to work on a modern warhead for the U.S. stockpile.

But it must move forward now.

Unfortunately, the budget the administration just put forward does not recognize the critical state of affairs in our nuclear weapons enterprise.

It not only does nothing to modernize our weapons, it continues the neglect of the Stockpile Stewardship Program and the basic science and engineering that supports it.

Specifically, the science campaign, the science in science-based stockpile stewardship, continues to be underfunded in the President's fiscal year 2010 budget request. Worse yet, according to the projections in the President's budget, the underfunding of the science in Stockpile Stewardship will actually be accelerated between fiscal year 2011 and fiscal year 2014.

The impact of these cuts to the science campaign can also be seen in the continued cuts in the funding requested for the laboratories to use the Stockpile Stewardship Program, SSP, tools, including the DAHRT facility, which is essentially a big x-ray used to study what goes on in a nuclear weapon at the earliest stages of criticality, without actually producing nuclear yield.

Another example is the advanced computing program, the use of which this budget continues to underfund.

The budget for the engineering campaign, which develops capabilities to improve the safety and reliability of the stockpile, is kept at the fiscal year 2009 level, which is a reduction from the fiscal year 2008 level. Again, between fiscal year 2011–2014, the engineering campaign budget is cut, and it is cut more significantly than the science campaign budget.

The effect of the administration's budget is to continue, and even accelerate, the brain drain at the labs.

The Commission is not alone in warning about the effects of this brain drain.

The recent Los Angeles Times article was based off of, in part, a recent GAO study that pointed out that the lifetime extension programs on the W–76 and the B–61 were in some cases affected by the fact that we have forgotten some of the key processes involved in building our nuclear weapons.

The administration would also be wise to consider that there was bipartisan consensus on every aspect of the Commission's report save one, the CTBT.

The administration has said that it intends to push hard to get the Senate to ratify this treaty, even though the Senate has already rejected it once, by a significant margin.

I know of no information that suggests that the matters that led the Senate to reject the treaty have changed for the better. In some respects, like the deteriorating condition of our strategic deterrent, they have gotten worse.

Lastly, it is worth pointing out that the Commission articulated real dangers from nuclear terrorism and the ''tipping point'' of a proliferation cascade on which we are now perilously perched thanks to the impotent response of the world community to the illegal Iranian and North Korean nuclear weapons programs.

The President also recognized this threat in recent remarks in Prague when he stated: ''in a strange turn of history, the threat of global nuclear war has gone down, but the risk of a nuclear attack has gone up.''

I think that is exactly right.

My concern is the initial steps the President has chosen to deal with this threat, the threat also identified by the Commission, are not at all tailored to provide a solution to these grave threats.

It is important to ensure the verification measures of START do not expire, but that treaty would not deal with the threat of terrorists obtaining nuclear weapons technology or material.

Likewise, CTBT, a bad idea shrouded in good intentions, would not even be capable of detecting political tantrums like the North Korean test, even when the international monitoring system is told where and when to look.

Yet, these are the measures the administration has chosen to spend its capital on.

I urge the administration to look for areas to work with the Congress: globalizing the Nunn-Lugar program, dealing with the threat posed by the spread of civilian nuclear technology, strengthening our nuclear intelligence, attribution and forensic capabilities to name a few.

Mr. President, the Commission on the Strategic Posture, led by two of our most esteemed experts on U.S. national security, has just completed more than a year-long review of the role that nuclear weapons play in our national security.

The 12 Commissioners have done what no one thought was possible: they have found a bipartisan consensus.

They have presented their findings and recommendations to the President and the Congress.

It now becomes our turn, the elected political leaders, to take the fruit of the Commission's labor and move forward on the necessary and long overdue steps these experts have deemed necessary, regardless of party affiliation, to protect the American people.

GUANTANAMO BAY

Mr. KYL. Mr. President, finally, I wish to refer to a debate that occurred on the floor, I believe it was last Thursday, following remarks of the distinguished minority leader and concerning remarks made by the assistant majority leader. This has to do with Guantanamo Bay, the prison there, and the people whom we have kept in prison there.

I want to specifically address the chorus of false claims and insinuations about that facility, noting it has grown louder, in tandem, I suspect, with growing American opposition to closing the facility and bringing the terrorists to U.S. soil.

A majority of Americans now oppose the closure of Guantanamo. This is according to a USA Today poll of June 2. This is by a margin of 2 to 1. Many of the arguments we have heard recently to dissuade them, frankly, give off more heat than light.

My friend and colleague, the majority whip, recently gave a speech in which he claimed arguments opposing the closure of the prison at Guantanamo made by Senator MCCONNELL and others are ''based on fear.'' I contend these arguments are based on concerns about both the safety of Americans and the logistical obstacles to closing the facility.

Last month, before the House Judiciary Committee, FBI Director Robert Mueller testified that transferring the remaining Guantanamo detainees to U.S. prisons—even maximum security prisons—would entail serious security risks. He said this: ''The concerns we have about individuals who may support terrorism being in the United States run from concerns about providing financing, radicalizing others,'' as well as ''the potential for individuals undertaking attacks in the United States.''

The Guantanamo facility is separated from American communities. It is well protected from the threat of a terrorist attack. No one has ever escaped from Guantanamo.

Why should we feel pressure to support President Obama's arbitrary deadline to close the facility when the administration has yet to offer a plan about where to relocate the terrorists and where, I would submit, a case has not been made for closing this facility and locating those prisoners elsewhere? In fact, other countries have told us they do not want them, with the exception of France, which offered to take one prisoner. And a new June 2 USA Today poll, which I talked about before, shows that Americans, by a measure of 3 to 1, reject bringing those terrorists to the United States.

In his speech, Senator DURBIN also made reference to the ''torture of prisoners held by the United States'' and the ''treatment of some prisoners at Guantanamo.''

Regarding the treatment of Guantanamo detainees, I think the record needs to reflect the following: The living conditions at the facility are safe and humane. This is a $200 million state-of-the-art facility that meets or exceeds standards of modern prison facilities. Following his February tour of Guantanamo, Attorney General Holder said:

> I did not witness any mistreatment of prisoners. I think, to the contrary, what I saw was a very conscious attempt by these guards to conduct themselves in an appropriate way.

Numerous international delegations and government officials from dozens of countries have likewise visited the facility. During a 2006 inspection by the Organization for Security Cooperation in Europe, a Belgian representative said:

> At the level of the detention facilities, it is a model prison, where people are better treated than in Belgian prisons.

Detainees get to exercise regularly, receive culturally and religiously appropriate meals three times a day, and access to mail and a library. Additionally, the International Committee of the Red Cross has unfettered access to the detainees. They have met all detainees in private sessions and routinely consult with the United States on its detention operations.

The facility provides outstanding medical care to every detainee. In 2005, the military completed a new camp hospital to treat detainees, who have now received hundreds of surgeries and thousands of dental procedures and vaccinations. So this idea that the prisoners are treated badly is patently false.

The insinuation—directly or indirectly—that torture has occurred at