

defense amendment, and that amendment is now going to be cosponsored by Senator LIEBERMAN and Senator MCCAIN. So if the Senator from Tennessee wants to talk about that amendment, we are prepared to accept it. I think we should have the discussion of that amendment at this point in time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to at this moment ask unanimous consent to change the name of the amendment to MCCAIN-LIEBERMAN-CORKER.

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

Mr. CORKER. I would also ask unanimous consent to add Senators JOHANNIS, LEVIN, and BAYH as cosponsors.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. No objection.

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

AMENDMENT NO. 4904, AS FURTHER MODIFIED

Mr. CORKER. Mr. President, I would send to the desk the amendment, as modified, and as I understand it, this has been accepted by both sides.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing no objection, the amendment is modified.

The amendment, as further modified, is as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation, that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense System, and the continued development of the Two-stage Ground-based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

At the end of subsection (b)(1)(C), strike “United States.” and insert the following: “United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the parties.

Mr. KERRY. Mr. President, I would ask, before we proceed on that—because Senator KYL is now here, so we

could quickly accept his amendment and dispose of that—I ask unanimous consent that we call up Kyl amendment No. 4892, as modified—as additionally modified.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

Mr. KERRY. Objection.

The PRESIDING OFFICER. Objection is heard.

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

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

AMENDMENT NO. 4892, AS FURTHER MODIFIED

Mr. KERRY. Mr. President, I believe at the desk now is the Kyl amendment, as modified.

I am sorry about the confusion. Mr. President, I ask unanimous consent that we be able to immediately proceed to the Kyl amendment. We will come right back to the Corker amendment, but I ask unanimous consent to proceed to the Kyl amendment, as modified, with the modification that has been submitted at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4892), as further modified, is as follows:

At the end of subsection (a), add the following:

(1) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate to the extent possible the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding, including on a multi-year basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

Mr. KERRY. Mr. President, I believe Senator KYL wishes to say something.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will comment more when I make my concluding comments, but what we have just done is to agree to provide a mechanism for the President to certify a way forward to fund the two large facilities that are part of the nuclear weapons complex in a way that we hope will provide for the most efficient way to build these facilities and to get them constructed as rapidly as possible.

The result of this is that, potentially, we could save hundreds of millions of dollars and construct the facilities at

an earlier date than was originally intended. But to be clear, nothing in this amendment reduces the President's decisionmaking or flexibility. It remains his decision as to how the funding is requested and when it is requested.

Mr. KERRY. Mr. President, I agree with the comments of the Senator. It does leave the President that important ability, but it also puts the question of whether this is a way that is more efficient. It is something we should be looking at, and the President intends to look at it. We will accept this amendment.

Mr. President, I don't think there is further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4892), as further modified, was agreed to.

AMENDMENT NO. 4904

Mr. KERRY. Mr. President, I thank Senator KYL and the Chair, and now, Mr. President, I believe the Corker amendment is the pending business.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to again say that we have asked by unanimous consent to change this to be the MCCAIN-LIEBERMAN-CORKER amendment, and we have also added Senators ALEXANDER, BROWN of Massachusetts, MURKOWSKI, JOHANNIS, LEVIN, and BAYH as cosponsors.

As a matter of tremendous respect and courtesy, I think it would be best for Senator MCCAIN to be the first speaker on this amendment that he was very involved in developing.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on behalf of myself, Senators LIEBERMAN, and Senator CORKER, I have an amendment at the desk and ask for its immediate consideration.

Mr. KERRY. Mr. President, reserving—I believe the Senator is referring to the amendment that is pending?

Mr. CORKER. That is correct.

Mr. KERRY. It is the pending amendment.

Mr. MCCAIN. First of all, it is probably not too relevant, but I would like to say that this should have been the Lieberman-Corker-McCain or Corker-Lieberman-McCain amendment because of the distribution of effort that has been made on this amendment. Be that as it may, I think this amendment makes some improvement that will be very helpful.

It has two parts. The first requires the President to certify that we do not recognize Russia's argument that the treaty can only be effective and viable only in conditions where the United States is not building up its missile defenses. The statement would also be transmitted to the Russians when the instruments of ratification are exchanged. Second, the amendment would include in the instrument an understanding that the preamble is not legally binding.

I think this is a helpful amendment, and I appreciate that it could be included by the Senator from Massachusetts, but ultimately it does not address my concerns that the Russians believe the treaty could be used to limit our missile defense. We should have removed this clause from the preamble.

The message sent by the first part of this amendment is positive, but it is not conveyed to the Duma. When we look at the fact—I understand why the proponents of this treaty would not want to transmit this aspect of the treaty to the Duma for fear of some backlash and perhaps problems in the Russian Duma, although it is not a body that is renowned for its independence, to say the least. The fact is, it will not be transmitted to the Duma. The fact is, if the Russians and the United States agreed to a treaty and a part of that treaty was not transmitted to the Senate, I think that would be something to which most of us would take strong exception.

I thank Senator CORKER. He has worked extremely hard on this issue. JOE LIEBERMAN has worked extremely hard, trying to reach a point, obviously, that they could agree to support this treaty. Whether they eventually do or not is something that I neither know nor would predict, but I do think it shows some improvement. I still have various concerns, as I have had from the beginning, on the issue of defensive missile systems, how it would play, whether it is actually part of the treaty and, if so, how enforceable.

What complicates this more than anything else is the continued statements, public statements on American television a short time ago—Vladimir Putin saying that if we move forward with improving our missile defenses, they would take “appropriate actions.” Their Foreign Minister has made repeated statements—not last year but last month—saying one thing and publicly declaring it while on the other hand we are assuming this will prevent them from doing what they say they will do. That is a contradiction.

I understand how solemn treaties are, and I understand how binding treaties are. I also understand that when the leader of a nation says on “Larry King Live”—God bless you, Larry, for everything you did for us—that they will have to take “appropriate actions” if we improve quantitatively or qualitatively our strategic missile defense systems, then obviously you have to give some credence to that, when public statements are made. Obviously, in the view of Senator KERRY, who has done a masterful job in shepherding this treaty through the Senate in the last several days, that is not that meaningful. So we just have a fundamental disagreement of opinion. But I can say this: If we negotiated a treaty and made certain agreements and the President of the United States made public statements on national or international television contradicting that,

then I think it would give the party we are in negotiations with significant pause.

Not one statement that I have been able to find has a Russian leader—either Foreign Minister, Defense Minister, or Prime Minister or President—saying they will adhere to the provisions that are in this amendment. That is a fundamental contradiction that I am sorry cannot be resolved.

I know what the votes are going to be on this treaty. Again, I congratulate Senator KERRY for the incredible job he has done and, frankly, his great willingness to talk with me and negotiate with me and have dialog and work toward a common goal. He has done that in good faith, and I am grateful for the opportunity he has given me to play a role, including agreeing to this amendment which I think will improve the treaty.

I wish to say that I know how difficult this has been for Senator CORKER and other Members on this side.

I thank Senator LIEBERMAN for the continued hard work he does on this issue.

I urge my colleagues to support this amendment. I think it is very helpful.

With that, I yield to my colleagues, cosponsors of the amendment, if that is agreeable to Senator KERRY.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, Senator CORKER and I had a vote—actually, Senator CORKER, Senator MCCAIN, and I had a vote on whose name should be first on this, and Senator CORKER and I won, 2 to 1. Senator MCCAIN's name is first because this is an amendment that attempts to deal in a unifying way with our concern that the Russians misunderstand the impact of this treaty or the impact of our development of missile defenses on this treaty and that it is important for us to speak out in unity, in a unified and clear voice, to the Russians, and no one has made that point more clearly as the treaty has been considered than Senator MCCAIN. In fact, he offered an amendment earlier in our deliberations on the treaty which I supported, which did not pass, which would have removed the section of the preamble that has obviously been put in by the Russians in the negotiations which is confusing at best and downright mischievous at worst.

This is the section that 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 the viability and effectiveness of the strategic offensive arms of the Parties.

That is the end of the quote from the preamble. It strikes me as I read it that it will be a topic of consideration in law schools and classes on international law. The first question is, What did it mean? But I think the Russians had a particular intent in putting

it in there, and they know what they wanted it to mean.

What is troubling is that when the treaty was signed earlier in the year in Prague, the Russian Federation issued a statement that basically made these same points—that the treaty will be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America.

But these are two separate categories. This treaty, the START treaty, is all about reducing the offensive capabilities, nuclear and delivery capabilities of both great powers. We are building a missile defense system. It started out as a very controversial matter. It started out a long time ago—President Reagan, really, initially, and then serious consideration in the 1990s when a lot of people argued against it and said it was a waste of money and it would never work technologically, that you couldn't create a bullet that would hit a bullet. Yet that is exactly what we have done. Thank God that we invested the money and that our scientists and military leaders have brought it as far as it is because one of the great threats that will face the people of the United States, our national security, will come from missiles carrying weapons of mass destruction fired particularly by rogue nations such as Iran and North Korea. It would be irresponsible of us not to have developed a capacity to defend against those kinds of missile attacks. We have done that.

The Russians keep wanting to link that to this treaty. It is not linked to the treaty. Therefore, I regretted that section was in the preamble I read. The United States responded through the State Department to that statement by the Russian Government when they signed the treaty. But it is really important for us, at the same time the instruments of ratification are conveyed to the Russian Government, to make a clear and direct statement of our understanding of the total nonrelationship between the development of our missile defense capability and the START treaty.

That is what this amendment does. I am privileged to cosponsor it with Senator MCCAIN, Senator CORKER, and a number of other Members of both parties. Basically, it says that before the New START treaty could enter into force, the President shall certify to the Senate—basically, this is certifying what the President said in a letter sent to Senator REID a few days ago—and at the time of the exchange of instruments of ratification shall communicate directly to the Russian Federation that, No. 1, we are going to continue development and deployment of a missile defense system to defend against missile threats from nations such as—and I would add “not limited to”—North Korea and Iran.

No. 2, what do we mean by qualitative and quantitative improvement

of such systems that we are going to be continuing? This is very important. We define that here to include all phases of the phased adaptive approach to missile defenses in Europe embraced now by our NATO allies; second, the modernization of the ground-based mid-course defense system; and third, the continued development of the two-stage ground-based interceptor as a technological and strategic hedge.

We are being as direct as we can be here to the Russians. Some of my colleagues have said—and the record, unfortunately, shows it—that their record for complying with treaties is not a good one. We don't want to enter into this one with any misunderstandings or covering up the truth. We are saying here loudly and clearly that the United States is going to continue to develop all of these different forms of missile defense to protect our security and that has nothing to do with this START treaty.

I think the third section here is very important. We say:

The U.S. believes that these systems [missile defense systems] do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the U.S. cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the [START] Treaty—

Which is the section that gives nations the right to withdraw under extraordinary circumstances—nonetheless, if we adopt this, when we adopt it, this amendment, we are saying here:

The United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the treaty.

We are trying to manage our relationship with the Russian Federation in a way that is conducive to the security of our country and the security of the world.

We disagree with the Russians on an awful lot of things, including human rights and values and freedom of the press—which the current government in Russia has so aggressively suppressed. So we want to be honest with them and direct with them and not enter into this important treaty with any illusions. I believe we have said that clearly. If it passes, it will be presented to the Russian Government directly.

I am very pleased we have a broad, bipartisan group supporting this. It is a unified way to conclude our deliberations here before we go to vote on ratification, and I urge my colleagues to support the amendment.

I thank the Chair and yield the floor to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent to add Senator BEGICH as a cosponsor.

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

Mr. CORKER. Mr. President, I am thrilled to join with Senator MCCAIN and Senator LIEBERMAN in an amendment dealing with missile defense. This is a subject that has been discussed ever since this treaty was first presented.

I cannot think of a better way to end this debate. I thank Senator KERRY for having the patience of Job, having worked through this. Somebody mentioned deals and where they have been taking place. They have been taking place on the Senate floor. We have been working on this for a long time. We have gone through intelligence briefings. We have gone through incredible numbers of hearings. I think this has been done exactly in the right way.

I thank the Senator for his leadership. I thank Senator LUGAR for his leadership on nuclear armaments in general. The Senator has been pursuing that for years.

So we have before us an amendment on missile defense. Again, it has been discussed in great detail. This says three things. Senator LIEBERMAN certainly talked about much of the detail, but the President the other day sent us a letter declaring, in very strident ways, his commitment to both the phased-adaptive approach to missile defense, which will take place in Europe, and our ground-based interceptors. He has said that absolutely in strident terms.

What this amendment does is certifies to Congress—he certifies to Congress—that he is going to continue those efforts. He will continue those efforts on phased-adaptive approach and ground-based interceptors.

Second, we have been concerned about what Russia thinks as it relates to this treaty. When we exchange the instruments of ratification, when we exchange the documents when ratifying this treaty, they are going to be told that we, in fact, are continuing to pursue our missile defenses in every way possible, and that in no way affects our relationship from that standpoint as it relates to this treaty. I think that is incredibly strong.

Then, third, we have talked about this preamble, and every one of us knows the preamble is nonbinding. But as an understanding of this treaty going forward, we are telling the Russians that the preamble absolutely is not binding and that we are pursuing these missile defense applications that have been discussed. I am proud to join with Senator MCCAIN, with Senator LIEBERMAN, two people who care as deeply about our national security as anybody in the United States, certainly in this Senate. I am proud to have the other Members of the Senate who have joined in.

Let me just say in closing, I think it is absolutely appropriate that the last two amendments we address are the Kyl amendment which deals with modernization—the President has made incredible investments in modernization that have come about through this en-

tire process, a commitment to ensure that the nuclear arsenal we have is one that operates, that is reliable, that is safe.

I think people know we have 1,550 deployed warheads—after this treaty goes into effect, over a long period of time, we reduce to that number, but that we have roughly 3,500 other warheads that, again, will continue to be modernized and made available, if necessary.

So I want to say that in accepting the Kyl amendment and all of the things that have come with it—the letter from the appropriators and accepting this missile defense amendment—if that ends up being the case, and I hope it will be by unanimous consent shortly, I think what we have done throughout this entire process has strengthened our country's national security.

I can say: Look, this is called the New START, but I could call this the Missile Defense and Nuclear Modernization Act of 2010 because all of these things have come into play to make our country safer. I want to thank the chairman. I want to thank the administration for walking through, over the last 6 months, and helping us cross t's and dot i's. I think this treaty is good for our country. I think this treaty enhances our national security. I thank the chairman for the way he has worked with us to get it into that position, certainly Senators MCCAIN and LIEBERMAN for helping take the lead on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 4922 TO AMENDMENT NO. 4904

Mr. KIRK. Mr. President, I have a second-degree amendment at the desk, No. 4922.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. KIRK] proposes an amendment numbered 4922 to Amendment No. 4904.

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

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

The amendment is as follows:

(Purpose: To provide an additional understanding regarding the December 18, 2010, letter from President Obama to the Senate regarding missile defense)

On page 2, after line 19, add the following:

(2) MISSILE DEFENSE.—It is the understanding of the United States that the advice and consent of the Senate to the New START Treaty is subject to the understanding, which shall be transmitted to the Russian Federation at the time of the exchange of instruments of ratification, stated in the letter transmitted by President Barack Obama to the Majority Leader of the United States Senate on December 18, 2010, the text of which is as follows:

THE WHITE HOUSE,

Washington, December 18, 2010.

Hon. HARRY M. REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR SENATOR REID: As the Senate considers the New START Treaty, I want to