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

The amendment (No. 4843) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The pay-go statement will be read.

The assistant legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 5116, as amended.

Total Budgetary Effects of H.R. 5116 for the 5-year statutory PAYGO Scorecard: $0.

Total Budgetary Effects of H.R. 5116 for the 10-year statutory PAYGO Scorecard: $0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 5116, THE AMERICA COMPETES REAUTHORIZATION ACT OF 2010 (S:\ WPSHR\LEGCNSL\XYWRITE\-SCI10\3605ASAM.9), TRANSMITTED TO CBO ON DECEMBER 17, 2010 BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

	By fiscal year in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Net Increase or Decrease (−) in the Deficit												
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0

Note: H.R. 5116 would authorize appropriations for several agencies to support scientific research, industrial innovation, and certain educational activities. The legislation would allow for the collection of fees to offset the administrative costs of a loan guarantee program directed toward small- and medium-sized businesses. CBO estimates that there is no net budgetary impact in a single year.

Source: Congressional Budget Office and Joint Committee on Taxation.

Mr. BINGAMAN. 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 statements 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 ARMS—Continued

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

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Mr. President, we are still open for business and await amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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 staffs 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, the Congressional Budget 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 is 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 it 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 will 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 subcommittee for discretionary 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 no way 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 taxpayer 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 by no 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 on spending. Moreover, we did not use any gimmicks or tricks to hit this target. Instead, each of our subcommittees was directed to take another look at the funds they were recommending and provide additional cuts. Each was tasked to identify unneeded prior-year funds and to use those 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 Senate rules, we reduced our spending that was provided in fiscal year 2010 by nearly 35 percent. Less than $8 billion was recommended in the omnibus bill for congressionally directed spending programs as compared to more than $12 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 decisionmaking 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, this is not 1 bill; it is 12 bills, funding 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, it is not 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 a bill as large as the 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 not requested in the Pentagon's budget 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 the 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 request.

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 alone, from breast cancer research to additional F–18 jets for the Navy which they have declared to be essential.

But it is not just defense that will be impacted. Similar issues will be found in every agency. It is evident, for example, that the threat to the security of the United States evolves every day. As evidenced by the growth of homegrown terrorism, such as the Times Square bomber, the New York subway plot, the Fort Hood shooting, and the recent efforts to blow up aircraft over the United States; whether the Christmas Day bombing attempt or the recent attempt to blow up all-cargo planes, it is critical that careful decisions be made on the allocation of resources to the Department of Homeland Security. But a continuing resolution would not provide the Transportation Security Administration with the resources necessary to enhance our defenses against terrorist attacks, such as Northwest flight 253 and the recent attempts against all-cargo aircraft.

This omnibus bill provides $375 million above the continuing resolution for TSA to acquire 800 explosives trace detection units, 275 additional canine teams, hire 31 additional intelligence officers, and strengthen our international aviation security.

This omnibus bill provides $52 million above the continuing resolution to deploy radiation portal monitors where vulnerabilities exist, such as airports and seaports, and for radiation-detection pagers and backpacks used to detect and identify nuclear materials.

Because we have chosen not to enact an omnibus, we will miss an opportunity to address cyber security at the Department of Transportation. The Department recently assessed the security of its computer systems and found it sorely lacking. Security gaps at the Department are putting at risk computer systems that manage our air traffic and monitor our national infrastructure. The Department requested $30 million for fiscal year 2011 to fix this problem as soon as possible. An omnibus appropriations bill would have provided this funding, but a CR will do nothing to address this urgent problem.

Not passing this omnibus would halt new national security enhancements intended to improve the FBI's cyber security, weapons of mass destruction, and counterterrorism capabilities and assist in litigation of intelligence and terrorism cases. The FBI will not be able to hire 126 new agents and 32 intelligence analysts to strengthen national security.

The omnibus was better for our brave men and women who work as members of law enforcement to make our streets and the everyday lives of our constituents safer.

Without an omnibus, the Department of Justice will not be able to hire 143 new FBI agents and 157 new prosecutors for U.S. attorneys to target mortgage and financial fraud scammers and schemers who prey on America's hard-working middle-class families and devastated 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, we cannot even tell this body all the things the bureaucrats will not do that are important to Members of the Congress and to our constituents.

The bill I would have brought to the Senate represented a clear and far superior alternative. It better protected our national security. It ensured that the Congress determines how our citizens' funds will be allocated, as stipulated in our Constitution. It was written in coordination with Senate Republican Members. It was not a perfect document. It represented a lot of compromises. It made $29 billion in reductions from the President's program. But it was a good bill which ensured the programs important to the American people will be funded. It assumed responsibility for spending decisions that I believe are rightfully the duty of the Congress.

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 $1 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 Intelligence 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. CORKER. Mr. President, I do think there are getting ready to be some amendments coming forward. I had the opportunity, working with Senator LUGAR, to help write the resolution of ratification with the chairman. I don't personally have amendments, but I do think 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 cloture on more campaign promise types of issues.

I am one of those who absolutely believes that when it comes to foreign policy, when it comes to military issues taking place overseas, partisanship absolutely should stop at 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 is—by filing cloture last night on don't ask, don't tell and 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 continue to work through this, and I am encouraging people to bring amendments forward. I know Senator LUGAR is doing the same. But to ask Republicans to rise up above—and I think we all should rise up above. I think foreign policy and nuclear armaments—there are actually real differences in this case, but I think we should try to work together to resolve those. But to say—to do that in the midst of throwing in political things that are strictly there for political gain doesn't add up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair. I didn't think 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 as 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 decides to do. The majority leader does 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 commanders, 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.

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.

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 to bipartisanship. Both of them see how much of America's destiny is wrapped up in this treaty and how nuclear weapons become a bane of existence because of their size, because of their number, and because of this inexorable 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 Hiroshima. 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 this debate is the fact 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. As the chairman of the committee, 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 relationship 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 Committee to address comments that have been made on the other side of the aisle about this treaty, particularly as those comments relate to monitoring provisions. Let me just put out the bona fides.

The Intelligence Committee has studied the June 2010 National Intelligence Estimate on the intelligence community's ability to monitor this treaty. We had a hearing. We submitted 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 in more than a dozen meetings and briefings on a range of issues concerning the treaty, focusing on the intelligence monitoring and collection 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 Senators I have just reviewed a new intelligence assessment from the CIA dated yesterday. It analyzes the effect of having New START's monitoring provisions in place and the loss on intelligence if the treaty is not ratified. I can't discuss the contents of the assessment 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 documents, including the National Intelligence Estimate, in our offices in room 211 in the Hart Building.

Let me now describe the ways in which this treaty enhances our Nation's intelligence capabilities. This has been the lens through which the Senate Select Committee on Intelligence has viewed the treaty, and I believe the arguments are strongly positive and persuasive.

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

Second, this treaty, when it enters into force, will benefit intelligence collection 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 national technical means—for example, our satellites—to collect information on Russian forces and whether 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 exchanges on data on the warhead and missile production and locations. Third, unique identifiers—a distinct alphanumeric code for each missile and heavy bomber for tracking purposes. I reviewed some of that in intelligence reports this morning. A ban on blocking national technical means from collecting 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, location, 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 be more complex and more costly. Without such a regime, we would unfortunately be left to use worse-case analyses 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 to respond, including 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 inspections, 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 entering their force. That, too, is a fact.

Thirteen months ago, American officials wrapped up a 2-day inspection of a Russian strategic missile base at Teykovo, 130 miles northeast of Moscow, where mobile SS–25 intercontinental ballistic missiles were deployed.

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

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

Let me describe the monitoring provisions in this treaty now, because many of them are similar to the original 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 means not to interfere with our satellites and ''not to use concealment measures that impede verification.''

This means that Russia agrees not to block our satellite observations of their launchers or their testing. Without 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 satellites.

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

I have also reviewed those this morning, and those are available if a Member wants to know exactly what I mean by this. They can go to room 211 in the Hart Building, and members of the intelligence staff can inform them exactly what this means.

That is where other provisions of this treaty—including inspections, data exchanges, 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 includes 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 for 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 with 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 they need to look for, and they provided those guarantees in this treaty. This is how some of it works.

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. That includes the number of deployed and nondeployed missile launchers or bombers at the base, the number of warheads loaded on each bomber and—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, ones 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 and 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 signed. I just looked at 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 with the Russians prior to leaving office.

New START does, however, require Russia to mark all missiles, as I have been saying, with numeric and alphabetic codes—with these unique identifiers, so that their location can be tracked and their deployment status tracked over the lifetime of the treaty.

The treaty also requires Russia to notify us at least 48 hours before a missile leaves a plant. So we will still have information about missile deployment and production.

Our inspectors and other nuclear experts have testified that these provisions are, in fact, sufficient. Now, look, I appreciate that every one of us does our due diligence. But let me tell you, there is nothing like the view of a former inspector.

There is nothing like the view of people who have actually done this work. These are the people who were involved in the negotiation. There is nothing like the recommendation of the entire top command of our strategic forces, the civilian leadership, and the top officials of our intelligence community, all of whom are for this treaty.

We listen to our military, it seems to me, on views that affect the security of this Nation. We should with respect to this treaty. I have not seen a single warrior come forward—who is in the top command—who has said we should not endorse this treaty. I think that is significant. Instead, dozens have come forward to point out how important this treaty is.

START required the United States and Russia to exchange technical data from missile tests. That is known as telemetry. It required that you release it to each other but not to other countries. That telemetry allows each side to calculate things, such as how many warheads a missile could carry. This was important as the START treaty attributed warheads to missiles. If a Russian missile could carry 10 reentry vehicles, the treaty counted it as having 10 warheads. Information obtained through telemetry was, therefore, important to determine the capabilities of each delivery system.

New START, however, does away with these attribution rules and counts the actual number of warheads deployed on missiles. No more guessing whether a Russian missile is carrying one or eight warheads. With this change, we don't need precise calculations on the capability of Russian missiles in order to tell whether Russia is complying with the treaty's terms, so telemetry is not as necessary to monitor compliance with New START.

Nonetheless, because this came up in the negotiations, as a gesture to transparency, the treaty allows for the exchange of telemetry, between our two countries only, up to five times a year if both sides agree to do so.

In fact, it should be pointed out that if the treaty included a broader requirement to exchange telemetry, the United States might have to share information on interceptors for missile defense, which the Department of Defense has not agreed to do.

Third, there has been a concern raised about Russian breakout capability—a fear that Russia may one day decide to secretly deploy more warheads than the treaty would allow or to secretly build a vast stockpile that could be quickly put into its deployed force. I do not see this as a credible concern. Here is why.

According to public figures, Russian strategic forces are already under or close to the limits prescribed by New START. They have been decreasing over the past decade, not just now but for a long time. There are many reasons for this, but I think it is incontrovertible that is fact.

So the concern about a breakout is a concern that Russia would suddenly decide that it wants to reverse what has

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 inspections, 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 simply withdraw from the treaty, just as the United States did when President Bush withdrew from the anti-ballistic 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 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 the treaty actually enhances 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's terms.

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 grounds—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 he thinks ''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 willing to stand together. 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 more than a year since American 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.

The PRESIDING OFFICER. The Senator from Massachusetts.

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 Senator from Idaho be recognized for 10 minutes, after which the Senator from Arizona, Senator MCCAIN, be recognized to propose an amendment.

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

The Senator from Idaho.

Mr. RISCH. Mr. President, I come to the floor today to make some general comments about the matter under consideration, and that being the possible ratification of the New START treaty.

First, let me say I come with what I think is a unique perspective, in that I sit on both the Foreign Relations Committee and the Intelligence Committee. In addition to that, I am rather new here so I have a fresh set of eyes, if you will, on these kinds of issues.

The ability to be able to talk about these issues and to debate them and then cast a vote is somewhat frustrating, and that is a view I share with my friend and the distinguished Senator from California, Senator FEINSTEIN, the chairman of the Intelligence Committee. Just like her, my views of this matter are colored to some degree and are affected to some degree by matters that we can't talk about here and that we can't disclose. Nonetheless, that obviously cannot stop us from having hopefully as productive a discussion as possible about this subject matter, and it has been a productive discussion.

There are good things that have come out of this so far, and I am going to talk about those in a minute. But let me say one thing I have been impressed with throughout. I have sat through I can't tell you how many hours of meetings, of briefings, of actual field trips out to facilities, and all those kinds of things, but I have been impressed with the good faith of everyone who is working on this matter.

This is a unique situation that we as Senators have a constitutional responsibility to focus on. Our responsibility in this is equal to the President of the United States. A foreign treaty such as this, the Founding Fathers said, can only come into play if, on the one hand, the President of the United States signs off on it; and if, on the other hand, two-thirds of the Senators sign off on it. So our responsibilities are equal in that regard. As a result of that, all of us need to, in my judgment, approach this on a good-faith basis and on a what-is-best-for-America basis.

All of us have seen the people on TV who are very sarcastic about who is going to win and who is going to lose. The only ones we need to be concerned about who will win and lose are the American people.

I have come to some conclusions throughout this that are new to me. One, of course, is the fact—and these are some observations I want to make about the whole process—that everyone is approaching this in good faith. The second conclusion that I have reached—and I think is widely held—is that we are much better off if we have a treaty than if we don't have a treaty. 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.

That 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. Where does that take us to 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 for that matter some other countries that have nuclear weapons, as far as being a threat to us in the United States. One of the overriding 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 has come 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, instead of the terms of the real world 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 lack of time for consideration for 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. You heard me 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 have been denied 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 missile defense, particularly when I read their independent statements, their third-party statements about this.

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

Nonetheless, my vote on this depends upon 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 in the context of the former 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 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 senior 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 protect 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 ratification, I think we bent 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 motion to proceed; is that correct?

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, and I will have an amendment 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 ''shellacking.''

What are we doing on December 17? We are in one session of the Senate, 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 get 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 President 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.

We will then, tomorrow, I 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 bring up another issue as he has in the past to force votes, most of which of those votes he knows very 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 election.

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 shellacking—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 discussion. And 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 politically impactful vote.

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 bill. I believe some of the issues before the Senate deserve the participation of the newly elected Members of the Senate and House.

AMENDMENT NO. 4814

(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. 4814.

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 4814.

In the preamble to the New START Treaty, strike ''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,''.

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 Dr. BARRASSO has, and he continues to be incredibly knowledgeable and effective not only here in this body but with the American people.

As a member 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 Massachusetts, the distinguished chairman of the Foreign Relations Committee, I know there are a number of Senators who want to speak. I will try to get those lined up and time agreements so that we do not take an inordinate amount of time on this issue, and I think we can do that, say, within the next hour or so.

But this is an important amendment. This is really one of two major issues that concern many Members of this body and many Americans. One is the modernization of our nuclear inventory, which I think continues to be a subject of discussion, agreements, some disagreements, but is important, and my colleague from Arizona, Senator 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, unconstrained by this treaty, to move forward where it deems 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 the 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 preamble 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 strategic 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's 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 to all of us 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 world without nuclear weapons, 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 subject was spirited, 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 legal grounds for imposing 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. You can imagine 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 and Russia were 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 the long-accepted linkage, the interrelationship between strategic offensive and defensive weapons.

In a recent op-ed in the Wall Street Journal dated December 7, 2010, former Secretary of State Condoleezza Rice explains 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 Moscow Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons as their predecessors had. But the Moscow Treaty was different. It came in the wake of America's 2001 withdrawal from the Antiballistic 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 more devastating than 9/11. 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 our 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 agreed to by the parties in the treaty preamble, the Russian Government could use the treaty in its present form as a tool 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 was told that this treaty would in no way reference the development and deployment of U.S. missile defense systems.

Here is what Under Secretary of State Ellen Tauscher said on March 29, 2010, and I quote:

> The treaty does nothing to constrain missile defense. This treaty is about strategic weapons. There is no limit on what the United States can do with its 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 to 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 arms 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.

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 because we worked very hard 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 our strategic arms because 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 political commitments or agreements that could be cited to confer future obligations, and thus transformed into as a political threat. In short, the Russians have always understood that U.S. missile defenses would be superior to any defensive system the Russian Federation, and the Soviet Union before it, could ever deploy, so they have been relentless in trying to block it.

It is for this reason and because the Bush administration worked so hard to break the linkage between strategic offensive and defensive weapons that former Secretary of State Condoleezza Rice concluded her recent op-ed which I cited earlier with the following counsel to this body:

> [T]he 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.

The reestablishment of the interrelationship is one problem with this clause in the preamble, but there are others. A second problem comes in the next line which states:

> that this interrelationship will become more important as strategic arms are reduced.

This is only enhancing and strengthening the linkage between our offensive nuclear weapons and our missile defenses. Because this treaty will modestly reduce our strategic nuclear arms, and if the President is serious about his vision of a nuclear-free world—and I believe he is serious—then the importance of this agreed-upon interrelationship will only deepen in the years ahead. This takes an already problematic idea and makes it even more potentially damaging.

The third problem, and the one which potentially has the most direct consequences, comes in the next line which states:

> that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

This clause lays the groundwork for the political threat the Russian Federation wants to hold over the United States with regard to its missile defense deployments. By saying that current missile defenses do not undermine the treaty's viability and effectiveness, this agreed-upon language in the preamble establishes that future missile defense deployments could undermine the treaty, thereby establishing a political argument that the Russian Federation will surely use at a future date and try to keep us from building up our missile defenses. In short, we have handed the Russian Government the political pressure they have sought for so long to bind our future decisions and actions on strategic defensive arms.

Imagine a world a few years from now when, God forbid, an Iran or North Korea or some other rogue state has deployed longer range ballistic missiles and a deployable nuclear capability much earlier than we assessed they could. Imagine we are faced with a situation where unforeseen events compel us for the sake of our national security and that of our allies to qualitatively and quantitatively build up our missile defenses to improve our current systems, or develop and deploy new systems, to counter a new and far greater threat than we expected. And then imagine that the Russian Government tells us that if we consider taking these actions that we deem to be in our national security interests, then such an action to improve our missile defenses would undermine the treaty's effectiveness and viability. This is an unacceptable constraint on U.S. decision-making.

As if to drive home the large potential problems that stem from this clause in the preamble, the Russian Government issued a unilateral statement at the time the treaty was signed. I realize this statement is not legally binding either, but it certainly adds to the political 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 Federation 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 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. Consequently, the extraordinary events referred to in article XIV of the Treaty also include a buildup in the missile defense system capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation.

That is a very clear statement made by the Russian Government about the linkage between defensive missile systems and offensive arms. This is the Russian interpretation of what our two governments have agreed to in the preamble. They explicitly draw the connection between strategic offensive and strategic defensive arms. They explicitly state that the United States is limited in its development and deployment 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 speaking on March 28, 2010:

> [T]he treaty and all obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive weapons.

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

> Russia will have the right to exit the accord if the U.S.'s buildup of its missile defense strategic potential in numbers and quality 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 binding.

I would remind my colleagues these are the statements of the Russian Foreign Minister. And here is everybody's favorite President, Dmitry Medvedev, speaking to the Russian Parliament on November 30—November 30, 2010.

> Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to make a decision to deploy new strike systems.

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 territory. 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 missiles 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 problematic clause in the preamble, the U.S. negotiators did not use the opportunity to make a unilateral statement of their own to decisively and unequivocally discredit the Russian Government'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 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, and to defend its deployed force, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.

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 development 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 our 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 treaty's 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. WARNER). 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 body and of this Nation know that 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 serving 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 received the highest national award 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 beyond ''current strategic'' capabilities. 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 be tying 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. Then there should 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. 4814, 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 in 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 assures us 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 in the treaty 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 means it will 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 link is 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 because they would 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 desiring 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 President announced his budget—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. I think people realize 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 something that 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 this 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 coming 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 by—the year they use is 2015. If we had the ground-based interceptor in what we called the third site, which would have been here in Poland, then we would have been in a position to have that deployable, initially, in 2012. That date was then slipped to 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, 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 interceptor—that is the Block 1A—which would be down 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 can see that we would 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 coming over. 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 what our capability on this side is, we 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—they say after appropriate testing—deploying a more capable version of the SM–3 interceptor, 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 is 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 with the wrong people. That is not the 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 siting in Poland. So now we have a treaty that I think, by anyone's interpretation—after you 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 speak, and then 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 my colleagues, 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 for 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 her word—about this treaty is that reestablishment of the linkage which the Bush administration 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 treaty.

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 so far.

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 could escalate into 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.

Second, I did hear my colleague from Massachusetts the other day 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, too. The American people want the United States to be unconstrained in the development of our missile defenses, 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 created 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, well, 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 INHOFE 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 ground-based interceptors already 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 approach, which included, at least in its fourth phase, the potential for intercepting ICBMs that could come from Iran to the United States, but also, of course, anywhere else, including Russia.

That 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 build 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 good against limited or 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, in Lisbon a couple of 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 she was worried that we had to, in this treaty, do something about the fact that the Russians had reconnected defense with offense?

That is exactly what the McCain and Barrasso amendment would do. It takes out this language which raises the question, the confusing interrelationship 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.

(Mr. WARNER assumed the Chair)

Mr. MCCAIN. Will my colleague yield for a question?

Mr. KYL. I will be happy to yield to my colleague.

Mr. MCCAIN. The amendment, as you know, strikes the language in the preamble. There are some who allege that a letter from the President—a strong letter from the President—would suffice to address this issue. I wonder what the view is of the Senator from Arizona as to how binding and how impactful that would be as opposed to the existing language which exists in the preamble?

Mr. KYL. Mr. President, I thank my colleague for the question because it sets up a perfect reason why this amendment is necessary. The Russians interpret the preamble as the basis for their legal argument that they can withdraw from the treaty if we do what Secretary Gates has said we are going to do. What would a letter from the President potentially say? Either it is going to say we intend to go forward and develop and deploy the missile defenses—which would be seen by the Russians as contrary to their national interests, their supreme national interests, thus further laying a foundation for them to withdraw from the treaty—or the President would confirm the briefing at Lisbon and confirm the U.S. signing statement and say that we don't intend to deploy those, we only intend to deal with limited or regional threats, so the Russians have nothing to worry about. The Senate would be on record in an understanding accompanying the treaty that confirmed all of this. The Senate would at least be on record. But that doesn't commit the President.

I think the only answer to avoid the confusion and to avoid any future President having pressure from the Russians that they are going to withdraw is to just remove the language. That is the beauty by the author of the amendment—it pulls the thorn so the sting no longer can exist.

Mr. GRAHAM. Will the Senator yield? As we play this out, I think there is a lot of bipartisan agreement that the United States needs to develop some form of missile defense. I know Senator KERRY does agree. I am sure the President does. We all live in a very dangerous world. The idea of a missile coming from Iran or North Korea or some other rogue nations is a reality. It is a different topic to talk about neutering a first strike from the Russian Federation.

But the idea that an intercontinental ballistic missile coming to the United States from some rogue nation such as Iran or North Korea—does my colleague believe that is a possibility in the future?

Mr. KYL. Mr. President, I certainly do, and obviously our defense planners worry about that as well.

Mr. GRAHAM. And I believe the President of the United States believes that too.

Mr. KYL. Yes.

Mr. GRAHAM. Here is the problem, and correct me if I am wrong. If we enter into this treaty and the preamble is not clarified or stricken, there could come a point down the road, as we develop these systems to defend against what we all agree is a real national security threat to the United States, what damage would it do to our relationship and what kind of conflict would it create or anxiety in the world at large if the Russians say: We are going to back out of the treaty, because that is the one thing you do not want to happen. You do not want to sign a treaty where you are going to do A, and if you do A, they back out because you put the world in a state of confusion and danger. The idea that all the papers in the world would one day read: 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 came, 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 ourselves. 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 headed if we do not get this right.

To my colleagues, this is a big event. It is a big moment in terms of our relationship with Russia. But you should not sign a treaty when there is a high likelihood, if we do what 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 confirmed we were going to move forward with a missile defense system adequate to protect the United States from an ICBM, from more than regional threats, would directly contradict 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 alone.

This treaty is obviously of significant 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 affect 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 demerits of this treaty.

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 allegation. I wonder if my colleague from Arizona does as well. I know every Member of this body is making a judgment 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 Arizona. There have been rumors swirling around here for 3 weeks—for example, when the tax legislation was being negotiated—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 the other business that was being put 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 and the other thing. That is what I was contending would preclude us from ever really getting to the point where we had time to do the treaty and to 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.

To follow up on 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. When two serious parties enter 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. KYL. 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 are asking for trouble. You are asking for litigation or dispute down the road.

It may not be all that important between two parties or two companies, but when you have two major countries such as Russia and the United States with a lot of tenuous relationships—there are a lot of things on which we agree and some on which we do not agree, very important matters that can arise. If you have a major dispute between the countries, you can affect international relationships not just between the two of us but affecting a whole lot of others in the world as well. You do not want to build in potential conflicts.

There is a double conflict here. The first conflict is between the United States and Russia. The Russians say: If you improve your missile defenses, we get to withdraw from the treaty.

The State Department signing statement says: Don't worry, we are only going to protect against regional or intermediate range threats. But the White House, at the same time, talks about having a letter from the President, or a statement from maybe the Secretary of Defense or somebody, that says: But we are, in fact, going to go forward and develop these kinds of missile defenses, which would, in fact, qualitatively improve our position vis-a-vis Russia.

So not only do we have a disagreement with Russia, we have a disagreement within our own government about our intentions. I do not think the Senate can ratify a treaty with all of this uncertainty out there. We do not know what this country intends to do. There are enough confusing signals that there is not only a potential for a dispute between Russia and the United States but between the Congress and the Obama administration.

Mr. KERRY addressed the Chair.

Mr. MCCAIN. Could I ask unanimous consent to engage in a short colloquy with the——

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

Mr. KERRY. Mr. President, if we can, I think we have had about six or seven missiles launched our way. Now I am going to show you what one good defense can do to alter the balance of power; and that is what this is all about: reality.

We have just heard the Senator from Arizona—first of all, I am so happy we are engaged in the debate. I thank my colleagues for the seriousness of the debate. And this is where we get to the heart of this, and I look forward to it.

The Senator from Arizona just engaged in a couple questions—the senior Senator—the junior Senator. I have to get this 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 that or any other 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 modernization 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 deliberate) with funding subject to the annual authorization of appropriations in 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—

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 strenghthening stability in key regions.

Did the Russians understand what we said? Let me 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, the new 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 set a task 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 we deal with this issue without a treaty killer amendment? The answer is, yes, Senators, we can deal with it. Oh, incidentally, we have dealt with it. We have already dealt with it. It is in the resolution of ratification.

I want to read very clearly to our colleagues the resolution 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, in 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 component 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 $55 million compared to the silos that the military wants to build that cost $36 million and are brandnew 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 wherever we think they most effectively work. We can go 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 defense because we 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 Defense, the Secretary of State, 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 makes 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 as strategic nuclear arms are reduced, 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, 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 set out to create a limited defense. 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 capacity and survivability, second strike capacity, and how 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 us out and we had the ability to 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 each 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 that this was 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 that 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 invade North 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 counterthreat in the background.

Now that certainly was the threat that existed in those 13 days of October when President Kennedy and Kruszchev squared off over Cuba and we came 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: Whoops, what does this do to our calculation about first strike, survivability, 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, second strike, survivability capacity, we have annihilated the theory of deterrence.

If one side gets a qualitative huge advantage and just deploys it—go ahead and deploy 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 think 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 nonbinding, nonlegal, completely sort of throw-away statement—there is a truism, as Henry Kissinger called it. I know Senator MCCAIN respects Henry Kissinger. I know he talked to him for advice in the course of the Presidential race. He is still one of our wise men of foreign policy and of State craft. He testified to our committee: That statement, you ought to just ignore it, forget about it. It has nothing to do with this treaty, and all it does is state 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 make an enormous mistake to kill the treaty over a nonbinding, 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 in 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 we are doing, if they know that it is not a guise to get an advantage over them, to 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 political pressures we 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 found that 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 I that created the foundation for the Nunn-Lugar threat reduction program to be able to work and reduce the threat to our country.

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 whatever benefits or negatives, a sufficient part of that document that it requires under the law to go back to the Russians and do it. But as Secretary Clinton said, it has no legal obligation—obligation—on the United States. It is a statement of fact. So Henry Kissinger said don't worry about the language, and I accept what he is saying.

Finally, the preamble also states the current systems we are planning on don't undermine the viability and effectiveness of either party's strategic arms. It also does not say that the future system we can develop, and we are developing—and the President laid out a clarity about stage 3 and stage 4 deployment with respect to Europe. We can come back to that later if people want to, but the Russians were briefed on why the treaty has no restraint whatsoever in our phased adaptive approach in Europe, specifically including phase 4.

LTG Patrick O'Reilly, Director of the Missile Defense Agency, told the committee—and, once again, folks can choose to believe LTG Patrick O'Reilly or you can believe a newspaper article in Russia and some Russian official. What matters to us is what we decide to do because we can pull out of this treaty any day we want to.

If we have a qualitative change in our system, and we think it is going to defend the United States of America, you don't think any President in the future isn't going to be the first to say, I am deploying that because it protects the country. You don't think that Senators here aren't going to be the first to stand up and say: Mr. President, you have to deploy it because it protects the country. What is more, we can't reduce below the 1,350 warhead level, folks, without the Senate agreeing to do it.

So we are not on some cascading downward trend. We are in a position where our defense and intelligence community says we need this treaty because we want to get back to the ground. We want to know what Russia is doing, and we would like to catch up to what they are up to.

LTG Patrick O'Reilly said:

> I believe the Russians understand what the plan is and that those plans for development are not limited by this treaty.

That is a quote.

He also explained what he told them about it, and I quote again:

> Throughout these conversations, it was very clear to me through their questions and responses that they fully understood my presentation; i.e., fourth stage and our commitment to proceed forward.

Now, there is nothing in this treaty that changes our course on missile defense. Bob Gates reminded us of that. And, once again, do you believe Bob Gates or do you want to believe the Russian press? Is it relevant anyway? Because if Bob Gates says we are going to do it and the President says we are going to do it and the Congress says we are going to do it, and we are doing it, it doesn't matter what they say because if they are going to pull out, they will pull out. Until then, we have the advantage of the inspections and the cooperation that comes with this treaty.

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 change 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.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, in deference to Senator LUGAR, I will be very brief. Also, Senator SESSIONS is here who would like to speak, as well as Senator BARRASSO again, so I will be very brief. I believe the Senator from Illinois is also here.

Mr. KERRY. Mr. President, I wonder if I could ask my colleague—we are at a quarter to 5 now. I wanted to get a sense, because colleagues are asking me, on our side at least, where we stand. Would it be possible to get a time agreement on this?

Mr. MCCAIN. I regret we can't at this time. This is one of the seminal aspects of whether the United States is going to ratify this treaty. To have a time agreement, after all of the fooling around we have been doing on the DREAM Act, on New York City, on all of these other issues that have taken up our time, we will not have a time agreement from this side until all Members on this side have had an opportunity to express their views on this issue.

Mr. KERRY. Mr. President, if I may, I was simply asking a question. Before I yield the floor, let me just say I am not trying to reduce the level of debate. I am just trying to get a sense of how much time we might need. I wish for no Senator to be cut off. It seems to me we ought to have a sense of how many Senators want to speak, of how long they need, and the normal procedure in the Senate is to try to establish that so we can pin down where we are heading.

All I am trying to figure out—let me ask the Senator two questions. No. 1, I would ask the Senator, does he think that sometime in the near term he could have a sense of how many Senators are going to speak and we could try to pin that down. I would ask them that, Mr. President, without losing my right to 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 done. Obviously, in the spirit 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. I appreciate that. I am trying to help colleagues 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 certainly tried to. In fact, we took an amendment—where is Senator RISCH's amendment? Was it Senator DEMINT's?

We accepted an amendment to the resolution of ratification from, I think, Senator DEMINT. 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—DeMint 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 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. The United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutually 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 missile 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 appreciate what the Senator from 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 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, again, on December 1, 16 days ago, Vladimir Putin, speaking on ''Larry King Live''—I am not making this up—said this:

I want you and all the American people to know this. . . .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—

Whatever that means—

and the counter missiles 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.

That was 16 days ago from the Prime Minister and, we know, the most powerful man in Russia. ''We are obliged to take some actions in response.''

Of course, one day earlier, President Medvedev said:

Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to

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. There are other statements—one 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 indestructable ICBM to replace Satan.'' 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 longstanding 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 befuddled 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 supreme 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 supreme national interests clearly envision that such withdrawal can only be justified by extraordinary events that have jeopardized the parties' supreme 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 not be clarified? 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 some of this if we just ask 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 kill the treaty. Maybe many colleagues 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 control our own missile defense destiny, not Russia. Defense Secretary Gates, Admiral Mullen, and General Patrick O'Reilly, who is in charge of our missile defense programs, have all testified that the treaty does nothing to impede our missile defense plans. The Resolution of Ratification has explicitly reemphasized this in multiple ways.

Some commentators have expressed concern that the treaty's preamble notes the interrelationship between strategic offense and strategic defense. But preambular language does not permit rights nor impose obligations, and it cannot be used to create an obligation under the treaty. The text in question is stating a truism of strategic planning that an interrelationship exists between strategic offense and strategic defense. As a matter of fact, it always has existed and does exist. We have argued that among ourselves in terms of our own defense, and so have the Russians, as well, in our colloquy with them.

Critics have also worried that the treaty's prohibition on converting ICBM and SLBM launchers to defensive missile silos reduces our missile defense options. But as we have heard, General O'Reilly has stated flatly it would not be in our own interest to pursue such conversions because converting a silo costs an estimated $19 million more than building a modern, tailormade new one.

We would say simply that the Bush administration converted the five ICBM test silos at Vandenberg for missile defense interceptors, and these have been grandfathered under the New START treaty. But beyond this, every single program advocated during the Bush and Obama administrations has involved construction of new silos dedicated to defense on land, exactly what the New START treaty permits. General O'Reilly has said a U.S. embrace of silo conversions would be ''a tragic setback,'' for our missile defense program.

Addressing whether there would be utility in converting any existing SLBM launch tube to a launcher of defensive missiles, GEN Kevin Chilton, commander of U.S. Strategic Command, says:

The missile tubes that we have are valuable in the sense that they provide the strategic deterrent. 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 defenses 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, when dwelling on the ramifications of deploying 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 IIB, a missile of two stages, which Senators presume could have the capability to threaten Russian missiles. Consequently, they worry Russia may threaten withdrawal over 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 long 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 capable of deploying 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 rained 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. It contains an understanding 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 committee's 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 dialogue and cooperation. The resolution also calls for briefings before and after each meeting of the Bilateral Consultive Commission. The executive branch has committed to holding these briefings.

In a revealing moment 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 don't want to devote the resources to it, so they try and stop us from doing it. . . . This treaty doesn't accomplish that for them. There are no limits on us.

Again, that was 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 Russians 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, figleaf 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 involved heavily in missile defense. 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 diplomatic 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 would result 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 all they want on this issue, 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.

That does relate to 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 to make clear 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, accordingly, have no impact on our missile defense plans. Just as we were not deterred from withdrawing from the ABM Treaty by Russian threats that such a withdrawal might prompt them to pull out of START I, Russia's threats regarding New START should not deter us from pursuing our missile defense plans.

The ratification of the New START treaty recommits 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 the 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. PRYOR). 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 lock it in.

This is coming from me from Senator KYL. I ask unanimous consent that Senator SESSIONS be given 30 minutes; that following Senator SESSIONS, Senator KIRK have 15 minutes; that following him, Senator DODD have 20 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 floor 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 the floor—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 at that 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; 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 speaker 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. Could we agree that this list will be the final list of speakers on this amendment, with the allowance for 5 minutes on each side prior to a vote?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I cannot agree with that. I simply don't know who else might want to speak to it. With the amount of people speaking to this tonight and the fact that presumably we will come back on this Sunday or Monday, I would not anticipate personally—though it is not my amendment—that there would be a tremendous amount of debate left and it would not be our intention to hold off a vote; however, there may be people who want to speak to it, and I may want to have something.

Mr. President, might I also say that Senator THUNE would like to have 15 minutes tonight.

I think that is the best way. Then perhaps we can talk offline.

Mr. KERRY. I think that is fine. We are moving in the right direction. I appreciate the effort of the Senator. We will get there.

Is the Chair clear on the names? Senator SESSIONS for 30 minutes; we request Senator GRAHAM for 10 minutes following that; Senator DODD for 20 minutes following that; Senator KIRK for 15 minutes following that; Senator DEMINT for 10 minutes—15 minutes; Senator THUNE for 15 minutes; and then Senator KYL and Senator MCCAIN for such time as they will use; and Senator KERRY for such time as I choose to use.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. And Senator SESSIONS for an additional——

Mr. KERRY. Senator SESSIONS for an additional 30 minutes at such time between Senator KYL and Senator MCCAIN as they would allow.

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

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I just want to say a couple of things. First, the treaty is important, but its——

Mr. KERRY. Mr. President, I apologize, and I apologize to the Senator. The Senator from New York has informed me that he would like 5 minutes somewhere in there. I ask, according to the unanimous consent agreement, that he be permitted to speak after Senator KIRK. Actually, could he be permitted to speak for 5 minutes after Senator SESSIONS?

I thank the Chair.

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

The Senator from Alabama.

Mr. SESSIONS. Mr. President, a treaty of this nature is very important. I have served as chairman and ranking member of the Armed Services Strategic Forces Subcommittee, which deals with missile defense and nuclear issues. I think we dealt with it in more detail involving the budgets and those kinds of things than 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 lameduck Congress. Now we are not going to be rushed. We should not be rushed.

I would add one more thing. I cannot understand and I am deeply disappointed that the Russians have been

so intransigent, hardheaded about this treaty and other relations with the United States. We had every reason to believe and expect and hope we would be moving forward with Russia today in a far more close and harmonious relationship. I cannot understand why, for example, the Russians are negotiating a treaty that gives less inspection capability to the United States than they had before. If they have nothing to hide, what is going on here? I am concerned about this.

Finally, as to whether the treaty is essential, I would note that we don't have a nuclear treaty with the UK—England. We don't have one with France. We don't have one with China. We don't have one with India. We don't have one with Pakistan. We don't have to have this treaty. If it is not a good treaty, we ought not to sign it.

Mr. Feith negotiated the START treaty with the Russians. He told them no on issue after issue, these very same issues, as he recently wrote in the Wall Street Journal in an op-ed, and eventually they accepted the American position. The very issues they raised that Mr. Feith and President Bush rejected have been accepted as a part of this treaty.

Let's talk about a few things that happened. In July of 2006, North Korea tested a ballistic missile, leading many, including myself, to the conclusion that the long-range missile threat against the United States from a rogue threat was imminent. This was constantly talked about on the floor of the Senate, in committee, and, in particular, our subcommittee. A lot of people do not know. We try to be responsive to threats.

What is the threat? The North Korean threat not only increased in the intervening years, but it is also compounded by the reality that Iran has also developed a ballistic missile capability, leading to a recent intelligence estimate that stated that ''with sufficient foreign assistance, Iran could probably develop and test an intercontinental ballistic missile capable of reaching the United States by 2015.'' By 2015—that is our intelligence estimate, and we generally rely on what they tell us about what they estimate.

So how is this national security imperative—an agreement that we are dealing with today and one that would reduce our nuclear arsenal while our enemies are building theirs up—helpful to us?

The truth is, fundamentally, we spent weeks on this. The administration had its top people working on this treaty with Russia that the Russians negotiated so vociferously because they really weren't concerned about it, frankly, whether it was signed or not, and they knew we wanted it worse than they did. But why have we not been discussing what is really serious; that is, Iran and North Korea and their development of nuclear weapons, how they threaten their neighbors, how 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 delayed and funding 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 we met that. We were going to use basically 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 agreements with Poland and 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 review the proposed European missile defense deployment in the broader security context of Europe, including our relations with Russia, the Middle East, and to consider those deployments or that 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.

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, President Obama delivered a bombshell announcement, stunning and surprising and embarrassing our Czech and Polish allies, and announced his decision to cancel the European third site, saying: 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 conjured 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 failing on a single one to develop an entirely new SM Block 2B by 2020 that is not 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 would just 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 Bush.

But President Bush did not acquiesce. 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 a treaty. We do not think you are going to attack us, 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 reelected, to see that 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 our 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. I was involved in it. This little quote 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 canceled a decade-old policy of the United States to place a missile defense system in Europe and backed off of it and gave us, instead, 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 come back to Congress 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 build 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 between 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 signed. The parties 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 Defense for 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 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 too badly and 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 left 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 has indicated 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 we got into this mess concerning 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. Hoagland 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 they 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 happens to have missiles that can reach the United States because he can look them in the eye and say: Send off a missile. We will knock

it down. You are not pushing us around. That kind of thing is important. I believe this administration, through the negotiation of this treaty, through their unilateral actions during the time of negotiating the treaty to capitulate on the European site and alter it dramatically, has done something unfortunate. So while the Europeans say this SM–3 is OK and they can live with it, I suppose they can, but we lost something significant. We lost at least 5 years in being able to deploy a system that we need right now.

I know others want to speak. I respect differences of opinion. But the scenario I have given I believe is correct. I am telling the truth. I believe a lot of Senators have not been aware of it. If I am wrong, let's talk about it. But let's don't run this treaty through so fast that we don't have an opportunity to fully understand what this administration has committed our Nation to in such a way that it could weaken our security and create more instability in the world instead of greater stability. Just signing an agreement on a piece of paper does not create security. A consistent, principled, just approach to our legitimate national defense, advocated clearly and forthrightly without misunderstanding, is the best way to have security in this dangerous world.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I commend my colleague from Massachusetts and so many, including our President, for making this the high priority that it is. We know how vital this is for somebody like myself who is so concerned about Iran going nuclear and the cooperation of the Russians being so essential. The bottom line is, this treaty is essential. It is not just better, it is essential.

But I must rise because of a comment my colleague from Arizona made. First let me preface what I say by my enormous respect for him. We have worked together on many issues. Nobody has done more to serve his country in this Chamber than the Senator from Arizona. I know that. He is a veteran. He is a serviceman. He served his country well. It is something I and every other Member of this Chamber greatly respect.

But unfortunately, I heard him say words before in his desire to get this treaty fully debated, he said: ''After all of the fooling around on New York City,'' referring to the Zadroga bill.

This is not fooling around. These men and the thousands of others who rushed to the towers on 9/11 and in the days thereafter were not fooling around. They, just like my colleague from Arizona, were risking their lives. It was like a time of war. The bottom line is that we were attacked. And without asking any questions, the police and firefighters, the construction workers and EMT workers who rushed to the towers risked their lives in a time of war as well. To call helping them fooling around is saddening and frustrating.

We have had a grand tradition in this country, a grand tradition. When veterans fight for us and risk their lives and get injured, we deal with their medical problems. We help them with their medical problems. Those 9/11 heroes who rushed to the towers are no different. When the Senator from New York, Senator GILLIBRAND, and myself and so many others are pushing hard for the Zadroga bill, we are not fooling around. We are fulfilling our duty as patriotic Americans to all of those from New York and elsewhere who rushed to the towers. We understand there are many needs on this floor and the hour is late. That is true. We tried to vote on the bill earlier. We did not get the number of votes. We are now working with our colleagues on the Republican side of the aisle to find a new pay-for because they didn't like the one that came over from the House.

One final point, this is not a New York issue. This is an American issue. This is not just about New York City or New York State, where admittedly the largest number of 9/11 responders came from, but from every State of the Union, including, I remind my good friend and patriot and veteran from Arizona, between 100 and 200 from the State of Arizona who rushed to New York bravely, selflessly, to help us. We are not asking for a handout. All we are asking is that their medical problems, the cancers and other illnesses that came about because of the glass and the debris that lodged in their lungs when they rushed to service, be treated, just as we treat our veterans.

So I hope after we finish debate on this START treaty—and I understand it should have a full debate—that we will then take up the Zadroga bill. I hope and pray, not only for those on 9/11 who rushed to the towers but for what America is all about, that we, Democrats and Republicans alike, rise to the occasion and pass the Zadroga bill and allow those who served us and are now suffering from cancers and those who will get cancer because of their bravery, their heroism in the finest American tradition, get the medical help they need and deserve. Nine hundred have already died. Thousands are ill and thousands more will learn of their illnesses. We cannot and must not forsake them.

It is not—I underline—fooling around on New York City.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MCCAIN. Mr. President, point of personal privilege. I understand the Senator from New York had some comment. I said—I will be glad to have the record quoted. I said fooling around with the bill concerning New York. The majority leader keeps bringing up that and other pieces of legislation for votes which don't get enough votes. For the Senator from New York to somehow interpret that as my being critical of the bill itself, of course, is an incredible stretch of the imagination and, frankly, I resent it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I understand the comment of the Senator from Arizona. Let me ask this if I may: I appreciate the Senator from Arizona and the Senator from South Carolina agreeing to this.

I ask unanimous consent to amend the request for the order to allow Senator LEVIN to have 10 minutes now and then we would go back to the order with Senator GRAHAM, and Senator BARRASSO would be added for 10 minutes to the overall list.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, the missile defense program is not covered or limited by the New START treaty. That is about as simple a statement as I can make, and there has been an awful lot of debate about the missile defense program and allegations that it is limited by this treaty. Let's listen to the experts.

The Secretary of Defense first, in testimony before the Armed Services Committee on June 17, said: The treaty will not constrain the United States from deploying the most effective missile defenses possible nor impose additional costs or barriers on those defenses. I remain confident in the U.S. missile defense program, which has made considerable advancements, including the testing and development of the SM–3 missile, which we will deploy in Europe.

Secretary of State Clinton, in testimony before the Armed Services Committee on June 17:

> The treaty does not constrain our missile defense efforts. I want to underscore this because I know there have been a lot of concerns about it, and I anticipate a lot of questions.

Then she said about the preamble:

> The treaty's preamble does include language acknowledging the relationship between strategic offensive and defensive forces, but that is simply a statement of fact. It, too, does not in any way constrain our missile defense programs.

General Chilton, commander of the United States Strategic Command:

> As the combatant command also responsible for synchronizing global missile defense plans, operations, and advocacy, I can say with confidence—

This is our top commander—

> that this treaty does not constrain any current or future missile defense plans.

The Senator from Alabama talked about some effort here to carry out some kind of a leftwing agenda. GEN Kevin Chilton is the commander of the United States Strategic Command.

> . . . I can say with confidence this treaty does not constrain any current or future missile defense plans.

The ballistic missile defense review report which was filed earlier this year made it clear that the administration

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 treaty. 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)(8), said the following:

There are no constraints 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. These are our top military people in our country who 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 sworn—not sworn testimony; they were not under oath; we do not need them under oath—the testimony of our top uniformed military officials in this country. The suggestion that what is driving this is some kind of a political agenda falls completely flat. It 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 the viability 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 interrelated subjects of offensive and defensive systems.

This relationship is as old as our treaties. Statements of interrelationship have been made by Democratic and Republican Presidents, and I would hope that this language would not be stricken. 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 not been here 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 might 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 being taken out of the treaty is a fatal problem, then that bothers me because 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 that Senator MCCAIN is trying to strike gives them a legal ability to withdraw from the treaty if we move forward on missile defense, as we plan to? That is not complicated. That is a very big deal. And I do not care what an American says about that. I want to hear from the Russian Government as to what you say about that. So get back with me.

Wednesday of last week, Senator KYL said: Here is my view of how we should do START in the lameduck.

I say to the Senator, you suggested that we should 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 begin this treaty 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, and we could have completed it by today. By the way, when I said last Wednesday, obviously, I meant the Wednesday prior.

Mr. GRAHAM. It is my understanding, the majority leader said on the floor of the Senate: Our goal is to try to get out by the 18th because we do not want to be here on Christmas Eve like we were last time. I think that was music to most of our ears.

So could the Senator please walk through with me what the Senate has been dealing with since last Wednesday? The tax debate finally got finished when, last night?

Mr. KYL. Madam President, the House finally concluded its work on the tax extensions and related activities last night. I think ours was a night or two prior to that.

Mr. GRAHAM. You were our lead negotiator on the taxes; is that correct?

Mr. KYL. Well, I am not going to take credit for that because I would get a lot of——

Mr. GRAHAM. But the Senator was deeply involved?

Mr. KYL. Madam President, I will totally deny that I had anything to do with it. But I was involved in the negotiations for the Republican Senate side.

Mr. GRAHAM. OK. And those negotiations have resulted in a vote in the House last night.

What else have we done? Was there an effort to pass the Defense appropriations bill without any ability to amend it, I ask Senator MCCAIN?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. If Senator Byrd were here, he would ask us all to try to abide by the Senate rules and speak through the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. He asked 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 dealing with the DREAM Act? How many opportunities have we had to deal with different versions of the DREAM Act that may come before the Senate?

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. 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—well, it was not 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 some 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 to overall 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 are dealing with a lot of big issues, from taxes 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—some important, some politics—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 been pretty busy around here stopping 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 my colleagues know 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 were delayed slightly—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 need to have openings. So we had openings. 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 have worked so closely with the Senator from Arizona for so many years. I know the feelings are what they are. But this treaty is, in our judgment and in the President's judgment, important to our national security. We have 150,000 troops out there across the world—Iraq, Afghanistan. They are pretty uncomfortable tonight, but they are doing their job. I believe we need to do our job here and not necessarily spend so much time worrying about schedule, which often we don't control, for one reason or another.

I know the Senator is upset about something that came over from the House. We don't control the House. The House made a decision to pass something and send that to us, and the majority leader, for all the obvious reasons, feels compelled it is something he ought to deal with.

So let's do this business. Let's not complain. I think the important thing here is to keep working. It is Friday night. I will stay as late as anybody wants to bring an amendment. Tomorrow we have some votes. We may or may not have intervening business. I don't know what the outcome of those votes will be. But we have the ability to continue on this treaty, and we certainly have the ability to finish it well before Christmas. The majority leader has made it clear to me. There are only four items or five items that have to be dealt with. The spending, and now that is going to be short-term spending until we resolve the differences. So we have spending. The second item is the two votes tomorrow, that is three items, and perhaps one other vote on the New York thing—I don't know what the situation is on that—and the START treaty. So on two of those items, I think most people understand we are not sure what the outcome is going to be. One we may be on for 1 day. It is hard to say. But other than that, this is the only business.

Mr. DURBIN. Madam President, would the Senator yield for a question?

Mr. KERRY. I am happy to yield.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I have just checked with the clerk and it is my understanding eight amendments have been filed to date on this START treaty.

Mr. KERRY. I think we had about five, but it may have gone up in the time I have been here.

Mr. DURBIN. The latest count, eight amendments. We are on the third day of debate. How many of these amendments have been called for a vote?

Mr. KERRY. We are only on the first amendment.

Mr. DURBIN. I see. Is the Senator from Massachusetts prepared to have a vote on one of these amendments or all of these amendments?

Mr. KERRY. We are prepared to vote actually on the treaty, but they have several amendments. We want to give them time to have those amendments. We are prepared to vote on this amendment.

In fairness, let me be clear. I want to be clear to the Senator from Illinois. I don't think our colleagues have used the process, in terms of this amendment. They have tried in good faith to line up speakers. I think it is important that they have an opportunity to thoroughly debate it and some other amendments. So I am certainly not joining in suggesting they have delayed this with this amendment. I think we have gotten into a good debate and we ought to be able to finish it.

Mr. DURBIN. I am not suggesting it either, but eight amendments have been filed by Republican Senators and I don't know that you have done anything—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 many of these treaties have been 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 will try to end it 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 matter ends today, as late as it may be, I will come to the floor and speak on the 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 is going 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 an issue that is 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 things that come 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 measure in 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 not one of those filibuster 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 something that 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. First of all, I wish the Senator from Tennessee had finished the sentence he originally began, which is to say that this is one of the most important things we could take up. But I understand why he checked himself and held back from that.

Mr. CORKER. I would agree.

Mr. KERRY. I would say this 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 of mine—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 national security subject to all 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 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 can 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 very difficult 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 got 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 this issue. Having given what I thought 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 colleague 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 negotiations, almost without exception—and 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, Carlucci, Cohen, Perry, and Schlesinger—this is a cross-section of both 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.

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 this START treaty. This 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 anticipated some of the arguments against it. It is as 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 rise, 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 their staffs have worked in good 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, Secretaries Clinton and Gates, as I mentioned, 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.

There is no 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 weapons. 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, 700 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 weapons 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 on 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 this regard. I urge you to read Senator LUGAR's comments about this 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, Chairman of the Joint Chiefs, 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 has sought 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 several days. So there are far more important questions in this treaty than just the provisions contained in it, as important as they are.

This treaty will ensure we continue to build on those close relationships. Our two countries have been collaborating to reduce the threat of nuclear weapons for decades. In the tradition of Presidents Reagan, Clinton, and both President Bushes, this treaty furthers that critical strategic partnership between ourselves and Russia.

Again, 90 percent—90 percent—of the world's nuclear arsenals are controlled by our two countries, and the ability to be able to make some significant reductions not only lessens the tensions between our two nations, but the one thing I think most of us fear is having these weapons end up in the wrong hands. And we know as we are here this evening, on this evening a few days before the Christmas holiday, that there are those tonight who are desperately trying to get their hands on this material, and they are determined to do it. We should take advantage of this moment with a treaty that is as well thought out as this and is supported by a broad cross-section of experts in our Nation and not run the risk that we would allow those who seek to do great harm to us to gain access to these weapons because we failed to move.

Madam President, I fear what will happen if we don't. And my colleagues know what can happen after January 6: The place changes, and the votes may or may not be there. I worry deeply about that. So this is more than just a question of the Christmas holiday. We also know what can happen in a few weeks.

Our two countries have been collaborating to reduce the threat of weapons for decades, and in the tradition, as I said, of those who have come before us, this ought to move forward.

The New START treaty has widespread bipartisan support among current and former military and diplomatic leadership. Some of the finest minds that have ever negotiated these issues have begged and urged us to support this agreement. I mention them again, going back to former Secretaries of State Madeleine Albright, James Baker, Warren Christopher, Henry Kissinger, Colin Powell, Condoleezza Rice, and George Shultz—that goes back over the last generation or more of our diplomats—and Secretaries of Defense Harold Brown, Frank Carlucci, Bill Cohen, a former colleague of ours, Bill Perry, and Jim Schlesinger. Again, I say respectfully to my colleagues, these are people who have studied this, who know these issues and have dealt with them in the past. To his great credit, George H.W. Bush, who negotiated that START treaty back in 1991, has urged us to do the same. It is not insignificant when you have that kind of endorsement of this kind of an agreement that this body should ignore it or miss the opportunity to act on it.

It is not every day that we have the chance to avert Armageddon. Nothing short of that is at stake, in my view, and that is the reason this is worthy of our time and attention and our vote, even at this time of the year. In fact, one might make the case, what better time of year to make this case than in this holiday season where we talk about peace in the world to all men of good will?

So, Madam President, I urge my colleagues to take whatever time we have in these next few days to cast a vote and leave a legacy to our children and grandchildren and others that in a tough time in our country when we couldn't come to agreement on much, that on this issue—the one that transcends all of politics, transcends all of ideology—we can come together as others have who have urged us to support this effort, that we do the same in this Chamber in these coming days.

I congratulate my colleagues for their work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I know the Senator from Illinois is about to be recognized. I won't be long, but I would like to take a moment.

These are the waning days. Senator DODD is going to be leaving the Senate. I don't know if he will be speaking in the next days on any of these issues that may be before the Senate, so this may well be his last substantive speech before the Senate, and I just wish to thank him.

I have sat next to Senator DODD for 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 unfailing 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 most junior Senator. We passed bipartisan 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 1,924-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 terrorists to be transferred 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 the Soviet leadership 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 head of state about wiping 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 grant us no 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. Remember, if Iran can orbit a satellite over anywhere on the Earth, it can deorbit a warhead anywhere too. We know Iran has thousands of uranium cascades operating to refine uranium. We know the Bushehr reactor 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 missile and fissile material production. Linked with the other speeches 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.-Israel Arrow 3 missile defense 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 the missile 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 Presidents Carter, Reagan, Bush, Clinton, Bush, and Obama have all certified as a state sponsor of terror.

The actions of the administration on missile defense appear uncertain. Under this treaty, we appear to 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, and I worry 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 the United States or Israel, 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 danger of 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 recognize ''undermining the 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 enshrined 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 deployed.

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 has the effect of opening a way for 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 us or Israel against missile attack, then 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. Defeat of 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 for 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 Senator SHAHEEN before that. So after Senator THUNE, I ask Senator SHAHEEN 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 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 it results in 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 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 the Chairman 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, they expressed a 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 Russian Government 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 damages 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.

Former Director of the CIA James Woolsey said it well in an op-ed he wrote for the Wall Street Journal in November. In it, he asked: ''Why has the administration agreed to a treaty that limits our nonnuclear long-range weapons and runs the risk of constraining our missile defenses?''

The administration's unilateral statement on limited missile defense does not resolve this ambiguity.

This treaty has a 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. That is simply 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. President Reagan, who 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. He walked out 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 vehicle limits. 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 stockpiles or 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. Proponents argue 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 compliance. Why is it that the New START treaty has a substantially weaker verification regime than START I? Given Russia's history of cheating on arms control treaties, the weaker verification 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 to give Senators access to them. We have asked numerous times and there is a precedent from past ratification of arms control treaties to make it available. We need to see the negotiating records 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 urgent national security, 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 duckers 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 verification measures 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 do not seriously evaluate 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 lameduck period after an election 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 dual or triple-tracked 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 Tennessee, Senator BOB CORKER. 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 Bush 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 opinion 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 START treaty contains specific limitations on missile defense in article V. Moreover, 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 is also extremely troubling.

When viewed together, the New START treaty's preamble, the limitations on missile defense in article V, and Russia's unilateral statement, amount to a Russian attempt to find a leverage point and exert political pressure upon the United States to forestall 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 preamble, 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 everything and it means nothing. 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 qualitatively and quantitatively improve our missile defenses, the administration will cave in to the Russians. We have already seen something such as this 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 not 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 3, as I mentioned earlier, as well as 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 ''viable'' in its unilateral statement that it would view American advances in missile defense 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 cosponsor.

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, that that is 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 of us have about it, this issue stands out. The issue of missile defense, when you live in a dangerous world, 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 our country and our allies 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 were 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 itself. 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 the legislative items, 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 wanted to come down and join Senator KERRY and again recognize his leadership, along with Senator LUGAR's, on moving the treaty ratification through the Senate.

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 deal with this issue 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 was considering the START nuclear disarmament agreement, the Senate, on the same day we debated the treaty back in 1992, passed an Interior appropriations bill, a DC appropriations bill, and we 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 overseas 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 what some of the most recognized foreign policy, military, national security experts in the country have had to say about this missile defense issue. First, let me quote ADM Mike Mullen, Chairman of the Joint Chiefs, who said:

> There is nothing in the treaty that prohibits us from developing any kind of missile defense.

Then LTG Patrick O'Reilly, head of the United States Missile Defense Agency, said:

> Relative to the recently expired START treaty, the New START treaty actually reduces constraints on the development of the missile defense program . . . I have briefed the Russians personally in Moscow on every aspect of our missile defense development. I believe they understand what that is. And that those plans for development are not limited by this Treaty.

And then Defense Secretary Robert Gates, who said:

> The treaty will not constrain the U.S. from developing and deploying defenses against ballistic missiles, as we have made clear to the Russian government. The U.S. will continue to deploy and improve the interceptors

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 against the 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 Colin 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 to address the concerns he had:

(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 United States allies against nuclear attacks to the best of its ability;

(B) policies based on ''mutual assured destruction'' or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) 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;

(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 aimed at fostering 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 has expired.

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 in between 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 they have set this up so 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 predicate for withdrawal from 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 not 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 obviously either 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 ground 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. So while it is true 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 to foreign relations vis-a-vis each other and, frankly, the position they take. For years the Russians had tried—before them, the Soviets had tried—to get the United States to cut back on or eliminate our missile defense plans. This was the whole point of the famous Reykjavik moment when Ronald Reagan, as much as he would have liked to have rid both sides of their nuclear weapons or as many as possible, nevertheless when it came right down to it, didn't take the deal that Gorbachev offered him which was: You eliminate missile defense and we will eliminate our strategic offensive weapons. I will come back to that in a moment. But it makes the point that the Russians for a long time have been trying to get us to link missile defense and offensive capabilities.

When that occurred in the START I treaty, our negotiators pushed back very hard. Here is what the United States unilateral statement was in response to the Russian statement. And the reason I quote this is because it is diametrically opposed to the approach our negotiators took with respect to

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 for the then-Soviet Union.

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 a 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 in this treaty 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 Feith said no. And he said: Well, we have to have a treaty to establish the structural relationship between our two countries. Doug said: No, we don't. We have relations with 200 countries. We have no treaty like this to establish a structure for our relationships. 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 this case, we not only 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 attack by constructing a layered 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 saying 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 reeestablishing 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.

I have personally witnessed 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 there is a relationship between 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 here 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 Reyjjavik.

My colleague 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 moral response. That is what Ronald Reagan believed.

To the extent the question is: Must the United States give up missile defense as a condition to reducing 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 that harm, specifically by 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 need to spend 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

account what the Russians have said. And without going into a long, detailed explanation, here are a few headlines, and maybe quoting from one article. Headline—this is near the time of the signing of the treaty, right at about the time. This is April 6: ''Lavrov: Russia may pull out of nuke deal if U.S. expands missile defense.'' There are a lot of other headlines and articles that point out the same thing. Here is Bloomberg Business Week: Russia may exit accord if U.S. pursues missile plan. That is according to Defense Minister Sergei Lavrov.

Let me quote a couple things he said, and then I do not need to make this point further because I do not think it has been seriously questioned that the Russians have made it very clear of their intention that the preamble sets up the condition, along with their unilateral statement, for the extraordinary circumstances that would allow their withdrawal under article XIV. This is the article I will put in the RECORD. It is from foreignpolicy.com, and I will ask to put it in the RECORD. But I will quote from it here:

It appears that Russian Defense Minister Sergei Lavrov isn't quite ready to pop the champagne on the new nuclear arms reduction agreement due to be signed in Prague this week.

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.

Going on in the article:

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.

Recall that was after the withdrawal of the radar from the Czech Republic and the missiles from Poland.

Continuing on with the article:

As FP's Josh Rogin reported last month, a workaround solution to the issue was reached, in which the issue of 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.

Madam President, I ask unanimous consent that the text of this article be printed in the RECORD.

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

LAVROV: RUSSIA MAY PULL OUT OF NUKE DEAL IF U.S. EXPANDS MISSILE DEFENSE

(Posted By Joshua Keating)

It appears that Russian Defense Minister Sergei Lavrov isn't quite ready to pop the champagne on the new nuclear arms reduction agreement due to be signed in Prague this week:

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 the issue of 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 by the treaty's opponents. 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 can.

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 somewhat, and the Russians do not like it. Even without the preamble, is it not true that according to article XIV, paragraph 3, they have a right to say: ''That is 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 countermand in any way. In that 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, it doesn't. 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.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I appreciate the answer of the Senator. Let me be clear. There is no language in here, none whatsoever in the treaty, 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 offensive capacity. 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 have done something that alters that balance, I believe he thinks they are going to react to that somehow. He has nodded in assent. He does believe that.

So all this nonbinding component says is recognizing the existence of the relationship, it doesn't say they are going to get out. It doesn't say at what point it changes things.

What is more, the record could not be more clear from our unbelievably competent personnel working on this—when you look at the comments of—let me go back to them right now.

I know the Senator from Arizona has respect for LTG Patrick O'Reilly. He is a retired U.S. Air Force lieutenant general, and it is his job to defend America against a missile attack. Here is what he said. He says:

> Relative to the recently expired START treaty, the New START treaty actually reduces constraints on the development of the missile defense program. Under New START, our targets will no longer be subject to START constraints.

So—and when Senators ask: Well, why didn't we just extend the original START treaty, apart from the fact the other side said they wouldn't, which is pretty significant, in addition to that, our military didn't want to because they wanted to get out from under the constraints of START. So when the man who is the head of missile defense tells me this treaty, in fact, removes constraints and improves our situation, then you add it to the plethora of other significant statements, from Secretary Bob Gates, from Secretary Clinton, from Admiral Mullen, from General Chilton, from the various other parties, every single one of them says we are not constrained in the type of defense that we can and will build.

All this says is recognizing the relationship. It doesn't restrict us from changing that. In fact, we have stated we are going to. So, obviously, at some point down the road, I assume the Russians are going to say this may be going too far. But it is more than 10 years down the road. So for 10 years we know we have a relationship where we can inspect and we can improve our situation.

I would further say to the Senator: Does the Senator agree at least with the fundamental understanding with respect to treaties that the preamble is not, in fact, legally binding and part of the treaty? Does the Senator agree with that?

Mr. KYL. Madam President, in a technical legal sense, I believe that is the way it is interpreted. I might also make another point, just to correct something—and we can have this debate later if you want to—but it is not true that no changes qualitatively or quantitatively in U.S. missile defenses will occur until after the 10 years that this treaty will be enforced. In fact, one of the most critical questions is whether the GBI systems we have deployed in Alaska and California will be available to be deployed in Europe or on the East Coast or somewhere else in 2015 or whether that will be delayed until 2017. So, clearly, there are—and those are the systems that would be potentially effective against a Russian ICBM.

Mr. KERRY. Fair enough. I accept that. There are some things we will do, and it may be that we had this moment of question mark earlier. That may be. I do know this: We are going to plan to do what is in our interests in the country in terms of our defense, and everybody has said we are committed to proceeding forward.

I want to come to the DeMint language in one moment, but let me finish this question for a second. The Senator agrees this is not a legally binding component he is trying to knock out. The next question is: Does the Senator agree and understand that if you change a comma in what is deemed to be—even though it is not binding, still nevertheless deemed to be the instrument before the Senate—if you change a word, change a comma, you then have to go back to the Russians and you have to negotiate and seek their agreement; does the Senator understand that?

Mr. KYL. Madam President, the answer to the question is, if the Senate, which is supposed to provide its advice and consent—in other words, it is 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 preamble—if that 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.

So 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 just 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 act on this treaty after the Senate 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.

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. Would you yield for one quick question?

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—I was attracted to that, frankly, because Senator DEMINT proposed it, and I said: You know, that is not an unreasonable statement for us to make.

Further, we say in the resolution—this is not unimportant:

> In a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating—

This is what our colleagues have been concerned about—

> strategic stability can be enhanced by strategic defensive measures.

We are embracing what our colleagues on the other side of the aisle are suggesting ought to be a part of this.

Then, we say—this is the most important paragraph:

> 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.

We are saying it. That is what we are adopting when we pass this resolution of ratification.

So not only do we have all our defense establishment, intelligence establishment, and civilian command saying we are going to build this system, not only have we briefed the Russians—and according to our leading general who is responsible for this, who says he briefed them, he told them about the fourth phase and they have accepted it—not only do we have that, but we are going on record saying we have this purpose to change this relationship and we are going to proceed to build this system.

I think that to put the whole treaty, given what is in the resolution of ratification, on the chopping block as a result of a nonbinding resolution, frankly, it just doesn't make sense, and particularly given what the Senator agrees with me is the consequence of having to reenter negotiations, and more important, the Senator agrees with me the thing he doesn't like is not legally binding.

So let's have a vote. Thank you.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Arizona.

Mr. KYL. I am rather enjoying this colloquy, so maybe I could extend it just a tad longer. Of course, the United States is free—I mean we are not going to ever let another country say we are not free to do something that is in our national interest. But the point is, the administration was unwilling to say 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. That has been 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 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 proposed 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, and perhaps one of the reasons 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 to 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, we 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 include in my comments about 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 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.

That is about as boldfaced 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 the

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. KYL. I am not questioning the President's sincerity 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.

To finish my point, 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 Iranians 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 would like their cooperation on 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 that we have to go back to 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 the Russians and you have to have 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 it 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 we have made it clear—we have done something 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 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 is our military.

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 unanimous 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,
Washington, DC, June 9, 2010.

Hon. CARL LEVIN,
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 take this 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 reducing the proliferation of nuclear weapons throughout the world, and provide the necessary flexibility to structure our strategic nuclear forces to best meet national security interests.

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. Without this treaty and the transparency 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. The Joint Staff 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 threat in Europe and offers several distinct advantages. The approach utilizes existing and proven capabilities and matches the expected capabilities to the anticipated threat. The architecture, 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 are 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.

And he said:

. . . 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.

Mr. KYL. Mr. President, do I have the time?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KERRY. 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 incorrect 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 fourth 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—try to act 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. KERRY. Mr. President, the process is that 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. They don't have 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, should the Senate ever change 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. KERRY. No, I agree. I already spoke to that. I said if 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 recognition of an existing 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. That is my point exactly. 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 is clearly spelled 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 important to them because 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, which also confirms the linkage. 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 pretext, a legal pretext, 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 wish 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 don't need a legal pretext. You don't 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 Senator 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 worked on it together. I embraced it. 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.