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TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE NEW START TREATY)

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Mr. KERRY, from the Committee on Foreign Relations, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany Treaty Doc. 111–5]

The Committee on Foreign Relations, to which was referred the Treaty Between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol (Treaty Document 111–5), having considered the same, reports favorably thereon with 10 conditions, 3 understandings, and 13 declarations, as indicated in the resolution of advice and consent for such treaty, and recommends that the Senate give its advice and consent to ratification thereof, as set forth in this report and the accompanying resolution of advice and consent.

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I. PURPOSE

The Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (hereinafter, the New START Treaty) will commit the United States and Russia to reductions in strategic offensive arms. By continuing predictability and transparency between the Parties, it would ensure strategic stability while enabling the United States to maintain an effective nuclear deterrent. New START builds upon the Treaty Between the United States and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (the START Treaty) of 1991 and the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions (the Moscow Treaty) of 2002.

The START Treaty limited each Party to 6,000 strategic warheads attributed to 1,600 deployed delivery vehicles. The Moscow Treaty limited each Party to between 1,700 and 2,200 deployed strategic nuclear warheads. The New START Treaty contains lower limits of 1,550 deployed strategic warheads and 700 deployed delivery vehicles. Unlike START and the Moscow Treaty, New START also limits each State Party to 800 deployed and non-deployed launchers of intercontinental ballistic missiles (ICBMs), launchers of submarine-launched ballistic missiles (SLBMs), and heavy bombers. In contrast with the START Treaty, the New START Treaty does not establish sub-limits on types of strategic offensive arms. Instead, each Party may determine its own force structure, within the treaty's limits and subject to its other provisions, as is the case under the Moscow Treaty. New START contains no limitations on U.S. missile defenses other than a silo conversion ban contained in paragraph 3 of Article V; it explicitly permits modernization of each Party's strategic offensive arms; and it does not constrain development of long-range conventional strike systems, although conventionally armed ICBMs and SLBMs would count toward the treaty's limits on deployed delivery vehicles, on deployed warheads, and on deployed and non-deployed launchers.

The New START Treaty would supersede the Moscow Treaty upon entry into force, and its verification provisions revise, update, and build upon those in the START Treaty, which expired on December 5, 2009. The Treaty consists of the main treaty text and a protocol, which contains ten parts and three annexes.

II. BACKGROUND AND DISCUSSION

HISTORY

The START process of reducing and limiting strategic offensive arms began during the Reagan administration. As former Secretary of State James Baker testified to the committee:

> Negotiations on the original START Treaty began . . . in the early 1980s during some of the most contentious years in the U.S.-Soviet rivalry, when the United States and Soviet Union were running the arms race at a really fast clip. Many feared that the Cold War would turn hot. And START was about stopping that race.

> It was about beginning to shrink the enormous nuclear arsenals that each side had built, and it was about stabilizing the nuclear relationship between the two countries so that our diplomatic relationship could evolve without the fear that either side was going to seek an atomic advantage. By dramatically reducing each side's nuclear forces, START took a relationship that was filled with uncertainty, and made it far more predictable. The original treaty provided a foundation for Washington and Moscow to reduce their arsenals, and to improve diplomatic ties and overall cooperation.

Those negotiations culminated in the START Treaty, which President George H.W. Bush and President Mikhail Gorbachev signed in July 1991. The Bush administration then quickly proceeded to negotiate a follow-on agreement that would further reduce U.S. and Russian deployed strategic nuclear forces to between 3,000 and 3,500 warheads. START II, as this agreement was known, was signed in 1993, just before President Bush left office, but it never entered into force because of subsequent disagreements between Russia and the United States over missile defense issues. In 1997, Presidents Bill Clinton and Boris Yeltsin agreed to a framework for a START III treaty, which would have reduced deployed arsenals to between 2,000 and 2,500 strategic warheads. However, formal negotiations never began because in 2000 the Russian Duma conditioned the entry into force of START II on U.S. ratification of agreements made in the Standing Consultative Commission in September 1997 concerning missile defense.

The George W. Bush administration continued the process of negotiated reductions in strategic nuclear forces, albeit in different form. In 2001, President Bush announced his intention to unilaterally reduce the number of operationally deployed strategic warheads to between 1,700 and 2,200 and suggested that the Russians could reciprocate. Russia, however, wanted such reductions to be made through a bilateral, legally-binding agreement, and in May 2002 the two countries signed the Moscow Treaty, a far simpler and shorter accord than START or START II.

Although its warhead limits were lower, the Moscow Treaty did not replace the START Treaty. The Moscow Treaty relied on START's verification and transparency mechanisms. It did create a Bilateral Implementation Commission, but the commission was not empowered to decide on any measures for verification. During the Senate's consideration of the treaty, some questioned whether that arrangement would be sufficient to ascertain compliance since START was to expire on December 5, 2009, three years before the Moscow Treaty's limits came into effect. But during consideration of the Moscow Treaty, Secretary of Defense Donald Rumsfeld told the committee that, "between now and 2009 . . . there is plenty of time to sort through what we will do thereafter." Similarly, Secretary of State Colin Powell testified at the time:

> We thought that long before we got to 2009, as a result of the work of the bilateral implementation committee and because of additional work that had been undertaken but not completed yet with respect to transparency measures and other things we can do in the area of confidence-build-

> ing and transparency, that by the time we got to 2009 we would know what we needed to know, and if not then we could suggest some time long before 2009 that it might be in the interest of both parties to extend those provisions of START.

In 2006, the United States and Russia began discussions on what, if anything, would replace START. At that time, Russia indicated that it wanted to negotiate a successor agreement similar to the original accord, but the Bush administration initially maintained that few of the measures contained in the START Treaty were still needed. Both countries wanted to maintain some of the verification and monitoring provisions established in START. Russia wanted these provisions to be part of a new legally-binding accord, but the Bush administration suggested a less formal regime of transparency and confidence-building measures that might include voluntary data exchanges and on-site visits.

The United States and Russia continued to discuss these issues in 2007 and 2008 but failed to reach agreement, although in April 2008 Presidents Bush and Putin did issue a Strategic Framework Declaration in which they committed to reducing their nuclear forces "to the lowest possible level consistent with our national security requirements and alliance commitments." The United States and Russia also met in November 2008 in the context of a meeting of START's Joint Compliance and Inspection Commission (JCIC)—together with representatives from Ukraine, Belarus, and Kazakhstan, which were Parties to the START Treaty as successor states to the Soviet Union—to discuss extending the treaty, but they did not agree on a course of action.

After taking office in January 2009, the Obama administration continued strategic talks with the Russians. In March, Secretary of State Hillary Clinton and Russian Foreign Minister Sergey Lavrov met in Geneva and agreed that the United States and Russia would try to negotiate a new strategic arms control accord before START expired at the end of the year. In April, meeting in London, Presidents Obama and Medvedev instructed their negotiators to begin work on a new agreement on "the reduction and limitation of strategic offensive arms" to levels below those established by the Moscow Treaty. They said the new agreement would "mutually enhance the security of the Parties and predictability and stability in strategic offensive forces, and will include effective verification measures drawn from the experience in implementing the START Treaty."

In July 2009, following initial meetings between American and Russian negotiators, Presidents Obama and Medvedev signed a Joint Understanding which indicated that the new treaty would limit each country to between 500 and 1,100 strategic delivery vehicles with 1,500 to 1,675 associated warheads. American and Russian negotiators met throughout the year but had not reached agreement by the time the START Treaty expired on December 5, 2009. At that time Presidents Obama and Medvedev released a joint statement, which said:

> Recognizing our mutual determination to support strategic stability between the United States of America and the Russian Federation, we express our commitment, as a

> matter of principle, to continue to work together in the spirit of the START Treaty following its expiration, as well as our firm intention to ensure that a new treaty on strategic arms enter into force at the earliest possible date.

In March 2010, the United States and Russia concluded negotiations. On April 8, Presidents Obama and Medvedev met in Prague and signed the New START Treaty. The treaty was submitted to the Senate on May 13, 2010, along with an article-by-article analysis of the treaty, protocol, and annexes (Treaty Doc. 111–5).

STRATEGIC RATIONALE FOR THE TREATY

Strategic Stability

The United States and Russia are no longer enemies as they were during the Cold War, but the two countries still have significant disagreements, including disagreements over political-military issues such as the nature of NATO, the status of Russian military deployments in countries that have not agreed to a Russian troop presence, and the 2008 war in Georgia. Moreover, each country still maintains thousands of strategic nuclear weapons that have the potential to destroy the other. Under these circumstances, it is prudent to maintain appropriate measures to assure both countries regarding the stability of the nuclear balance.

The New START Treaty's limits of 1,550 deployed warheads, 700 deployed delivery vehicles, and 800 deployed and non-deployed launchers and heavy bombers would ensure that neither side has a significant nuclear advantage. By re-establishing limits on strategic nuclear forces and continuing monitoring and verification procedures, the treaty also establishes predictability, so that each Party can base its military planning on reliable data regarding the other Party's strategic offensive arms and avoid estimates based on guesses that can lead to destabilizing strategic competition. In his testimony to the committee, the Commander of U.S. Strategic Command, General Kevin P. Chilton, USAF, explained why predictability was important:

> [I]f we don't get the treaty, (a) [the Russians are] not constrained in their development of force structure, and (b) we have no insight into what they're doing. So, it's the worst of both possible worlds. And so, what that means to us is that we have to guess or, through other national technical means, estimate what their force structure and what the capability of their weapons are, which then leads us to do analysis on what [we] need. And the less precise that is, the more the probability that we either under- or over-develop the force structure we require. And neither is a good result. "Under," it would be a security issue; "over" would be a cost issue. We could end up developing capabilities that we really didn't require.

At the same time, the treaty permits more flexibility than the original START Treaty in the composition and deployment of strategic offensive arms, as it eliminates sub-limits on different types of delivery vehicles. Because it does not limit non-deployed warheads and because U.S. ICBMs and bombers will retain the capacity to carry more warheads than they are deployed with or (in the

case of bombers) more than the number of nuclear weapons attributed to them under the treaty, the New START Treaty also allows the United States to hedge against technical or geopolitical surprise (for example, if a warhead type were to fail unexpectedly or if relations with Russia were to deteriorate precipitously). The treaty thus allows the United States to maintain a sufficient nuclear deterrent, while continuing to reduce and limit its strategic offensive arms. In response to a question for the record, General Chilton wrote, "Under the 700 limit on deployed ICBMs, SLBMs, and nuclear-capable heavy bombers, and 800 limit on deployed and non-deployed ICBM launchers, SLBM launchers, and nuclear-capable heavy bombers, the US will maintain a sufficiently robust and flexible deterrent force." (The text of unclassified questions and answers for the record growing out of the committee's hearings on the New START Treaty will be published by the committee in a separate print.)

Of course, the predictability and resulting stability established by an arms control agreement are achieved only insofar as each Party is confident that the other is adhering to the treaty's terms. Trust between the United States and Russia is significantly greater than in 1991. When the START Treaty was negotiated, a verification regime to deter or detect efforts to hide or deploy more warheads and missiles than allowed under the treaty was a new mechanism. Soviet levels of production and deployments of strategic offensive arms were also vastly higher than are Russia's production and deployments today. Fifteen years of inspections under START have given the United States a detailed understanding of Russian strategic nuclear forces and established a basis for evaluating aspects of the START verification regime that may no longer be needed due to changed circumstances. Just as under previous treaties, verifying Russian compliance with New START's limits is essential, which is why New START contains extensive monitoring provisions, including unique identifiers for all delivery vehicles, regular notifications and data exchanges, and 18 on-site inspections per year. The transparency that these measures provide will maintain and in some ways increase our understanding of the modern Russian arsenal of strategic offensive arms, develop confidence in Russian compliance with the new treaty's limits, and in turn enhance strategic stability between the United States and Russia.

The New START Treaty's preamble recognizes, "the existence of the interrelationship between strategic offensive arms and strategic defensive arms." It also notes that, "this interrelationship will become more important as strategic nuclear arms are reduced." The treaty does not contain any binding limitation on U.S. missile defenses beyond paragraph 3 of Article V, and the preamble also notes that "current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties," indicating that the Russians do not feel threatened by current U.S. missile-defense deployments. In testimony to the Foreign Relations Committee, two Pentagon officials—Dr. James N. Miller, Jr., Principal Deputy Under Secretary of Defense for Policy, and Lieutenant General Patrick J. O'Reilly, USA, Director of the Missile Defense Agency—indicated that they had briefed the Russians on all four phases of the Obama administration's Phased Adaptive Approach to missile defense in Europe and that the Rus-

sians had expressed understanding that the administration's plans would not threaten their deterrent. They also stressed that neither the preamble, nor a unilateral statement regarding U.S. missile defenses made on April 7, 2010, is in any way binding on the United States.

Some Members of the committee have expressed concern that the New START Treaty's preamble suggests that the United States will not build missile defenses to protect the United States from a Russian attack. Those Members note that their concern is reinforced by Russia's unilateral statement, which suggested that Russia might withdraw from the treaty in the event of "a build-up 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." Developing the capability to counter a massive strike by Russia's strategic nuclear forces has not been the policy of the United States under Presidents Clinton, Bush, or Obama. The National Missile Defense Act of 1999 (P.L. 106–38) provides that it is the policy of the United States "to deploy as soon as is 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)." [Emphasis added.] As Secretary of Defense Robert M. Gates testified to the committee on May 18, 2010:

> Under the last administration, as well as under this one, it has been the United States policy not to build a missile defense that would render useless Russia's nuclear capabilities. It has been a missile defense intended to protect against rogue nations such as North Korea and Iran or countries that have very limited capabilities. The systems that we have, the systems that originated and have been funded in the Bush administration as well as in this administration, are not focused on trying to render useless Russia's nuclear capability. That, in our view, as in theirs, would be enormously destabilizing, not to mention unbelievably expensive.

U.S.-Russian Relations

In the 20 years since the end of the Cold War, the tenor of U.S.-Russian relations varied, reaching a nadir after Russia's conflict with Georgia in August 2008. Ambassadorial and ministerial contacts at the NATO-Russia Council were suspended for the remainder of 2008, and in September 2008, the Bush administration withdrew from congressional consideration the U.S.-Russia Agreement for Peaceful Nuclear Cooperation. Moreover, for much of the previous decade, Russian foreign policy (particularly regarding Iran, Afghanistan, and North Korea) tended to exhibit a reflexive resistance to U.S. positions even when substantial commonality of interest existed.

In early 2009, the Obama administration initiated a "re-set" of relations with Moscow, focusing on several areas of mutual interest, including the expansion of the Northern Distribution Network to supply U.S. and coalition forces in Afghanistan, diplomatic con-

tainment of Iran's nuclear ambitions, nuclear security, non-proliferation, trade, and economics, and other areas.

The New START Treaty is an integral element in "re-setting" the policy agenda with Russia in a constructive and mutually beneficial way. Its ratification will have a positive impact on U.S.-Russian cooperation, particularly on nuclear cooperation, security, and nonproliferation matters. During the Cold War and in the intervening years, arms control implementation has endured ups and downs in our bilateral relations and has remained an abiding area of cooperation. As former National Security Advisor Stephen Hadley testified to the committee,

> I think you do need to see this treaty in context of really a 20-year effort spanning Republican and Democratic administrations. . . . And quite frankly, it's an indication of one more thing where Russia and the United States have found it in their common interest to work together cooperatively, and that's an important contribution to the overall environment between Russia and U.S. relations.

Partly as a result of positive momentum generated by the New START negotiations, the United States and Russia have reached new agreements that have materially advanced our shared interests around the world. For example, in November 2009, Russia supported the International Atomic Energy Agency Board of Governors resolution condemning Iran's failure to suspend uranium enrichment and cooperate with the IAEA; on June 9, 2010, Russia joined the United States in supporting U.N. Security Council Resolution 1929, which further sanctioned Iran for its nuclear program. Russia has also announced that it would not deliver its advanced S–300 air defense system to Iran—a sale that the United States has opposed since the deal was initially reached in 2007. In June 2009, the United States and Russia signed the Afghanistan Air Transit Agreement, which has allowed 35,000 U.S. personnel and troops to fly to Afghanistan via Russian airspace.[1] Russia also joined the United States in supporting U.N. Security Council Resolution 1874, condemning North Korea for its nuclear test in May. In their joint statement of June 24, 2010, Presidents Obama and Medvedev expressed their commitment "to continuing the development of a new strategic relationship based on mutual trust, openness, predictability, and cooperation by following up on the successful negotiation of the Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms."

Ratification of New START could lead to an improved dialogue on other areas where acute disagreements with Russia exist. Russia's repeated use of energy exports as a tool of political coercion of its neighbors and its ongoing occupation of Georgian territory demonstrate a continuing willingness to dominate its neighborhood. Russia's implementation of the Conventional Armed Forces in Europe (CFE) Treaty also has remained suspended since 2007.

The bottom line is that the United States needs Russian cooperation to address pressing regional and global security concerns, including accounting for and securing its substantial tactical nuclear weapon arsenal; continued implementation of the Nunn-Lugar Co-

[1] The White House, "U.S.-Russia Relations: 'Reset' Fact Sheet," June 24, 2010; available at http://www.whitehouse.gov/the-press-office/us-russia-relations-reset-fact-sheet.

operative Threat Reduction Program; and implementation other U.S.-Russian bilateral threat reduction programs to secure Russian nuclear sites and fissile material.

Many witnesses who testified to the committee noted that rejecting the treaty would severely undercut such efforts. Former National Security Advisor Lt. Gen. Brent Scowcroft, USAF (Ret.), said that "the principal result of non-ratification would be to throw the whole nuclear negotiating situation into a state of chaos." And former Secretary of State Henry Kissinger testified:

> This START treaty is an evolution of treaties that have been negotiated in previous administrations of both parties. And its principal provisions are an elaboration or a continuation of existing agreements. Therefore, a rejection of them would indicate that a new period of American policy had started that might rely largely on the unilateral reliance of its nuclear weapons, and would therefore create an element of uncertainty in the calculations of both adversaries and allies. And therefore, I think it would have an unsettling impact on the international environment.

The degree to which tensions have subsided between Washington and Moscow during the past 25 years is remarkable, but it remains true that many Russian security officials continue to view NATO as a the primary threat to their country and its interests. Over time, continued cooperation on issues involving our mutual security and the expansion of our economic and social ties will continue to improve bilateral relations. The New START treaty is part of a process that has resulted in a de-escalation of dangerously strained superpower relations and the ongoing construction of cooperation on issues of mutual interest.

Non-Proliferation

There is widespread agreement that the spread of nuclear weapons—and in particular their diversion to terrorists—is the chief threat to American security. President Bush stated that the single most serious threat to the United States was the possibility of terrorists acquiring nuclear weapons. President Obama agrees; the National Security Strategy, released in May 2010, said:

> The American people face no greater or more urgent danger than a terrorist attack with a nuclear weapon. And international peace and security is threatened by proliferation that could lead to a nuclear exchange. Indeed, since the end of the Cold War, the risk of a nuclear attack has increased. Excessive Cold War stockpiles remain. More nations have acquired nuclear weapons. Testing has continued. Black markets trade in nuclear secrets and materials. Terrorists are determined to buy, build, or steal a nuclear weapon. Our efforts to contain these dangers are centered in a global nonproliferation regime that has frayed as more people and nations break the rules.

The centerpiece of the global nonproliferation regime is the Treaty on the Non-Proliferation of Nuclear Weapons (NPT; Treaty Doc. 90–24), which opened for signature in 1968. Although the NPT is aimed at preventing states from acquiring nuclear weapons, it is an

important tool in the fight against nuclear terrorism as well because would-be nuclear terrorists would need to acquire fissile material from a state in order to make a bomb. State-sponsored nuclear programs are also the most likely source of weapons technology and components.

The NPT prohibits all but five of its States Parties—China, France, Russia, the United Kingdom, and the United States—from possessing nuclear weapons, but in exchange for the restraint of the treaty's non-nuclear weapons States Parties, those five agreed to work toward the eventual elimination of their weapons. Thus, in the treaty's preamble, the States Parties declare "their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament . . .". More significantly, Article VI of the NPT establishes a legal commitment to that effect: "Each of the Parties to the treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

The United States and Russia have used their bilateral agreements on strategic arms reductions as proof of progress toward this obligation. The preamble to the original START Treaty noted that the signatories were "[m]indful of their undertakings with regard to strategic offensive arms in Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968." The preamble to START II cited the NPT twice in its preamble: "Stressing their firm commitment to the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968, and their desire to contribute to its strengthening" and "Mindful of their undertakings with respect to strategic offensive arms under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968." The preamble to the Moscow Treaty says the United States and Russia are "[m]indful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968." Similarly, the New START Treaty's preamble says that the United States and Russia are "[c]ommitted to the fulfillment of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968, and to the achievement of the historic goal of freeing humanity from the nuclear threat."

By working eventually to fulfill their end of the NPT bargain, the United States and Russia may strengthen the non-nuclear-weapon states' commitment to nonproliferation. Continuing the reduction and limitation of strategic offensive arms has been seen as furthering the process of disarmament under the NPT. Such measures may only indirectly encourage rogue states like North Korea or Iran to come into compliance with their nonproliferation obligations under the NPT as non-nuclear weapon states and their obligations under U.N. Security Council resolutions that condemn their illegal nuclear weapons activities. But U.S. leadership in reducing the size of its own forces could encourage non-nuclear-weapon states to assist the United States in its efforts to combat proliferation.

During the committee's hearings on New START, many witnesses made this point. James Baker testified, "I happen to be one who strongly believes that it is important for our country and for

Russia to maintain a vigorous commitment to arms control as a part of our efforts to create and maintain an effective non-proliferation regime." Former Secretary of Defense James Schlesinger said, "[F]or the United States at this juncture to fail to ratify the treaty in the due course of the Senate's deliberation would have a detrimental effect on our ability to influence others with regard to particularly the nonproliferation issue." Former Secretary of State Henry Kissinger agreed: "[N]onproliferation has to be a central American objective. . . . And the ability to achieve its objectives depends on the credibility of the government. It would be more difficult for us to achieve the objectives that, again, have been proclaimed on a bipartisan basis for many decades" if the United States failed to ratify the New START Treaty.

At conferences to review the NPT's implementation, which are held every 5 years, success or failure has often been influenced by the perception of how much progress has been made toward nuclear disarmament. In the run-up to the 2010 review conference, many states participating in preparatory meetings called on the United States and Russia to negotiate a successor agreement to the original START Treaty and continue reductions to their nuclear arsenals.[2] The month after Presidents Obama and Medvedev signed the New START Treaty, the States Parties to the NPT met in New York for the 2010 review conference. Signature of the treaty appears to have helped the United States deflect efforts by Iran to distract attention from its own nuclear program by pointing out that the United States maintains a substantial arsenal. In testimony delivered while the review conference was being held, Secretary Clinton said of the New START Treaty:

> In my discussions with many foreign leaders, including earlier this month in New York at the beginning of the Nonproliferation Treaty review conference, I have already seen how this New START Treaty and the fact that the United States and Russia could agree has made it more difficult for other countries to shift the conversation back to the United States. We are seeing an increasing willingness both to be held accountable and to hold others accountable.

Later in her testimony, Secretary Clinton said:

> [T]he nonaligned movement states have historically come to their NPT obligations with some criticism that the United States is not doing its part on the disarmament front. There was none of that at this conference in New York because of the fact that we had reached this agreement with Russia. So it does provide a stronger platform on which we stand to make the case against proliferation.

LIMITS ON STRATEGIC OFFENSIVE ARMS

Like the Moscow Treaty, the New START Treaty is designed to regulate, reduce, and limit the strategic nuclear forces of two countries that maintain the capability to destroy each other many times over, but in dramatically different strategic circumstances than ob-

[2] Paul K. Kerr et al., "2010 Non-Proliferation Treaty (NPT) Review Conference: Key Issues and Implications," Congressional Research Service, May 3, 2010, p. 7.

tained during the Cold War. The original START Treaty reflected the Cold War, and there was little confidence in Soviet compliance with substantial arms reduction and limitation obligations. The New START Treaty reflects a changed strategic relationship in which both countries have a record of meeting such obligations (although there have been many disputes regarding verification and transparency), and both countries seek to lower the costs of such measures and to maintain greater freedom to decide how to meet their obligations. The result is a treaty that specifies numerical limits but does not include all of the detailed START Treaty limitations on throw weight, missiles with multiple independently targetable reentry vehicles (MIRVs), certain strategic military exercises, and other out-of-base activities involving mobile ICBM launchers.

The key provisions of the New START Treaty are the central limits contained in Article II, which require the United States and Russia to reduce their nuclear forces to:

- 700 deployed ICBMs, SLBMs, and heavy bombers;
- 1,550 warheads on deployed ICBMs, SLBMs, and nuclear warheads counted for heavy bombers;
- 800 deployed and non-deployed ICBM launchers, SLBM launchers, and heavy bombers.

Within these limits the United States and Russia can structure their forces as they see fit. They have 7 years after the treaty enters into force to meet these limits.

These limits are lower and are structured differently than those in the original START accord and the Moscow Treaty. START limited the United States and the Soviet Union to 6,000 strategic warheads attributed to 1,600 delivery vehicles (it did not distinguish between delivery vehicles and their launchers). It also contained sub-limits on different types of warheads and delivery vehicles. (For example, no more than 4,900 of the warheads could be attributed to deployed ICBMs and SLBMs.) The Moscow Treaty limited each Party to between 1,700 and 2,200 strategic nuclear warheads, but it did not contain any limits on delivery vehicles or launchers.

The New START Treaty counts treaty-limited items differently than its predecessors did. Because of the difficulty in determining how many warheads an ICBM or SLBM is deployed with at any given time, the original START agreement simply attributed to each deployed missile an agreed number of warheads (sometimes, but not always, the maximum number of warheads that it could carry). Thus, every deployed Soviet/Russian SS–24 counted as 10 warheads within the central limitation of 6,000 warheads (and as one delivery vehicle toward the central limitation of 1,600 delivery vehicles) regardless of how many warheads it was actually carrying. Putting more warheads on a missile than the attributed number was banned. By contrast, the New START Treaty counts the actual number of warheads on each deployed ICBM and SLBM, rather than relying on an attribution of a certain number of warheads to each deployed missile type. New START thus aims to give a more accurate account of each Party's strategic offensive ICBMs and SLBMs, and the treaty's verification provisions—notably including improved reentry vehicle inspections—have been structured to reflect this change.

Bomber Counting Rule

The original START Treaty also had different counting rules for bomber-borne nuclear weapons. Bombers incapable of carrying long-range nuclear air-launched cruise missiles (ALCMs) were counted as having one warhead, even if they could carry multiple bombs or short-range missiles. Bombers capable of carrying long-range nuclear ALCMs were counted as having half the number of weapons that they could actually carry. In part, this was a function of the difficulty of counting how many weapons could be deployed on bombers because such weapons are often stored separately from their delivery vehicles. In addition, the United States and the Soviet Union wanted to encourage greater reliance on bombers because they are more stabilizing than missiles, particularly ICBMs. Bombers are slow, they can be recalled, and they can be shot down. Thus, the treaty "discounted" the number of warheads each bomber carried.

The New START Treaty applies similar reasoning to the counting of bombers, but its counting rule is simpler than START's. Each heavy bomber—defined either as a bomber with a range of greater than 8,000 kilometers or a bomber that can carry long-range nuclear ALCMs—is counted as having one warhead, regardless of how many it can carry. As Dr. Edward L. Warner III, the Secretary of Defense's representative to the negotiations, explained in response to a question for the record:

> This attribution rule was adopted because on a day-to-day basis neither the United States nor the Russian Federation maintains any nuclear armaments loaded on its deployed heavy bombers. If the counting approach adopted for deployed ballistic missiles had been applied to deployed heavy bombers, each deployed heavy bomber would have been counted with zero nuclear warheads. The New START Treaty approach strikes a balance between the fact that neither side loads nuclear armaments on its bombers on a day-to-day basis and the fact that these bombers, nonetheless, have the capability to deliver nuclear armaments stored in nuclear weapons storage bunkers on or near their air bases.

The Moscow Treaty contained no counting rules, saying only that each country would reduce its "strategic nuclear warheads" to between 1,700 and 2,200 and that each Party would "determine for itself the composition and structure of its strategic offensive arms." In a November 13, 2001, statement cited in the treaty, President Bush said the United States would reduce its "operationally deployed" strategic nuclear warheads, but he did not define that term. The Moscow Treaty allowed each Party to determine for itself which warheads counted toward the treaty limit, and those determinations differed. One press report indicated that Russia did not count its bombers as having any warheads, while the United States counted the number of associated weapons stored with each bomber.[3] And the reports submitted to the committee in the Annual Report on Implementation of the Moscow Treaty provided pursuant to

[3] Peter Baker, "Arms Control May Be Different on Paper and on the Ground," The New York Times, March 30, 2010. http://www.nytimes.com/2010/03/31/world/europe/31start.html.

Condition 2(2) of the Senate Resolution of Advice and Consent to Ratification of the Moscow Treaty have stated:

> The Treaty makes clear that the Parties need not implement their reductions in an identical manner. Russia, like the United States, may reduce its strategic nuclear warheads by any method it chooses. Russia could use the U.S. definition of "operationally deployed strategic nuclear warheads" or some other counting method to quantify its reductions.[4]

Rail-Mobile Launchers of ICBMs

The committee examined a claim that the New START Treaty would not limit Russian ICBMs if they were launched from rail-mobile launchers. At the time of the START Treaty, the Soviet Union deployed the 10-warhead SS-24 ICBM on a rail-based launcher. (The United States had also explored deploying the 10-warhead Peacekeeper ICBM on a rail-based system.) Russia deployed 36 SS–24 rail-based launchers at the height of its deployment. The START II Treaty would have required Russia to eliminate or convert all of its ICBM launchers capable of deploying MIRVs by 2003. To comply with those limits, Russia and the United States worked together, under the Nunn-Lugar Cooperative Threat Reduction program, to destroy Russia's SS–24 ICBMs and rail-based launchers. Those cooperative efforts continued even though the START II Treaty ultimately did not come into force, and the last Russian SS–24 launcher was eliminated in 2007.

In addition to its overall limit on the total number of warheads attributed to deployed ICBMs and their associated launchers, deployed SLBMs and their associated launchers, and deployed heavy bombers, the START Treaty contained a sublimit on warheads attributed to deployed ICBMs on mobile launchers of ICBMs. There was also a sublimit on the aggregate number of non-deployed ICBMs for all mobile launchers of ICBMs, with a further limit that the number of non-deployed ICBMs for rail-mobile launchers of ICBMs could not exceed half of the aggregate number. The systems covered by these sublimits were therefore tied to the START Treaty's definition of a "mobile launcher of ICBMs." Because the sublimit needed to cover both the rail-mobile and road-mobile launchers that were deployed at the time of the treaty, the START Treaty's definition of "mobile launcher of ICBMs" was "a road-mobile launcher of ICBMs or a rail-mobile launcher of ICBMs."

Article II of the New START Treaty, by contrast, contains only plain limits on ICBMs and ICBM launchers, SLBMs and SLBM launchers, and heavy bombers, with no sublimits. Within those limits, each side retains the flexibility to shape its strategic nuclear forces. As a result, there is no sublimit on the number of deployed mobile ICBMs within the treaty's limit of 700 total deployed ICBMs, deployed SLBMs, and deployed heavy bombers. Similarly, the limit of 800 total deployed and non-deployed ICBM launchers, deployed and non-deployed SLBM launchers, and deployed and non-deployed heavy bombers contains no sublimit on deployed and non-deployed mobile launchers of ICBMs.

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[4] *See,* for example, http://www.state.gov/t/vci/rls/rpt/141429.htm.

Consequently, the characteristics of the strategic offensive arms limited by Article II of the treaty—in particular, the deployed and non-deployed launchers of ICBMs, the deployed ICBMs, and their associated warheads—do not hinge on the treaty's definition of "mobile launchers of ICBMs" (which, as discussed below, the treaty retains for purposes other than the limits of Article II). Article II uses defined terms to establish the limits, and Part One of the Protocol explicitly defines the terms "ICBM," "deployed ICBM," "ICBM launcher," and "deployed launcher of ICBMs" that are used in Article II.

Specifically, Article II, paragraph 1(a) limits each side to no more than 700 "deployed ICBMs, deployed SLBMs, and deployed heavy bombers." Paragraph 37 of Part One of the Protocol defines the term "intercontinental ballistic missile," or "ICBM," as "a land-based ballistic missile with a range in excess of 5,500 kilometers." Paragraph 13 of Part One of the Protocol defines the term "deployed ICBM" to mean "an ICBM that is contained in or on a deployed launcher of ICBMs." Paragraph 14 of Part One of the Protocol in turn defines "deployed launcher of ICBMs" as "an ICBM launcher that contains an ICBM and is not an ICBM test launcher, an ICBM training launcher, or an ICBM launcher located at a space launch facility." The term "ICBM launcher" is also a defined term: Paragraph 28 of Part One of the Protocol defines it to mean "a device intended or used to contain, prepare for launch, and launch an ICBM."

Reading these defined terms together leads the committee to conclude that any land-based ballistic missile with a range in excess of 5,500 kilometers that is contained in or on a device intended or used to contain, prepare for launch, and launch an ICBM—which device is not an ICBM test launcher, an ICBM training launcher or an ICBM launcher located at a space launch facility—counts under the limit in Article II, paragraph 1(a), whether that ICBM is deployed in a silo launcher, a road-mobile launcher, or a rail-mobile launcher. (Article II, paragraph 1(b) in turn limits warheads on items counted under paragraph 1(a); thus the warheads on any deployed ICBM count toward the 1,550 limit.)

Article II, paragraph 1(c) also limits each side to 800 "deployed and non-deployed ICBM launchers, deployed and non-deployed SLBM launchers, and deployed and non-deployed heavy bombers." Yet again, the definitions of the relevant terms do not depend upon the Protocol's definition of the term "mobile launcher of ICBMs." As stated above, the phrase "deployed launcher of ICBMs" is defined by paragraph 14 of Part One of the Protocol. Paragraph 49 of Part One of the Protocol defines a "non-deployed launcher of ICBMs" as "an ICBM test launcher, an ICBM training launcher, an ICBM launcher located at a space launch facility, or an ICBM launcher, other than a soft-site launcher, that does not contain a deployed ICBM." The definitions of the terms "test launcher" (paragraph 80 of Part One of the Protocol), "training launcher" (paragraph 83) and "space launch facility" (paragraph 73) do not reference, and are not affected by, the defined term "mobile launcher of ICBMs." Thus, regardless of whether it contained a deployed ICBM, any rail-mobile launcher that satisfied the definition of an "ICBM launcher"—that is, it was "a device intended or used to contain, prepare for launch, and launch" a land-based ballistic missile with

a range in excess of 5,500 kilometers—would count under the limit established by Article II, paragraph 1(c).

As noted above, however, even though the treaty does not handle mobile launchers of ICBMs differently than other launchers of ICBMs for the purposes of the Article II limits, mobile ICBM launchers are treated differently than fixed, silo launchers in certain other ways. Part One of the Protocol, paragraph 45 creates a special definition for mobile launchers of ICBMs; the term is defined as "an erector-launcher mechanism for launching ICBMs and the self-propelled device on which it is mounted." This definition excludes the reference to a rail-mobile launcher of ICBMs that had been contained in the definition in the START Treaty. (START defined a rail-mobile launcher of ICBMs as "an erector-launcher mechanism for launching ICBMs and the railcar or flatcar on which it is mounted.") When asked why the definition of mobile launcher of ICBMs was changed to exclude the reference to rail-mobile launchers, the Secretary of Defense answered for the record, "Rail-mobile ICBMs are not specifically mentioned in the New START Treaty because neither Party currently deploys ICBMs in that mode."

The term "mobile launcher of ICBMs" is used in, or otherwise affects, Articles III, IV, VI, VII, and XI, as well as provisions in the Protocol and Annexes related to those articles. For example:

- In the main Treaty text, Article III, paragraph 5 states that mobile launchers of ICBMs will first become subject to the treaty when they leave a production facility (as opposed to silo launchers, which become subject to the treaty when the silo door is first installed and closed).
- Article IV, paragraph 3(a) bars mobile launchers of prototype ICBMs from being located at maintenance facilities of ICBM bases. Article IV, paragraph 4 allows non-deployed mobile launchers of ICBMs to be in transit between facilities for no more than 30 days at a time.
- Part Two of the Protocol, which describes the information that is provided for the database created by Article VII of the treaty, establishes differing types of information that must be provided related to ICBM bases, production facilities, storage facilities, repair facilities, and conversion or elimination facilities for mobile launchers of ICBMs. The Parties must also provide height, width, and length data regarding mobile launchers of ICBMs.
- Section III, paragraphs 4–7 of Part Three of the Protocol—which sets out in detail how the Parties will satisfy Article VI of the treaty on conversion and elimination—establishes conversion and elimination procedures specific to mobile launchers. Paragraph 2 of Section VII of Part Three of the Protocol establishes a specific elimination procedure for fixed structures for mobile launchers of ICBMs.
- Paragraph 3(a) of Section II of Part Four of the Protocol (which covers notifications) requires that the Parties notify one another no later than five days after the emergence of new versions of mobile launchers of ICBMs.
- Sections VI and VII of Part Five (on Inspection Activities) of the Protocol establish slightly different procedures for inspections of facilities that house deployed, non-deployed, or elimi-

nated mobile launchers of ICBMs. For example, paragraph 7(c) of Section VI of Part Five of the Protocol gives the inspected Party only five hours after the completion of pre-inspection procedures at an inspected ICBM base to transport inspectors to conduct a Type One inspection of an ICBM on a mobile launcher of ICBMs (the inspected Party has 12 hours to transport inspectors to a silo launcher designated for inspection). Part Five of the Protocol, Section VII, paragraph 4 permits Type Two inspections in order to confirm, among other things, that mobile launchers of ICBMs have actually been eliminated in accordance with an earlier notification.

The committee believes that it is highly unlikely that during the duration of the treaty the Russian Federation, after years of working with the United States to destroy its remaining Cold War-era rail-mobile launchers, would divert limited resources and infrastructure from its planned deployment of new road-mobile ICBM forces and instead (or in addition) build and deploy rail-mobile launchers.

Nevertheless, while a new rail-mobile system would clearly be captured under the Article II limits despite the exclusion of rail-mobile launchers from the definition of mobile launchers of ICBMs, those provisions that actually use the defined term "mobile launchers of ICBMs" would not cover rail-mobile systems if Russia were to re-introduce them. The Secretary of State and the Secretary of Defense explained for the record that, if a Party chose to develop and deploy rail-mobile ICBMs, "Appropriate detailed arrangements for incorporating rail-mobile ICBM launchers and their ICBMs into the treaty's verification and monitoring regime would be worked out in the Bilateral Consultative Commission." Under Article XV, paragraph 2, under the auspices of the Bilateral Consultative Commission (BCC) the Parties may make changes to the Protocol or Annexes that do not affect substantive rights and obligations of the Parties, without resorting to the constitutional procedures for amending the main treaty text or for making changes to the Protocol or Annexes that do alter substantive rights and obligations of the Parties. If Russia were again to produce rail-mobile ICBM launchers, the Parties would work within the BCC to find a way to ensure that the treaty's notification, inspection, and monitoring regime would adequately cover them.

The committee does not believe that there is any disagreement between the United States and the Russian Federation on any of these points. Rather than take this for granted, however, the committee recommends that the Senate include in its resolution of advice and consent to the ratification of the treaty an understanding, to be included in the instrument of ratification, that sets forth the United States' understanding of how the treaty would apply to rail-mobile-launched ICBMs and their launchers.

U.S. FORCE STRUCTURE UNDER THE TREATY'S LIMITS

The executive branch has provided some details as to how it will reduce U.S. nuclear forces to comply with New START's limits in both its Nuclear Posture Review (submitted pursuant to section 1070 of Title X of Public Law 110–181, the National Defense Authorization Act for Fiscal Year 2008) and a plan provided to Congress in accordance with section 1251 of Title XII of Public Law

111–84, the National Defense Authorization Act for Fiscal Year 2010 (the "1251 report"). In the plan contained in the 1251 report, the Department of Defense indicated that it would maintain the U.S. nuclear triad of ICBMs, SLBMs, and bombers, but reduce the size of each leg. Currently, the United States has 450 ICBM silos, and the administration plans to retain up to 420 ICBMs, each carrying a single warhead. The United States has 94 deployable nuclear-capable heavy bombers; the administration plans to convert some of these bombers to a conventional-only role (at which point they would not count toward the treaty's limits) and to retain up to 60 nuclear-capable bombers. The administration plans to retain all 14 strategic nuclear submarines that the United States has, but it will reduce the number of SLBM launch tubes on each submarine from 24 to 20 and it will deploy no more than 240 SLBMs at any one time.

These figures add up to 720 delivery vehicles, so the United States will have to make further cuts in order to meet treaty limits. When asked in a question for the record why the plan did not specify all the cuts that would be made, the Secretary of Defense responded:

> Because the treaty covers a 10-year period after entry into force, the Department has outlined a baseline force structure that fully supports U.S. strategy. This structure is important for planning purposes and shows our commitment to maintaining the Triad, but also allows us to modify our force structure plans while fielding a force of 700 deployed strategic delivery vehicles, as circumstances dictate.

During its deliberations, the committee examined whether New START's limits would allow the United States to field an effective nuclear deterrent force. Several Members pointed out that, in a 2008 white paper, the Departments of Defense and Energy had recommended maintaining a larger deployed force of 862 ICBMs, SLBMs, and bombers.[5] In response, Secretary Gates noted:

> The Nuclear Posture Review (NPR) conducted detailed analysis of current and future threats, as well as potential reductions in strategic weapons, including delivery vehicles that would allow the United States to sustain stable deterrence at lower force levels. The conclusion from the NPR analysis is that stable deterrence could be maintained at lower strategic delivery vehicle levels, given our estimates of current and future Russian strategic forces.

Chairman of the Joint Chiefs of Staff, Admiral Michael G. Mullen, USN, also noted that this determination was made using existing guidance for the employment of nuclear weapons: "Utilizing existing targeting policies, the NPR conducted detailed analysis of potential reductions in strategic weapons, and concluded that stable deterrence could be maintained at lower levels, assuming parallel reductions by Russia to meet the lower ceiling of the New START Treaty."

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[5] "National Security and Nuclear Weapons in the 21st Century," September 2008. http://www.defense.gov/news/nuclearweaponspolicy.pdf.

In addition, Secretary Gates pointed out that the 2008 white paper had used different counting rules than those used in the New START Treaty. For example, under New START's counting rules and provisions for conversion, it is possible to retain all 14 strategic nuclear submarines with only 240 accountable SLBMs—96 fewer than assumed in the 2008 paper. Thus, much of the difference between the 862 delivery vehicles called for in the white paper and the 700 allowed by New START can be achieved without reducing the number of U.S. strategic submarines (SSBNs) or heavy bombers.

Similarly, Gen. James E. Cartwright, USMC, Vice Chairman of the Joint Chiefs of Staff, wrote the Committee on Armed Services to explain why the treaty's limit of 700 deployed strategic delivery vehicles "provides a sound framework for maintaining stability and allows us to maintain a strong and credible deterrent that ensures our national security while moving to lower levels of strategic nuclear forces." That letter is reprinted in full at the end of this report.

General Chilton, who is responsible for the operation of U.S. nuclear forces, also told the committee that he strongly supported the New START Treaty and that its limits would not degrade the U.S. nuclear deterrent. In answering a question for the record, he replied, "Under the 700 limit on deployed ICBMs, SLBMs, and nuclear-capable heavy bombers, and 800 limit on deployed and non-deployed ICBM launchers, SLBM launchers, and nuclear-capable heavy bombers, the US will maintain a sufficiently robust and flexible deterrent force."

His predecessors agree. On July 14, 2010, seven former Commanders of Strategic Air Command and U.S. Strategic Command sent a letter to the Committees on Foreign Relations and Armed Services, noting their support for the New START Treaty and explaining that its limits were reasonable:

> [A]lthough the New START Treaty will require U.S. reductions, we believe that the post-treaty force will represent a survivable, robust and effective deterrent, one fully capable of deterring attack on both the United States and America's allies and partners. The Department of Defense has said that it will, under the treaty, maintain 14 Trident ballistic missile submarines, each equipped to carry 20 Trident D–5 submarine-launched ballistic missiles (SLBMs). As two of the 14 submarines are normally in long-term maintenance without missiles on board, the U.S. Navy will deploy 240 Trident SLBMs. Under the treaty's terms, the United States will also be able to deploy up to 420 Minuteman III intercontinental ballistic missiles (ICBMs) and up to 60 heavy bombers equipped for nuclear armaments. That will continue to be a formidable force that will ensure deterrence and give the President, should it be necessary, a broad range of military options.[6]

This letter is reprinted in full at the end of this report.

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[6] General Larry Welch (USAF, Ret), General John Chain (USAF, Ret), General Lee Butler (USAF, Ret), Admiral Henry Chiles (USN, Ret), General Eugene Habiger (USAF, Ret), Admiral James Ellis (USN, Ret), General Bennie Davis (USAF, Ret); Letter to Senator Carl Levin, Senator John McCain, Senator John F. Kerry, and Senator Richard G. Lugar; July 14, 2010.

TREATY COMPLIANCE AND VERIFICATION

The President of the United States, in his letter of transmittal of the New START Treaty to the Senate, stated:

> The treaty will promote transparency and predictability in the strategic relationship between the United States and the Russian Federation and will enable each Party to verify that the other Party is complying with its obligations through a regime that includes on-site inspections, notifications, a comprehensive and continuing exchange of data regarding strategic offensive arms, and provisions for the use of national technical means of verification.

The Secretary of Defense, who had said that the New START Treaty "maintains an effective verification regime" when the text of the treaty was first released, testified to the committee that he was confident of the verifiability of the treaty:

> In my view, a key contribution of this treaty is its provision for a strong verification regime . . . which provides a firm basis for monitoring Russia's compliance with its treaty obligations while also providing important insights into the size and the composition of Russian strategic forces.

Admiral Mullen, when asked whether the New START verification regime would increase or decrease our overall understanding of the Russian arsenal compared to the START Treaty period, replied, "I think, on balance, it would increase it."

The committee notes, and witnesses conceded, that the New START verification regime does not include the START Treaty regime's perimeter and portal continuous monitoring (PPCM) facility at the Votkinsk missile production plant in Russia, or the exchange of nearly all telemetry from long-range missile tests, and it provides for fewer on-site inspections than under the START Treaty (although some inspections will include a range of activities that would have required two inspections under START, and the number of Russian strategic weapons facilities to be inspected has decreased over the years as its strategic forces have been reduced and consolidated). Some committee members were skeptical, moreover, regarding the benefits to be gained from such new aspects of the New START verification regime as increased use of unique identifiers on Russian missiles and bombers, more extensive notifications of missile and bomber movements, and inspection of up to 10 missiles per year to determine how many reentry vehicles are actually on them (as opposed to the less rigorous requirement, under the START Treaty, to ensure that the missile did not have more reentry vehicles than the number attributed to it under that treaty).

The fact remains, however, that the START Treaty's verification regime ended when that treaty expired on December 5, 2009. Neither Russia nor the United States proposed extending that treaty, so the choice today is between the New START Treaty regime and no regime at all. As General Chilton explained to the committee:

> [I]f we don't get the treaty, (a) they're not constrained in their development of force structure, and (b) we have no insight into what they're doing. So, it's the worst of both possible worlds. And so, what that means to us is that we

> have to guess or, through other national technical means, estimate what their force structure and what the capability of their weapons are, which then leads us to do analysis on what [we] need. And the less precise that is, the more the probability that we either under- or overdevelop the force structure we require. And neither is a good result. "Under," it would be a security issue; "over" would be a cost issue. We could end up developing capabilities that we really didn't require.

The committee heard testimony in closed session from U.S. Intelligence Community witnesses and from chief New START negotiator Rose Gottemoeller in her capacity as Assistant Secretary of State for Verification and Compliance. The committee also reviewed both public and classified materials on these issues, including: the National Intelligence Estimate on U.S. capabilities to monitor Russian compliance with the treaty; the State Department's report on the verifiability of the treaty, provided pursuant to section 306(a)(1) of the Arms Control and Disarmament Act (22 U.S.C. 2577(a)(1)); and the Secretary of State's report (with the concurrence of the Director of National Intelligence) on other countries' compliance with their arms control obligations under treaties to which the United States is a party, provided pursuant to section 403(a) of the same Act (22 U.S.C. 2593a(a)), which included a discussion of START Treaty compliance issues for the period between 2005 and the expiration of that treaty in December 2009. All three reports were discussed at this closed hearing.

The committee received a letter from the Secretary of Defense that summarized "the Department's assessment of the military significance of potential Russian cheating or breakout, based on the recent National Intelligence Estimate (NIE) on monitoring the treaty." (The unclassified text of that letter is appended to this report.) The committee also received classified letters from the chairman and from the vice chairman of the Senate Select Committee on Intelligence, which conducted its own review and held its own hearings on verification issues relating to the New START Treaty. Based on its review of all these materials, the committee concludes that the New START Treaty is effectively verifiable.

The standard of "effective verification" is a term of art that has been used since the Reagan administration, which applied it regarding the Intermediate Range Nuclear Forces (INF) Treaty in 1988. Ambassador Paul Nitze explained the term to the committee as follows:

> What do we mean by effective verification? We mean that we want to be sure that, if the other side moves beyond the limits of the treaty in any militarily significant way, we would be able to detect such violation in time to respond effectively and thereby deny the other side the benefit of the violation.

The Secretary of Defense's letter to the committee addressed the concept in similar terms, explaining that:

> [A] key criterion in evaluating whether the treaty is effectively verifiable is whether the U.S. would be able to detect, and respond to, any Russian attempt to move beyond

> the treaty's limits in a way that has military significance, well before such an attempt threatened U.S. national security.

Arms control verification is not perfect science, and no arms control treaty comes with the assurance of perfect compliance or verification. Arms control compliance can be less than complete even when countries are trying to comply with their obligations, either because the obligations are unclear or because they are difficult to implement. Disclosing military information to representatives of another country runs against the grain of most militaries, moreover, and that is surely so in Russia. Items limited by arms control treaties are seen as significant instruments of national power and sovereignty. To understand verification and compliance under the New START Treaty, it helps to consider how these concerns were addressed under the START Treaty and what factors go into estimating the likelihood and implications of various potential cheating scenarios.

When the original START Treaty was considered in 1992, the imperfections of arms control verification were readily conceded. The Director of Central Intelligence (Robert M. Gates, who is now Secretary of Defense) testified that the Intelligence Community would have difficulty counting the number of non-deployed mobile missiles and the number of Russian warheads. The Senate Select Committee on Intelligence added that there would be "relatively low levels of monitoring confidence with respect to the range and arming of air-launched cruise missiles (ALCMs), as well as the number of ALCMs actually carried by a heavy bomber." The same concerns exist today for mobile missiles and for warheads. There are no specific ALCM provisions in New START, so verification of the numbers and capabilities of such systems is no longer needed, although transparency regarding ALCM numbers and the carrying capacity of Russian heavy bombers remains a concern.

The desire for strict verification of the other party's compliance with treaty obligations must be balanced against the desire in one's own armed forces to avoid such verification of their activities. Thus, in the START Treaty, the Joint Staff preferred to treat sea-launched cruise missiles in a political arrangement outside the treaty so as to avoid any verification requirements. In return, the United States agreed to a similar arrangement that avoided any treaty-mandated verification of Russian commitments regarding the Backfire bomber. And exemptions were added to the telemetry exchange provisions of START to satisfy military concerns in both countries. In New START, the desire of both countries to avoid having to disclose telemetry relating to missile defense systems or to reentry vehicle penetration features led to a treaty in which the provision of telemetry is a largely discretionary transparency measure, rather than a verification requirement.

Strategic arms control agreements are often complex, moreover, and compliance disputes can arise due to differing interpretations of treaty text that is not crystal clear. The Senate Select Committee on Intelligence noted three areas in which the original START Treaty might lead to compliance disputes, warning, in part, that:

> START's ban on "concealment measures" does not apply to "cover or concealment practices at ICBM bases and deployment areas, or to the use of environmental shelters for strategic offensive arms." Neither "concealment measures" nor "concealment practices" is defined, so it is not clear precisely what activities are to be permitted.

The same provision appears in paragraph 2 of Article X of the New START Treaty. An optimist could conclude that the concerns voiced in 1992 did not come to pass; a pessimist might respond that New START will inherit some of the START Treaty's risk of compliance disputes.

Many factors influence the verifiability of an arms control treaty. One way to think about these factors is to consider the calculations of a would-be violator of the treaty. This highlights a key element that Nitze's definition of "effective verification" leaves out: that the most effective verification is that which deters other parties from violating the treaty in the first place. It is never a certain matter what the other party's political and military leaders contemplate in this regard, so we rarely measure verification effectiveness by its impact on their calculations, but arms control treaties and their verification regimes can still be constructed to maximize such an impact.

To the extent that the other country is a rational actor, its decisions related to treaty compliance will be based on a cost-benefit analysis. What is to be gained by cheating, and what costs and risks (which are a contingent form of cost) would this entail? One reason why the Moscow Treaty contained no verification regime of its own was the belief that, since it merely codified decisions that each Party had already made, neither Party would have any desire to cheat.

Similarly, a good case can be made that Russia has little incentive to violate the core obligations of the New START Treaty. Owing to economic pressures, it is very likely that Russian forces would be reduced with or without the treaty, and Russia's objective in the negotiations was probably to prevent the United States from taking the opportunity to maintain substantially larger strategic forces than Russa can afford to field. If this is so, then the same dynamic that was at play in the Moscow Treaty may pertain for New START: a country that already plans to reduce its forces is less likely to cheat than one that feels compelled by the treaty to undertake distasteful actions.

The perceived benefits of cheating will also be influenced by how one party believes the other would respond. Would the United States detect Russian noncompliance in time to respond? And what could it do if it did so? When the Soviet Union violated the Biological Weapons Convention (BWC), there was little the United States could do other than publicize the evidence of the violation and prepare for possible biological weapons attacks in the event of a war. The publicity affected Soviet prestige, however, and eventually the massive Biopreparat infrastructure for biological weapon research and production under the cover of civilian activities was dismantled or diverted into acceptable pursuits. (Concerns remain regarding the activities of Russian military laboratories.) Similarly, the Soviet Union admitted and remedied its construction of the

Krasnoyarsk radar in violation of the Anti-Ballistic Missile Treaty (ABM Treaty).

Department of Defense witnesses on the New START Treaty have emphasized the ability of the United States to respond to any serious Russian violation of the treaty. General Chilton said: "What gives me some confidence, just looking at it from the DOD perspective, is that we have preserved a hedge capability, both for technical failure and for geopolitical surprise, that I think makes me comfortable with where we are at this time." Principal Deputy Under Secretary of Defense for Policy Miller elaborated on that hedge, noting:

> [T]he Treaty allows us to maintain our stockpile of non-deployed warheads in an upload capacity with our strategic delivery systems, which provide a hedge against adverse technical developments or a serious deterioration in the international security environment.

Russian commentary during the negotiation of the treaty suggests that Russia is very sensitive to U.S. upload capabilities, and it would be reasonable to assume that such capabilities would figure in the Russian cost-benefit analysis of any proposed serious violation of the treaty.

While the U.S. upload capacity lowers the perceived benefits of any Russian violation scenario, Russian concerns over those upload capabilities could lead it to improve its own force reconstitution capabilities, so as to be prepared if the United States were to break out from New START. The United States begins with an advantage in this area, however, because it plans to deploy its ICBMs and SLBMs with fewer warheads than they are equipped to carry—thus leaving a significant upload capacity. Russia has not announced similar plans and would have to increase its production of ICBMs and SLBMs (and associated launchers) to make much progress in this regard, which means that there would be real costs involved. Any newly-produced Russian solid-fueled ICBM or SLBM must be notified to the United States at least 48 hours before the missile leaves the final assembly plant, so the United States will have a good sense of whether Russia is building up its stock of readily-deployable non-deployed missiles.

A more readily available (although still not cost-free) approach to increasing upload potential might be for Russia to increase its stock of heavy bombers, gravity bombs or ALCMs. Bombs and cruise missiles are not limited in this treaty, in keeping with the U.S. position ever since the original START Treaty to encourage the use of heavy bombers as second-strike weapons. As chief New START negotiator Rose Gottemoeller told the committee, "heavy bombers have long been considered to be more stabilizing than ICBMs or SLBMs because, as slow-flying weapons systems, compared to ballistic missiles, they are not well suited to first-strike missions."

An important feature of New START breakout scenarios is that while they could be conducted in secrecy, neither Party would appear to have much to gain through covert production and stockpiling of non-deployed warheads. In Russia's case, moreover, if its plans call for missile and launcher numbers well below the New START limits, it may have the option of increased overt production

of those systems. In short, New START offers each Party a perfectly legal alternative to cheating scenarios, including for Russia to build the same upload capacity that the United States plans to maintain. If Russia finds such an overt build-up unnecessary or too costly, then it is that much more likely to reject covert options. In any case, the incentive to cheat and attempt to evade detection under New START is not great for Russia.

A treaty's verification provisions and U.S. monitoring capabilities (especially our "national technical means of verification" (NTM), satellites and radars that are protected from interference by Article X of the treaty) would also figure in any Russian cost-benefit calculus. A strong verification regime and effective U.S. monitoring would raise both the likelihood of detection (and, therefore, of having to pay the costs that are incurred if cheating is exposed) and the costs associated with trying to avoid such detection in the first place.

The original START Treaty broke new ground in the verification of strategic arms control compliance, as had the earlier INF Treaty for nuclear-capable missiles with shorter ranges. START combined notifications and on-site inspections with PPCM at the Votkinsk missile production plant, exhibitions of weapons of each type and variant, detailed (and, as it turned out, unbearably expensive) standards for the conversion or elimination of treaty-limited items, a substantial ban on telemetry encryption, a requirement for extensive exchange of telemetry, and the right to require, from time to time, that heavy bombers or mobile launchers of ICBMs be displayed in the open for six hours so that they could be located and counted through the use of satellite imagery.

The verification regimes established by the INF and START Treaties were an immense success. Some pre-START estimates of Soviet weapons production were found to be inflated as inspectors visited Russian bases, came to know their military hosts, and learned the day-to-day production, basing and deployment activities of Russian strategic offensive arms. (Of course, the end of the Cold War and the collapse of the Soviet Union also helped change both Russian capabilities and American perceptions.) Monitoring at Votkinsk gave the United States over 20 years of observing Russian missile production. And 15 years of exchanging telemetry tapes provided extraordinary insight into Russian missile design and characteristics.

PPCM at Votkinsk ended when the START Treaty expired. PPCM had been needed to distinguish INF Treaty-limited missiles from ICBM stages, and it was used under START to monitor mobile ICBM production. The New START Treaty has no sublimits on mobile missile numbers, so the need for PPCM is decreased; the treaty does provide for 48 hours' notice of the departure of a solid-fueled ICBM or SLBM from a production facility; and Russia made clear years ago that it would oppose continuing PPCM at the Votkinsk facility after the expiration of the START Treaty, as there was no similar facility for Russians to monitor in the United States. For all these reasons, neither the Bush administration nor the Obama administration insisted upon retaining PPCM in a replacement of the START Treaty.

The New START Treaty is a treaty for an era in which neither Russia nor the United States seriously worries that the other coun-

try contemplates nuclear war. The treaty has fewer restrictions on strategic forces, and its verification regime—although based on that of the START Treaty—had to compete in both countries with the goals of force flexibility, information security, and cost containment. Under this treaty, as under START, it will still be difficult to determine with certainty how many deployed warheads or non-deployed mobile ICBMs Russia has. And under this treaty, as under START, treaty compliance will have to compete with other pressing priorities for the use of U.S. intelligence systems.

The New START verification regime and U.S. arms control monitoring will still put major obstacles in the path of any significant cheating scenario, however, and the notifications, inspections, and possible telemetry exchanges that will result from this treaty will still foster important transparency and confidence building regarding each country's strategic nuclear forces. That is why the committee judges that the treaty is effectively verifiable, so long as a high priority is given to the use of the treaty's verification regime and U.S. NTM.

Under the New START Treaty, an initial database will be created within 45 days of the treaty's entry into force. This database will include the unique identifier (UID) of each deployed or non-deployed ICBM, SLBM, and heavy bomber (in effect, a serial number printed on each heavy bomber; on each missile and, as appropriate, on its canister; and on or near its launcher) and specify its location. It will also specify the total number of deployed warheads each country has, by type of missile. The database will be fully updated every six months.

As noted earlier, a new solid-fueled ICBM or SLBM will no longer be observed by on-site inspectors as it leaves the production facility. But Russia will be required to provide 48 hours' prior notice of that departure, so that the United States can monitor the production facility with satellite imagery and perhaps observe the event. The notification will include the UID of each missile leaving the production plant.

Most changes to the database will be notified within five days. When a new missile or heavy bomber is deployed, or when a deployed missile or launcher is moved from one base to another, this change to the database must be notified. When a missile or heavy bomber goes into maintenance or is lost due to accident, disablement, placement on static display, conversion, or launch, it changes from deployed to non-deployed and, so, must be notified. Similarly, when it returns to deployed status, this must be notified to the United States.

Non-deployed mobile launchers of ICBMs may be in transit no longer than 30 days at a time, pursuant to paragraph 4 of Article IV. Such launchers may otherwise be located only at ICBM bases, production facilities, ICBM loading facilities, repair facilities, storage facilities, conversion or elimination facilities, training facilities, test ranges, and space launch facilities. Mobile launchers of prototype ICBMs shall not be located at maintenance facilities of ICBM bases, pursuant to paragraph 3(a) of Article IV.

At any given time, therefore, the United States will have a reasonable understanding of where each Russian ICBM, SLBM, and heavy bomber is based and whether that missile or bomber is deployed or in maintenance. Over time, moreover, the United States

will get a sense of each missile and heavy bomber's deployment and maintenance routine.

On-site inspections will offer access to additional data on Russian missiles or heavy bombers. When a missile base is inspected (and there will be up to ten inspections per year of bases housing deployed ICBMs, SLBMs, or heavy bombers), the inspectors will be told and shown where each missile is, and told how many warheads are deployed on it. The warhead information is new to this treaty, as is the identification of each SLBM and silo-based ICBM. The inspectors may then pick one missile and be shown how many warheads that missile is carrying. This is different from reentry vehicle inspections under START, in which the only requirement was to demonstrate that the missile did not have more warheads than the number attributed to it in the START database. This different requirement—and years of JCIC discussions with Russia that resolved many, but not all, disputes regarding the use of reentry vehicle covers to limit the information provided in these inspections—led the New START negotiators to include more detailed language regarding the nature of permitted covers in reentry vehicle inspections under the new treaty. New START also includes provisions for the use of radiation detection equipment, as necessary, to confirm that an object on the front section of a missile that is declared to be non-nuclear (and, hence, not a reentry vehicle) is, in fact, non-nuclear. This technique was developed during the START years and was adopted by the JCIC as a measure to improve the viability and effectiveness of that treaty.

As it did under the START Treaty, the executive branch will rely on authorities in the treaty to give effect to certain of the New START Treaty's provisions, including those that relate to according privileges and immunities to inspectors and aircrew members and provide for the transfer to the Russian Federation of certain restricted data.

The committee cannot know whether there will be further compliance disputes over the use of covers in these inspections, but both Parties clearly understand the requirement to demonstrate precisely how many reentry vehicles are on the inspected missile. Senior U.S. negotiators explained one way they addressed the possibility of disputes on this issue:

> [T]he New START Treaty has a provision that requires that before a hard or combined RV cover is used for the first time during a reentry vehicle inspection, the fully assembled cover must first be demonstrated, including the right to measure the cover. This approach is intended to help address issues early on if Russia elects to use reentry vehicle covers that hampered the ability of U.S. inspectors to accurately count the number of RVs emplaced on an ICBM or SLBM during the implementation of START.

Assuming that the results of a reentry vehicle inspection under New START are undisputed, the question arises of what inferences analysts may draw from knowing the number of warheads on up to ten Russian missiles per year. Under the START Treaty, to the extent that the United States could determine that no inspected Russian missile had more than the permitted number of warheads, it could infer that the uninspected missiles were also within treaty

limits. The confidence with which that inference could be reached rose with the number of such inspections and with the size of the cheating scenario that one was worried about (since a cheating scenario involving more missiles with extra warheads would raise the odds of detection in a reentry vehicle inspection, and would therefore raise the significance of conducting *x* inspections without finding any offenders). If a missile had been found with more warheads than the number attributed to that type of missile, moreover, it would have been in violation of Article V, paragraph 12 of the treaty.

Drawing inferences from New START inspections will arguably be more complicated. If a missile at the inspected base is not the one that inspectors were told it was, or if it is not one that previous notifications placed at that base, then clearly an error has been made; whether the error implies the existence of a purposeful violation of the treaty may be difficult to judge. If there are more missiles or launchers present than were declared for that base, then the error may more readily be viewed as evidence of a violation. If the missile designated for reentry vehicle inspection has fewer warheads than the number that was given to the inspection team, the error may be viewed as unintentional. If the missile has more warheads than the number given to the inspection team and if no missile of that type has been declared to have that many warheads, then intentional deceit would be a reasonable conclusion. But if some missiles of that type have *x* warheads and some have a larger number *y*, and if a missile declared to have *x* warheads turns out to have *y*, it will be difficult to infer a systemic violation on the basis of finding a single error. If several inspections produce similar results, then the inference of systematic cheating may be more readily drawn, although it could still be difficult to prove.

The question also arises of what inferences can be drawn if reentry vehicle inspections always find precisely the number of warheads that Russian hosts told the inspection team the inspected missile was carrying. From a statistical standpoint, repeated findings of "no problem" do increase the likelihood that there is, indeed, no problem. That inference will be more readily drawn if the declared number of warheads is constant for a given type of missile (even if the missile is capable of carrying more warheads than are found on it), because that will suggest that the loading is a standard operating procedure for Russian forces. If the declared warhead loading is at or near the maximum that we believe the missile is designed to carry, then we will more readily infer from "no problem" inspection results that little or no cheating could possibly be taking place. And if a given Russian missile base is inspected a few times and no anomalies are found, then the odds become good that there is no problem, at least at that base.

This statistical inference, or inference aided by analysis of standard and current Russian practices regarding the warhead loadings of each type of its missiles, may be supplemented by considering the cost-benefit calculus that would govern any decision to violate the treaty. The costs to Russia of being caught with more warheads than it has declared could be substantial. As noted earlier, the United States could readily upload American heavy bombers or missiles in response to an apparent Russian violation. It seems unlikely, therefore, that Russia would violate a major provision of the

treaty (such as its Article II limits) if the perceived odds of being caught were not quite low. Viewed from that standpoint, up to ten "no problem" inspections per year may in only a few years give us confidence that, unless Russia became desperate or profoundly foolish, there was in fact no significant cheating going on.

One complicating factor is the possibility that some SLBMs or mobile ICBMs might be away from the base when an inspection is carried out. Extra missile launchers could be put on patrol or more warheads put on out-of-base missiles than on those made available for inspection. It would be a challenge, however, to add extra missile launchers without ever being observed by NTM, or to carry extra warheads without ever being caught in an inspection when the offending unit came back to base. (Pursuant to paragraph 1 of Section I of Part Six of the Annex on Inspection Activities, no later than one hour after an inspection team names the base that it wants to inspect, the inspected Party shall implement pre-inspection restrictions at that site, including ceasing the removal of any treaty-limited items or other items large enough to hold treaty-limited items.) Keeping the offending unit or submarine permanently out-of-base would be impractical, moreover, both because the equipment requires regular maintenance and because all troops (not just the troops in a unit with extra launchers or warheads) need periodic out-of-base training. After a few inspections at a base, there would be a record regarding whether particular launchers were being kept out-of-base to an unusual extent (thanks to being provided the UID of each missile at a base through the notification process and being able to confirm the UID of each missile on base whenever we inspect that base).

Given Russia's apparently low production rates for SLBMs, submarines, and mobile missiles and launchers over the last 15 years, it is hard to believe that Russia will have the number of extra missiles and launchers over the next 10–15 years that would enable it to field a militarily significant covert force. This is especially true in light of the hedge that the United States will retain against technical or strategic surprise, as discussed earlier. The Secretary of Defense's letter to the committee presented essentially the same conclusion:

> The Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander, U.S. Strategic Command, and I assess that Russia will not be able to achieve militarily significant cheating or breakout under New START, due to both the New START verification regime and the inherent survivability and flexibility of the planned U.S. strategic force structure. Additional Russian warheads above the New START limits would have little or no effect on the U.S. assured second-strike capabilities that underwrite stable deterrence. U.S. strategic submarines (SSBNs) at sea, and any alert heavy bombers will remain survivable irrespective of the numbers of Russian warheads, and the survivability of U.S. inter-continental ballistic missiles (ICBMs) would be affected only marginally by additional warheads provided by any Russian cheating or breakout scenario.
>
> If Russia were to attempt to gain political advantage by cheating or breakout, the U.S. will be able to respond rap-

> idly by increasing the alert levels of SSBNs and bombers, and by uploading warheads on SSBNs, bombers, and ICBMs. Therefore, the survivable and flexible U.S. strategic posture planned for New START will help deter any future Russian leaders from cheating or breakout from the treaty, should they ever have such an inclination.

Despite the low likelihood of significant cheating, violations and compliance disputes are a fact of life in the implementation of arms control treaties. Over the course of 15 years, the JCIC, where START compliance concerns were discussed and sometimes resolved, issued 55 agreements, 40 joint statements, and 60 formal unilateral or coordinated plenary statements by Parties to the treaty (as well as 29 changes to the diagrams specifying areas open to inspection in the facilities covered under the treaty). These were not disputes over how many missiles each country had, but rather over compliance with locational restrictions, conversion and elimination procedures, inspection modalities, and the like. The likely reason for non-compliant activities was less a plot to maintain additional forces than a desire to avoid the costs associated with treaty compliance. Even the famous Krasnoyarsk radar violation of the ABM Treaty noted earlier was probably due to the costs associated with building and maintaining that radar in a treaty-compliant location. (The Soviet Union's violation of the BWC was another matter, and it stands as a stark reminder of why effective verification is so important.)

The Secretary of Defense's letter to the committee included assurances regarding the seriousness with which any Russian violation of the New START Treaty would be addressed:

> The U.S. expects Russia to fully abide by the treaty, and the U.S. will use all elements of the verification regime to ensure this is the case. Any Russian cheating could affect the sustainability of the New START Treaty, the viability of future arms control agreements, and the ability of the U.S. and Russia to work together on other issues. Should there be any signs of Russian cheating or preparations to breakout from the treaty, the Executive branch would immediately raise this matter through diplomatic channels, and if not resolved, raise it immediately to higher levels. We would also keep the Senate informed.

It is reasonable to expect that there will be disputes regarding implementation of the New START Treaty. U.S. negotiators told the committee, however, that there was a systematic effort to reduce the likelihood of such disputes. Both negotiating teams included experienced START inspectors, and their influence is reflected at times in the easing or removal of START requirements that were too expensive to meet, as well as in the greater detail and clarity provided regarding certain matters, such as the covers that will be permitted in reentry vehicle inspections.

The classic example of a START requirement that had unintended consequences was the strict regime regarding conversion and elimination of weapons covered by the treaty. Some of the compliance disputes with Russia concerned weapons that Russia counted as eliminated without meeting the detailed requirements for elimination, but that both sides knew were effectively no longer

serviceable. The American approach to the inordinate cost of complying with elimination requirements was to keep decommissioned aircraft on the books for START accounting purposes, even as they sat rusting in Arizona at Davis-Monthan AFB. The approach taken by New START was both to ease the requirements for conversion and elimination and to permit a Party to simply devise its own procedures and demonstrate them to the other Party. The easier requirements were adopted partly because of the costs to the verifier of conversion and elimination. As the executive branch explained to the committee:

> Under START elimination inspections, inspectors were required to remain at the elimination inspection sites up to several weeks a year as items were undergoing the entire elimination process. During a Type Two elimination inspection under New START, inspectors now would confirm only the results of the elimination process once notified by the possessing Party that an item of inspection has been eliminated.

New START recognizes that creating one's own conversion or elimination procedures may lead to compliance disputes. The treaty establishes (in Section I of Part Three of the Protocol) ground rules for such disputes: if a Party develops its own procedures, it must notify the other Party of those procedures; if requested, it must demonstrate those procedures to the other Party; and once having done that, its procedures are recorded and it may proceed, even if the other Party still finds fault with the procedures.

The treaty provides that converted or eliminated systems must be made visible to NTM for 60 days, beginning on the date when such conversion or elimination is notified to the other Party. If the notification is of multiple conversions or eliminations that are displayed together, then the display need last only 30 days. In either case, display satisfies the requirement (and may be ended if a Type Two inspection takes place). Inspection of the converted or eliminated system may be undertaken within 30 days after receiving notification that that an elimination or conversion has been carried out.

Paragraph 2 of Section I of Part Three of the Protocol states: "Elimination of strategic offensive arms subject to the treaty shall be carried out by rendering them inoperable, precluding their use for their original purpose." In the case of eliminated mobile launchers of ICBMs, paragraph 7 of Section III provides that "the vehicle may be used for purposes not inconsistent with the treaty." Paragraph 5 adds that if the "eliminated" vehicle is used at a declared facility, it must be painted so as to make it distinguishable by NTM from a working mobile launcher of ICBMs.

The administration stated in an answer for the record that in determining whether newly developed elimination procedures are sufficient, the United States will not limit itself to a predetermined set of criteria. Rather, it will assess the procedures used and take into account the experience and knowledge gained from 15 years of START Treaty implementation to determine whether the procedure will render that item inoperable. In the event questions arise regarding newly developed procedures, a Party may request that the Party carrying out the elimination conduct, within the framework

of the BCC, a demonstration of the procedures. Demonstrations may include descriptions, diagrams, drawings, and photographs, as needed, or may be conducted on-site, if so agreed. Demonstrations will not count against the limit of eight Type Two inspections per year.

If significantly ambiguous procedures are continually applied with no effective resolution in the BCC, they could defeat the object and purpose of the New START Treaty. In such a case, the burden shifts to the converting or eliminating Party. Pursuant to Article VIII:

> In those cases in which one of the Parties determines that its actions may lead to ambiguous situations, that Party shall take measures to ensure the viability and effectiveness of this Treaty and to enhance confidence, openness, and predictability concerning the reduction and limitation of strategic offensive arms.

If the ambiguity resulting from conversion or elimination procedures were to become grave, it could even lead to U.S. withdrawal under Article XIV. This said, however, it is highly unlikely that such situations will result from the conversion and elimination aspects of the New START Treaty. The Parties sought to create fundamentally more flexible treatment for conversion and elimination as compared to START, and the United States gained greater flexibility for its bombers and submarines in this regard. Had there been a record of significant concern regarding Russian conversion and elimination of strategic offensive arms subject to START, then a different scheme would have been applied in the new treaty.

The committee recommends that the Senate's resolution of advice and consent to ratification include the requirement in Condition (10) that the President's annual report on treaty implementation contain either a certification that New START conversion and elimination procedures have not resulted in ambiguities that could defeat the object and purpose of New START, or a list of any cases where a Russian procedure has led to doubts and the steps the United States has taken to address them.

The United States has taken a similar approach to the question of whether future, strategic-range non-nuclear weapon systems that do not otherwise meet the definitions of the New START Treaty would be considered new kinds of strategic offensive arms. The United States recognizes that compliance disputes could arise and accepts the requirement to attempt to resolve such issues in the BCC pursuant to paragraph 2 of Article V of the treaty. At the same time, the United States asserts that there is no requirement to delay deployment of the new system pending such resolution. The committee recommends that the Senate's resolution of advice and consent to ratification include an understanding, to be included in the instrument of ratification, that demonstrates the Senate's endorsement of this interpretation of New START.

Transparency is an important objective of arms control, and one that is different from compliance and verification. While a treaty may have specific requirements that demand compliance and lead to the need for verification, transparency may be encouraged, rather than required, and may apply to activities or data that are otherwise not even addressed by a treaty. In the START Treaty, te-

lemetry exchange and a ban on most activities that would deny telemetry to the other Party were requirements. There were persistent disputes regarding compliance with these requirements, but telemetry exchanges provided information that was vital to verifying compliance with START Treaty provisions that dealt with missile capabilities (e.g., a missile type's launch weight, throw weight, and number of reentry vehicles ever released or simulated in a test launch). In New START, there are no provisions that require telemetric information to verify compliance. Such information can still provide useful insights into the nature of Russian weapon systems, however, and both the United States and Russia could use it to assure each other that their missile tests do not relate to the development of undeclared capabilities that could deprive the other side of its nuclear deterrent. The telemetry exchange and non-interference provisions of New START do not require that any exchange of telemetry occur, and they point toward a regime in which any transmission of unencrypted telemetry may be limited to information about the boost stages of a missile. The authority is created, however, for such provision and exchange of telemetry as the two Parties may decide, in the coming years, is in their national security interests. The telemetry exchange exemptions written into the START Treaty were rarely used, so it is possible that the two countries will agree to exchange useful telemetric information under New START.

This said, it will be important that the Russian telemetry obtained by the United States be meaningful. Telemetric information exchange decisions will take place in the year following a test, so each Party will have a good idea of what telemetry it seeks. Russia is undertaking several ICBM and SLBM modernization and testing programs. The United States is less likely to flight test new ICBMs in the next decade, so Russia may instead request telemetry on tests of U.S. missile defense interceptors or on conventional prompt global strike (CPGS) systems. The committee recommends that the Senate's resolution of advice and consent to ratification make clear in Condition (5) that the treaty does not obligate the United States to provide any missile defense telemetry, and that it require in Condition (7) both that CPGS telemetry provided to Russia not undermine the effectiveness of the tested system and that such telemetry be provided either to demonstrate that such system is not subject to the limits in Article II of the New START Treaty or to obtain telemetry on a Russian test of a system that is not listed in Article III of the treaty or that was not deployed before the START Treaty expired.

The committee can predict with more confidence that the notification and inspection regimes established by this treaty will lead to increased transparency. Apart from the use of notifications and inspections to verify compliance with treaty obligations, these regimes will maintain the access that START provided into the thinking and normal practices of Russian military officers who handle strategic weapons. And the treaty will maintain momentum in Russia for accepting U.S. assistance through the global Nunn-Lugar and other cooperative threat reduction programs, which will provide additional insight into Russian force composition and planning and additional avenues through which each side can learn about the other. The committee believes strongly that these trans-

parency initiatives have been of immense importance in maintaining strategic stability between the United States and Russia, and it urges both countries to maintain and support these programs.

The Senate has addressed compliance and verification concerns when it approved the ratification of past strategic arms control agreements, and the committee believes that it should do so on the New START Treaty as well. The resolution of advice and consent that the committee recommends to the Senate includes several provisions on this topic. Condition (2) of the committee's recommended resolution of advice and consent requires that prior to entry into force, and annually thereafter, the President certify that U.S. monitoring capabilities are sufficient to ensure effective monitoring, to include timely warning of any Russian effort to break out of the treaty's limits. The committee recommends further that the resolution require the Intelligence Community to present a plan for New START monitoring and to regularly update that plan.

The committee recommends that the executive branch be required to offer briefings regarding compliance issues to the Foreign Relations and Armed Services Committees before and after each meeting of the BCC, in order to keep those committees informed, especially of compliance issues that are to be raised in that forum and of the results of such efforts. Its recommended resolution also calls for the President to continue cooperative threat reduction assistance to Russia, including for the purpose of facilitating implementation of this treaty.

The committee recommends that the resolution of advice and consent to this treaty call for the President to submit an annual report to the Foreign Relations and Armed Services Committees, which would include a discussion of any compliance issues. The report would also include specific discussions of any ambiguities raised by Russian conversion or elimination practices and of the operation of the treaty's transparency mechanisms, including its telemetry provisions. Such a report will not only inform the Senate, but also encourage the executive branch to make its own annual evaluation of the treaty's compliance and verification record.

As aggregate levels of strategic offensive arms decrease, the strategic implications of a Russian breakout may increase (although, as discussed above, such scenarios are unlikely and U.S. military leaders assured the committee that any breakout under the New START Treaty would be unlikely to be of military significance). The committee recommends that the Senate's resolution of advice and consent to ratification include a condition requiring that if the President, after consultation with the Director of National Intelligence, determines that the Russian Federation intends to break out of the limits specified in Article II of the New START Treaty, the President shall immediately inform the Committees on Foreign Relations and Armed Services of the Senate, with a view to determining whether circumstances exist that jeopardize the supreme interests of the United States, such that withdrawal from the New START Treaty may be warranted pursuant to paragraph 3 of Article XIV of the treaty.

Finally, the committee recommends that the resolution of advice and consent to this treaty require that if the President determines that the Russian Federation is acting or has acted in a manner that is inconsistent with the object and purpose of the New START

Treaty, or is in violation of the treaty, to such an extent as to threaten the national security interests of the United States, then the President shall consult with the Senate regarding the implications of such actions, urgently seek a meeting with the Russian Federation at the highest level with the objective of bringing the Russian Federation into full compliance with its obligations, and then submit a report to the Senate detailing: (a) whether adherence to the New START Treaty remains in the national security interest of the United States; and (b) how the United States will redress the impact of Russian actions on the national security interests of the United States. Strategic arms control succeeds only when all parties to an agreement abide by its terms, and the Senate should keep a watchful eye on the implementation of such a sensitive agreement as the New START Treaty.

MISSILE DEFENSE

For at least two decades, the United States has pursued a missile defense policy focused on defending the United States, its troops, and its friends and allies from limited ballistic missile threats. The National Missile Defense Act of 1999 (Public Law 106–38) codified that policy:

> It is the policy of the United States to deploy as soon as is 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 and the annual appropriation of funds for National Missile Defense.

In February 2010, the Department of Defense submitted to Congress its Ballistic Missile Defense Review (BMDR) Report, as required by Section 234 of the National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417).[7] The BMDR established the following priorities to fulfill the National Missile Defense Act of 1999:

- "The United States will continue to defend the homeland against the threat of limited ballistic missile attack."
- "The United States will defend against regional missile threats to U.S. forces, while protecting allies and partners and enabling them to defend themselves."

In his preface to the BMDR Report, the Secretary of Defense went on to explain,

> I have made defending against near-term regional threats a top priority of our missile defense plans, programs and capabilities. I have also directed that we sustain and enhance the U.S. military's ability to defend the homeland against attack by a small number of long-range ballistic missiles.

The BMDR Report argued that, with the deployment by year's end of 30 Ground-Based Interceptors, the United States "is cur-

[7] Department of Defense, "Ballistic Missile Defense Review Report," February 2010; available at BMDR%20as%20of%2026JAN10%200630__for%20web.pdf.

rently protected against the threat of limited ICBM attack, as a result of investments made over the past decade in a system based on Ground-based Midcourse Defense (GMD)." Regarding regional missile threats to U.S. forces, allies, and partners, the BMDR Report concluded:

> Over the past decade the United States has made significant progress in developing and fielding essential capabilities for protection against attack from short- and medium-range ballistic missiles. However, these capabilities are modest numbers when set against the rapidly expanding regional missile threat.

The BMDR Report outlines the administration's plan to maintain the United States' capability to defend against limited ballistic missile attacks against the territory of the United States, and to address regional threats to U.S. forces, allies, and partners. In pursuit of this plan, Secretary of Defense Gates testified to the committee in May 2010 that "we are putting our money where our beliefs are": the administration's Fiscal Year (FY) 2011 budget request included $9.9 billion for ballistic missile defense, an increase of nearly $700 million over the amount appropriated for FY 2010. Secretary Gates went on to state that "we have a comprehensive missile defense program, and we are going forward with all of it. And our plan is to add even more money to it in FY 12."

In line with the policy established by the National Missile Defense Act of 1999, the plans outlined in the BMDR Report would not create a capacity to threaten the deterrent potential of the strategic nuclear forces of the Russian Federation. The BMDR Report stated:

> While the [Ground-Based Missile Defense] system would be employed to defend the United States against limited missile launches from any source, it does not have the capacity to cope with large scale Russian or Chinese missile attacks, and is not intended to affect the strategic balance with those countries.

This lack of capacity is far less a matter of choice than a matter of technical and financial reality: Russia currently deploys too many strategic nuclear weapons for the United States to defeat with anything resembling its current missile defense capability. Lt. Gen. O'Reilly explained to the committee in testimony on June 16, 2010, that current United States missile defense employment doctrine generally requires setting aside a minimum of two interceptors against each reentry vehicle that would be targeted—and in some cases, four interceptors would need to be dedicated to each target. Principal Deputy Under Secretary of Defense for Policy Miller explained in his prepared testimony for the same hearing that "Russia will likely field well over 1,000 ICBM and SLBM warheads," even under the limitations that would be established under the New START Treaty. Putting in place a ballistic missile defense to defeat Russia's strategic arsenal under even the minimal two-to-one interceptor-to-target doctrine would require constructing, deploying, and maintaining at least 2,000 Ground-Based Interceptors—a capability far greater than the 30 interceptors that the United States has managed to deploy after more than a decade of

effort. Even if the United States decided to pursue this approach, Russia could observe the United States as it was planning, constructing, and deploying this capability, and would have ample time to react. Russia could do so by deploying more warheads on more ICBMs and SLBMs, by deploying greater numbers of alternative delivery systems such as bomber-delivered cruise missiles, or by developing more sophisticated missile defense countermeasures that would force the United States to employ still more interceptors against each target.

For these reasons, former Secretary of Defense Schlesinger explained to the committee that the United States might have to accept for the foreseeable future its inability to wholly defeat Russia's strategic offensive arms with missile defenses: "It's not because we would not like to have an impenetrable defense, as President Reagan had hoped for. It's just beyond our capability. They can always beat us with the offensive capabilities."

In 2007, President George W. Bush made clear that he also recognized that the United States did not have the capability to defeat Russia's strategic offensive forces, and argued that this reality should not be a concern:

> The missile defenses we can employ would be easily overwhelmed by Russia's nuclear arsenal. . . . Moreover, the missile defenses we will deploy are intended to deter countries who would threaten us with ballistic missile attacks. We do not consider Russia such a country. The Cold War is over. Russia is not our enemy.[8]

In his testimony before the committee on May 18, 2010, the Secretary of Defense explained that it has long been the policy of the United States not to attempt to defeat Russia's strategic offensive forces with its missile defenses, because trying to do so would be both prohibitively costly and strategically dangerous:

> [O]ne point needs to be clarified here. Under the last administration, as well as under this one, it has been the United States policy not to build a missile defense that would render useless Russia's nuclear capabilities. It has been a missile defense intended to protect against rogue nations, such as North Korea and Iran, or countries that have very limited capabilities. The systems that we have, the systems that originated and have been funded in the Bush administration, as well as in this administration, are not focused on trying to render useless Russia's nuclear capability. That, in our view, as in theirs, would be enormously destabilizing, not to mention unbelievably expensive.

Secretary Gates went on to say that:

> Our ability to protect other countries is going to be focused on countries like Iran and North Korea, the countries that are rogue states, that are not participants in the NPT [the Nuclear Non-Proliferation Treaty], countries that have shown aggressive intent. And we are putting in de-

[8] "President Bush Visits National Defense University, Discusses Global War on Terror," Washington, DC., October 23, 2007; http://georgewbush-whitehouse.archives.gov/news/releases/2007/10/20071023-3.html.

> fenses in Europe that will be able to defend them. We have defenses in Asia. We're building defenses in the Middle East. So, we have missile defense capabilities going up all around the world, but not intended to eliminate the viability of the Russian nuclear capability.

New START Treaty Preamble Language on Missile Defense

In April 2009, Presidents Obama and Medvedev stated that they would pursue a new, legally-binding treaty to replace the Strategic Arms Reduction Treaty; the subject of the treaty would be "the reduction and limitation of strategic offensive arms." In July 2009, the two presidents reached a further joint understanding that, while the new treaty would address reductions and limitations of their "strategic offensive arms," it would contain "[a] provision on the interrelationship of strategic offensive and strategic defensive arms."

The preamble of the treaty ultimately signed by Presidents Obama and Medvedev contains the following statement:

> 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.

Secretary of State Clinton testified to the committee that the preamble should be regarded as "simply a statement of fact," not as a constraint. Indeed, Secretary Clinton stated for the record that

> The Obama administration has consistently informed Russia that while we seek to establish a framework for U.S.-Russia BMD cooperation, the United States cannot agree to constrain or limit U.S. BMD capabilities numerically, qualitatively, operationally, geographically, or in other ways.

In his testimony, former Secretary of State Kissinger agreed with Secretary Clinton, saying of the preambular language, "it's a truism. It is not an obligation. It's something to which countries can react unilaterally."

This is by no means the first time the interrelationship between offensive and defensive systems has been recognized. For example, in their joint statement of July 21, 2001, President Bush and President Putin agreed that "major changes in the world require concrete discussions of both offensive and defensive systems. We already have some strong and tangible points of agreement. We will shortly begin intensive consultations on the *interrelated subjects of offensive and defensive systems* [emphasis added]."[9] In the press conference that followed, President Bush emphasized that offensive and defensive systems were interrelated, stating, "And along these lines, as the President said, that we're going to have open and honest dialogue about defensive systems, as well as reduction of offen-

[9] "Joint Statement by President Bush and Russian President Putin on Upcoming Consultations on Strategic Issues," July 22, 2001, available at http://georgewbush-whitehouse.archives.gov/news/releases/2001/07/20010722-6.html.

sive systems. The two go hand-in-hand in order to set up a new strategic framework for peace." [10]

The interrelationship between our strategic defensive arms and other countries' strategic offensive arms is fundamental to our current missile defense policy: the United States desires that our capability to defend against limited attack will render useless the initial strategic offensive capability that certain countries are contemplating or developing. As the BMDR Report notes, in addition to defeating a limited ICBM attack should deterrence fail, our Ground-Based Midcourse Defense system is designed to "dissuade" other states from developing an ICBM capability and to "deter" those countries from using an ICBM if they develop or acquire such a capability.[11] The United States is thus counting on the interrelationship between strategic defensive and offensive arms to which the New START preambular language alludes to undermine the threats posed by countries capable of deploying only limited numbers of strategic offensive arms against the United States, its forces, its allies, and its partners.

Article V Ban on ICBM/SLBM Launcher Conversion to Missile Defense Interceptors

Article V, paragraph 3 of the New START Treaty bars the Parties from placing missile defense interceptors into ICBM launchers and SLBM launchers. (The Parties also may not place ICBMs and SLBMs in former launchers of missile defense interceptors.) Paragraph 3 explicitly exempts from this restriction those launchers that had been converted to launchers of missile defense interceptors as of April 8, 2010, the day the treaty was signed. This exemption thus permits the five Ground-Based Interceptor (GBI) launchers at Vandenberg Air Force Base (VAFB) in California that had been converted from ICBM launchers to remain outside of the treaty as missile defense interceptors. Four of these launchers house deployed GBIs, and one is dedicated for use as a GBI test launcher. The Seventh Agreed Statement in Part Nine of the Protocol provides for one exhibition, "to demonstrate that these launchers are no longer capable of launching ICBMs as well as to determine the features that distinguish a converted silo launcher of ICBMs from a silo launcher of ICBMs that has not been converted." The agreed statement also provides for a second exhibition, no later than 30 days after a request by the Russian Federation, to confirm that Vandenberg missile defense interceptor launchers have not been reconverted.

Because this provision, unlike the language in the preamble regarding the interrelationship between strategic offensive arms and strategic defensive arms, was not referenced by the July 2009 joint presidential statement, the committee worked to understand why the provision was included in the treaty and what constraints, if any, it might place on U.S. missile defense plans. (On August 3, 2010, Secretary of State Clinton also provided to the committee a classified summary of discussions in the New START Treaty negotiations on the issue of missile defense.) An answer for the record

[10] "Press Conference by President Bush and President Putin, Palasso Doria Spinola, Genoa, Italy," July 22, 2001, available at http://georgewbush-whitehouse.archives.gov/news/releases/2001/07/20010722-3.html.

[11] BMDR Report, p. 11.

by Secretary Gates and Admiral Mullen summarizes the executive branch's view: the provision "does not constrain the Department's current or future missile defense plans in any way."

In testimony for the committee's hearing on June 16, 2010, Lt. Gen. O'Reilly stated that he had "frequently consulted" with the treaty negotiating team on potential impacts to U.S. missile defense plans, and provided additional information on why he was comfortable with Article V:

> MDA never had a plan to convert additional ICBM silos at VAFB. In 2002, we began converting ICBM silos to operational silos for launching GBIs because we had not developed a silo specifically for GBIs at that time. Since then, we have developed a GBI silo that costs $20M less than converting ICBM silos and is easier to protect and maintain.
>
> Likewise, the conversion of Submarine Launched Ballistic Missiles into missile defense interceptors, or the modification of our submarines to carry missile defense interceptors, would be very expensive and impractical. Furthermore, submerged submarines are not easily integrated into our missile defense command and control network.

Lt. Gen. O'Reilly stated during the hearing that, "for many different reasons," he would "never" recommend either converting existing ICBM silos or SLBM launchers into missile defense interceptor launchers or converting. He explained:

> [F]rom a technical basis and being responsible for the development of our missile defenses, I would say that either one of those approaches, of replacing ICBMs with ground-based interceptors or adapting the submarine-launched ballistic missiles to be an interceptor, . . . would actually be . . . a major setback to the development of our missile defenses; one, because of the extensive amount of funding required, and resources, to redesign both the fire-control system, the communications system, but especially the interceptors. They're of completely different size and completely different functionality, different fuels, so they are incompatible, our interceptors are, with submarines. And also, the submarine-launched ballistic missiles have a launch environment which is significantly different than what our interceptors have today. And the front end, the most critical part of our interceptors, would have to be completely redesigned in order to withstand the shocks and the other launch environments.
>
> So, in both cases, there would have to be an extensive redesign of our systems, and some of the basic, fundamental engineering that we've been doing over the past decade would have to be redone in order to adapt them for either one of those applications.

General Chilton further explained to the committee that, from his perspective as the commander of U.S. strategic offensive forces, he would have concerns with any plan to remove strategic offensive

missiles from launchers and replace them with missile defense interceptors.

> [T]he missile tubes that we have are valuable, in the sense that they provide the strategic deterrent. And I think the value of the nuclear deterrent far—per missile—far outweighs the value of a single missile defense interceptor. So, I would not want to trade Trident D5, and how powerful it is and its ability to deter, for a single missile defense interceptor.

He also raised a concern that launching missile defense interceptors from existing ICBM silo launchers could cause Russia to falsely identify a missile defense interceptor launch as an ICBM launch. Specifically, General Chilton stated:

> [F]rom an ICBM-field perspective . . . there would be some issues that would be raised if you were to launch a missile defense asset from an ICBM field, with regard to the opposite side seeing a missile come off and wondering, "Well, was that a . . . defensive missile or is that an offensive missile?" So, just in my opinion, I don't see . . . that . . . [that option] would be particularly beneficial.

In an answer for the record, the Secretary of State and the Secretary of Defense pointed out that, in addition to 30 operationally deployed Ground-Based Interceptors, the United States plans to maintain a cushion of eight empty silos at Fort Greely, Alaska, in which to deploy extra interceptors if they are needed. That will provide a margin of over 25 percent beyond the current number of deployed interceptors before any new construction would need to be initiated. As noted in the testimony above, even after filling those eight silos that will sit empty under the current plan, building new silos for GBIs would be cheaper, and easier to protect and maintain, than trying to convert additional ICBMs silos.

Former Secretary of Defense Schlesinger speculated that the negotiators saw this provision "as a throw-away on their part because we were not planning to use the Minuteman silos, et cetera, for defensive missiles." Former Secretary of State Baker said that he thought the provision could be regarded as "tipping the hat, if you will, to [a Russian] concern, without really giving them anything." It is also possible that the real Russian concern was to bar the conversion of U.S. missile defense silos in Europe for use as ICBM launchers.

Missile Defense and the Bilateral Consultative Commission (BCC)

Article XV, paragraph 1 provides that any amendments to the main treaty text itself shall enter into force in accordance with the procedures governing entry into force of the treaty (for in the United States, this would entail the Senate advice and consent process established by Article II, Section 2, clause 2 of the Constitution). For those changes to the Protocol (including its three integral Annexes) that do not affect the substantive rights or obligations of the Parties under the treaty, however, Article XV, paragraph 2 permits the Parties to use the BCC to reach agreement on changes without resorting to the procedures governing entry into force of the treaty. Changes to the Protocol or the three integral

Annexes that do affect the substantive rights or obligations of the Parties would only enter into force in accordance with the same procedures that govern entry into force of the entire treaty. As the executive branch stated in an answer for the record to the committee, "Any change that does affect substantive rights or obligations would be an amendment and would require Senate advice and consent."

The START Treaty contained similar language in each of its Protocols, under which the Parties used the JCIC to make changes in the Protocols that did "not affect substantive rights or obligations under" that treaty. Secretary Clinton stated in an answer for the record that:

> The experience of the START Treaty's Joint Compliance and Inspection Commission (JCIC) provides some helpful examples of the type of changes that might be agreed upon within the framework of the New START Treaty's Bilateral Consultative Commission. For example, the JCIC agreed on the releasability of Treaty-related data, as is also provided for under paragraph 5 of Article VII of the New START Treaty, on specific procedures for use of radiation detection equipment, and on changes to types of inspection equipment.

A complete listing of agreements reached in the JCIC under START is available at http://www.dod.gov/acq/acic/treaties/start1/other/agreements/index.htm.

Article XV does not in any way enable the BCC to alter substantive rights or obligations related to missile defense under the treaty. The only restriction related to United States missile defense activities is contained in Article V, paragraph 3, of the main Treaty text. Pursuant to Article XV, paragraph 1, any change to that paragraph would need to be submitted to the Senate for its advice and consent before it could come into force. In the Protocol, paragraph 44 of Part One of the Protocol defines the term "missile defense interceptor"[12] and paragraph 40 of Part One of the Protocol defines the term "launcher of missile defense interceptors."[13] Those terms are used only in Article V, paragraph 3. (The Seventh Agreed Statement does not use the term "missile defense," but it does establish the procedures governing exhibitions for the five converted launchers of missile defense interceptors.) It is difficult to imagine any changes to those definitions that could alter the restriction in Article V.

In response to questions for the record, the executive branch provided further assurances regarding the role of the BCC in missile defense. First, it assured the committee, "The Obama Administration does not intend to negotiate, as part of its missile defense cooperation talks with Russia, agreements similar to those agreed to in the Standing Consultative Commission in September 1997." Then, it stated specifically that "the United States cannot agree to constrain or limit U.S. [ballistic missile defense] capabilities nu-

[12] A "missile defense interceptor" is defined as a "missile that was developed, tested, and deployed in order to intercept ICBMs, SLBMs, or their reentry vehicles."

[13] A "launcher of missile defense interceptor" is defined as "a device intended or used to contain, prepare for launch, and launch missile defense interceptors."

merically, qualitatively, operationally, geographically, or in other ways."

Missile Defense and Telemetry Exchange

Article IX of the New START Treaty establishes that telemetric information on launches of ICBMs and SLBMs (which means, as defined in Part One of the Protocol, "information that originates on board a missile during its initial motion and subsequent flight that is broadcast") shall be exchanged on a parity basis. The Parties are to agree on the amount of exchange of such information. Part Seven of the Protocol states that the exchange of telemetric information shall occur on an equal number of launches, but on no more than five launches of ICBMs or SLBMs each calendar year. In other words, within that five-launch cap, the actual number of launches for which telemetric information will be exchanged each year is by mutual agreement of the Parties. If one side insists on providing telemetric information on only three launches in a given year, it may do so; it will simply have to live with the fact that in return the other Party will provide telemetric information on just three launches of its own. The Parties are to agree at the beginning of the year on the specific number of launches in the previous year for which telemetric information will be provided. Paragraph 2 of Part Seven of the Protocol states that the testing Party may decide for itself which launches it will use to meet the agreed number. Thus, neither Party is required to provide telemetric information on any given launch, although nothing prevents the Parties from reaching a political agreement that specifies specific launches when they discuss the number of launches in the previous year for which telemetric information will be shared. The conditions and procedures governing the exchange of telemetric information are set forth in the Protocol's Annex on Telemetric Information.

The original START Treaty contained a much more extensive telemetry exchange regime than that of the New START Treaty because a mechanism was needed to verify various START limits on launch weight, throw weight and the attributed number of warheads for each type of missile. For the large majority of launches of treaty-limited items, the START Treaty barred the Parties from encrypting broadcast telemetric information. It also required the testing Party to provide data types containing the telemetric information recorded during the launch, to allow the observing Party to confirm the veracity of the information broadcast from the launch. The Treaty required the provision of telemetric information on launches of any booster that included the first stage of a START-accountable missile. START's far-sweeping telemetry regime required the United States to share telemetric information on missile tests related to development of U.S. missile defense technologies—in particular, for certain satellite launches, missile defense sensor targets, and missile defense interceptor targets. All told, prior to the treaty's expiration on December 5, 2009, the United States had been required to broadcast unencrypted telemetric information and provide telemetry tapes on 17 launches of missile defense-related satellite launches, missile defense sensor targets, and missile defense interceptor targets. (Because no U.S. missile defense interceptor uses a first stage from a START-accountable item, the

United States has never provided missile defense interceptor telemetry to the Russian Federation.)

The New START Treaty thus provides greater flexibility than the START Treaty did for the development of U.S. missile defenses: the United States would not be required to share information about the capabilities of target missiles, i.e., the missiles that it is working to ensure its missile defense systems will defeat. With respect to missile defense interceptors, the New START Treaty treats telemetric information no differently than the START Treaty. As the Secretary of Defense stated in answer to a question for the record, the New START Treaty "neither prohibits, nor does it require, the provision of missile defense interceptor test telemetry to Russia." To ensure that there is no question on these points, the committee recommends including in the Senate's resolution of advice and consent to ratification a condition that, before ratifying the treaty, the President certify to the Senate that the United States is indeed not required to provide telemetric information regarding these launches.

Benefits from the New START Treaty for U.S. Missile Defense Development

It is important to note that the New START Treaty, in comparison to the START Treaty, will actually reduce constraints on the development of U.S. missile defense in several areas. Lt. Gen. O'Reilly pointed out one key reduced constraint in his testimony before the committee:

> For example, MDA's intermediate-range LV–2 target booster system, used in key tests to demonstrate homeland defense capabilities and components of the new European Phased Adaptive Approach, was accountable under the previous START Treaty because it employed the first stage of the now-retired Trident I SLBM. Under New START, this missile is not accountable, thus we will have greater flexibility in conducting testing with regard to launch locations, telemetry collection, and processing, thus allowing more efficient test architectures and operationally realistic intercept geometries.

In an answer for the record, Secretary Gates and Admiral Mullen added that the New START Treaty would not restrict the production, testing, or deployment of air-to-surface ballistic missiles, as the START Treaty had done. Using an air-to-surface ballistic missile in missile defense tests, which would not have been possible under the START Treaty, could provide new information that would aid in improving our missile defense capabilities:

> Such launches provide the Missile Defense Agency with greater flexibility to design tests that are more operationally realistic by enabling them to launch targets along any azimuth (or angle) in relation to the interceptor missile.

Article V, paragraph 18(a) of the START Treaty also barred the Parties from producing, testing, and deploying ballistic missiles of ranges in excess of 600 kilometers on waterborne vehicles other than submarines. The New START Treaty does not contain this ban, so the United States will have the right, if it chooses, to

launch ballistic missiles of ranges greater than 600 kilometers from surface ships as part of a missile defense testing program.

In an answer for the record, Secretary Gates and Admiral Mullen explained the benefits that would result from these changes:

> The use of targets utilizing missiles not accountable under the New START Treaty, launched from airplanes and surface ships, which was prohibited by START but is not prohibited by the New START Treaty, will support more cost-effective testing of missile defense interceptors against medium- and intermediate- range ballistic missile threats in the Pacific region.

Additionally, Lt. Gen. O'Reilly stated that the New START Treaty would lift a constraint put in place by the START Treaty that had limited the Missile Defense Agency to the use of five space launch facilities for launching targets to be used in missile defense tests.[14]

Unilateral Statements Regarding Missile Defense

On April 7, 2010, the Russian Federation issued a unilateral statement concerning missile defense:

> 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 build-up 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 build-up 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.

Pursuant to Article XIV, paragraph 3, each Party is accorded 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." In its article-by-article analysis, the State Department noted that this withdrawal standard is not new, and that the Russian statement does not add or subtract from the treaty:

> The withdrawal standard in Article XIV contains language identical to the withdrawal provisions in many arms control agreements, including the START Treaty, the INF Treaty, and the NPT. The withdrawal provision is self-judging in that each Party may decide when extraordinary events related to the subject matter of the treaty have jeopardized its supreme interests. Accordingly the Russian statement merely records that the circumstances described in its statement would, in its view, justify such a decision on its part. It does not change the legal rights or obligations of the Parties under the treaty.

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[14] Department of Defense, "Senate Foreign Relations Committee Request for Information," May 17, 2010, available at http://lugar.senate.gov/issues/start/pdf/SFRCrequest.pdf.

The second sentence of the unilateral statement ties Russian actions pursuant to Article XIV to a build-up in U.S. missile defense capabilities "such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation." As discussed above, the United States is so far away technically from developing a missile defense capability that would threaten the Russian Federation's strategic nuclear deterrent that the committee does not foresee any possibility that the conditions outlined in the Russian unilateral statement would obtain over the life of the treaty.

Secretary of State Clinton summarized the executive branch's view of the Russian unilateral statement during the committee's May 25, 2010, hearing: "We have not agreed to this view, and we are not bound by this unilateral statement." Secretary of Defense Gates emphasized the point: "the Russians can say what they want, but, as Secretary Clinton said, these unilateral statements are totally outside the treaty, they have no standing, they're not binding, never have been."

In response to a question for the record, Secretary Clinton further underlined that the unilateral statement will not change U.S. ballistic missile defense plans:

> The Russian unilateral statement does not change the legal rights or obligations of the Parties under the treaty and is not legally binding. The United States will continue its missile defense programs and policies, as outlined in the Ballistic Missile Defense Review. Russia's unilateral statement has not changed our course, as laid out in the Review, nor will it.

This statement for the record underscored what the United States had already communicated to Russia in its own unilateral statement, issued on April 7, 2010. In that statement, the United States stated:

> 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 forces, 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.

The United States had, in fact, fully briefed responsible Russian officials regarding U.S. missile defense plans well in advance of the April 7, 2010, unilateral statement. The United States focused its briefings on its Phased Adaptive Approach to missile defense in Europe. (The committee notes that the chairman of the Committee on Armed Services, Senator Carl Levin, received from Admiral Mullen a letter concerning the New START Treaty and the Phased Adaptive Approach; that letter is appended to this report.) Some have raised the concern that, while it may accept the current state of U.S. missile defenses, Russia will object to the later phases of the Phased Adaptive Approach, which is slated to include deployment in 2018 of the Standard Missile-3 Block IIA interceptor to de-

fend Europe against medium- and intermediate-range missiles, and in 2020 of the Standard Missile-3 Block IIB to provide a capability against an ICBM launched from the Middle East against the United States. In the committee's June 16 hearing, Principal Deputy Under Secretary of Defense for Policy Miller, explained that,

> [B]oth General O'Reilly and I, along with others, have briefed the Russians, at various times and in various fora, on the Phased Adaptive Approach for Europe. My first one was with Ambassador Kislyak the day of the announcement, in September, of the Phased Adaptive Approach. We've gone through each of the phases, including, in detail, phases three and four.

Lt. Gen. O'Reilly made clear that Russian officials understood the full breadth of U.S. plans, and that these plans would not undermine Russia's strategic deterrent:

> I also have briefed Russian officials in Moscow, a rather large group of them in October of 2009. I went through . . . all four phases of the Phased Adaptive Approach, especially phase four. And while the missiles that we have selected for—as interceptors in phase four, as Dr. Miller says, provide a very effective defense for a regional-type threat, they are not of the size that have a long range to be able to reach . . . strategic missile fields. And it's a very verifiable property of these missiles, given their size and the Russian expertise in understanding what the missiles' capabilities will be, given the size of the missiles that we're planning to deploy and develop. It was not a very controversial topic of the fact that a missile, given this size of a payload, could not reach their strategic fields.

He went on to explain:

> 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.

All of these briefings occurred before Russia signed the treaty on April 8, 2010. The committee notes that the Russian Government understands the United States' missile defense plans for the ten-year life of the treaty, and it signed the treaty anyway. Russian Deputy Foreign Minister Sergei Ryabkov reportedly stated later to a Russian parliamentary committee:

> There has never been a goal to restrict the development of either the U.S. or global missile-defense system through this treaty. This treaty has no such restrictions. Whether this treaty is ratified or not, the United States under this administration will act toward implementing the so-called Phased Adaptive Approach to a four-stage process of creating a global missile-defense system.[15]

Russian President Medvedev explained the Russian view regarding the unilateral statement during a television interview in April

[15] "START Does Not Aim to Restrict Development of U.S. Missile-defense System—Ministry," Moscow Interfax in English, 1100 GMT July 6, 2010.

2010. His statement makes clear that Russia is going to continue to press its concerns about U.S. missile defense plans and actions. But he also explained that the unilateral statement was not intended to signal that the Russian Federation intended to pull out of the treaty in short order:

> That does not mean that if the USA starts developing missile defense the treaty would automatically be invalidated, but it does create an additional argument that binds us and that makes it possible for us to raise the question of whether quantitative change to missile defense systems would affect the fundamental circumstances underlying the treaty. If we see that developments do indeed represent a fundamental change in circumstances, we would have to raise the issue with our American partners. But I would not want to create the impression that any changes would be construed as grounds for suspending a treaty that we have only just signed.

President Medvedev clearly did say, as the April 7 unilateral statement had stated, that Russia might need to reconsider whether it would remain Party to the treaty if fundamental changes in circumstances related to U.S. missile defense activities arose that undermined Russia's strategic nuclear deterrent. As discussed above, barring an unexpected technological breakthrough, the committee does not foresee any possibility that U.S. missile defense capabilities will in any way threaten Russia's deterrent over the lifetime of the treaty. Having said that, Russia is entitled to take advantage of Article XIV's withdrawal clause if it determines that the limitations the treaty places on the United States' strategic offensive arms are not sufficient to offset threats to its supreme interests that it perceives have developed. The committee nevertheless supports the inclusion of withdrawal clauses similar to that in Article XIV in this and future strategic arms control treaties as a way to protect American national security interests.

Lt. Gen. Scowcroft urged the committee to put Russian statements about missile defense in perspective: "I would say that on both sides, this is an issue of domestic politics. The Treaty is amply clear. It does not restrict us. Would the Russians like it to restrict us? Yes, of course. I do not think there is substance to this argument."

Indeed, Russia has attempted to use previous arms control treaties to get the United States to change course on missile defense. At the time of the signing of the START Treaty, when the ABM Treaty remained in force, the Soviet Union issued a unilateral statement similar to that issued this year.

> This Treaty may be effective and viable only under conditions of compliance with the treaty between the U.S. and the USSR on the Limitation of Anti-Ballistic Missile Systems, as signed on May 26, 1972.
>
> The extraordinary events referred to in Article XVI of this Treaty also include events related to withdrawal by one of the Parties from the Treaty on the Limitation of

> Anti-Ballistic Missile Systems, or related to its material breach.[16]

Despite this warning, the United States withdrew from the ABM Treaty in 2002, and the Russian Federation continued to fully implement the START Treaty until its expiration in December 2009. Pursuant to the Russian law that approved the START II Treaty, however, in 2002, after the United States completed its withdrawal from the ABM Treaty, Russia announced that it would not bring the START II Treaty into force and would no longer consider itself to be bound by its terms.

In the committee's May 25 hearing, Secretary of Defense Gates offered a lengthy explanation of past Russian attitudes on missile defense and why advocates of missile defenses should not be concerned that this treaty somehow undercuts U.S. missile defense efforts:

> So, from the very beginning of this process, more than 40 years ago, the Russians have hated missile defense. They hated it even more in 1983, when Ronald Reagan—when President Reagan made his speech, saying we were going to do strategic missile defense. And so, the notion that this Treaty has somehow focused this antagonism on the part of the Russians, toward missile defense, all I would say is, it's the latest chapter in a long line of Russian objections to our proceeding with missile defense. And, frankly, I think it's because—particularly in the '70s and '80s, and probably equally now, it's because we can afford it and they can't. And we're going to be able to build a good one, and are building 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, through political means. This Treaty doesn't accomplish that for them.

U.S.-Russian Cooperation on Missile Defense

In June 1992, Presidents Bush and Yeltsin issued a joint statement on a Global Protection System against ballistic missiles; the two Presidents agreed "that their two nations should work together with allies and other interested states in developing a concept for such a system."[17] In its resolution providing its advice and consent to ratification of the START II Treaty, the Senate stated that it was the sense of the Senate that "[d]efenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail." It further stated that it was the sense of the Senate that the governments of the United States and the Russian Federation should "promptly undertake discussions based on the Joint Statement to move forward cooperatively in the development and deployment of defenses against ballistic missiles."

In July 2009, Presidents Obama and Medvedev agreed "to continue the discussion concerning the establishment of cooperation in

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[16] The full text of the unilateral statement is available at: http://www.dod.gov/acq/acic/treaties/start1/other/other—statements.htm.

[17] "Joint United States-Russian Statement on a Global Protection System," Washington, D.C., June 17, 1992; available at http://bushlibrary.tamu.edu / research / publicpapers. php ? id = 4445 & year = 1992 & month = 6.

responding to the challenge of ballistic missile proliferation."[18] The February 2010 BMDR Report went on to say that the executive branch was giving "special emphasis to renewing cooperation with Russia on missile defense."[19] At the April 8, 2010, signing of the New START Treaty, President Obama stated that President Medvedev and he:

> have also agreed to expand our discussions on missile defense. This will include regular exchanges of information about our threat assessments, as well as the completion of a joint assessment of emerging ballistic missiles. And as these assessments are completed, I look forward to launching a serious dialogue about Russian-American cooperation on missile defense.[20]

The committee feels that there are indeed opportunities for the United States and Russia to cooperate on missile defense. Given Russia's proximity to Iran, that country's development of medium- and intermediate-range ballistic missiles potentially threatens Russia every bit as much as it does the United States and its European allies. As noted in the BMDR Report, Russian radars based in the south of that country could contribute useful warning and tracking data to a European missile defense system. Possibilities may well exist for the United States and Russia to begin by discussing how their tracking systems might communicate with one another. Defeating shorter range missiles, a mission in which the United States has been particularly active in recent years, might also prove a fruitful area in which to pursue cooperation.

Recommendations to the Senate

In 1996, the Senate made clear in its resolution of advice and consent to ratification of the START II Treaty that missile defense would be an essential element of deterrence in the 21st century. As noted above, Congress enacted the National Missile Defense Act of 1999 to set U.S. missile defense policy. The committee recommends that the resolution of advice and consent to ratification of the New START Treaty similarly include provisions regarding missile defense. The committee recommends that the Senate's resolution of advice and consent include an understanding, to be included in the United States' instrument of ratification, that:

- The New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, "Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein. This provision

[18] The White House, "Joint Statement by Dmitry A. Medvedev, President of the Russian Federation, and Barack Obama, President of the United States of America, on Missile Defense Issues," July 6, 2009; available at http://www.whitehouse.gov/the_press_office/Joint-Statement-by-Dmitry-A-Medvedev-President-of-the-Russian-Federation-and-Barack-Obama-President-of-the-United-States-of-America-on-Missile-Defense-Issues/.

[19] BDMR Report, p. 34.

[20] The White House, "Remarks by President Obama and President Medvedev of Russia at New START Treaty Signing Ceremony and Press Conference," Prague, Czech Republic, April 8, 2010; available at http://www.whitehouse.gov/the-press-office/remarks-president-obama-and-president-medvedev-russia-new-start-treaty-signing-cere.

shall not apply to ICBM launchers that were converted prior to signature of this Treaty for placement of missile defense interceptors therein.";

- Any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 of Article V, including any limitations agreed under the auspices of the Bilateral Consultative Commission, 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, as set forth in Article II, section 2, clause 2 of the Constitution of the United States; and
- The April 7, 2010, unilateral statement by the Russian Federation on missile defense does not impose a legal obligation on the United States.

Given the reported testimony of Russia's deputy foreign minister on this aspect of the treaty, the committee believes that the Government of the Russian Federation has a similar understanding.

The committee recommends that the resolution also declare that further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States, and that it call for regular briefings from the executive branch on missile defense issues related to the treaty and on U.S.-Russia missile defense dialogue and cooperation. To help ensure that the BCC is not used in a manner that would undermine U.S. missile defense options, the committee recommends that the resolution also call for briefings before and after each BCC meeting.

As noted above, the committee recommends that the resolution of advice and consent include a condition requiring the President to certify that provision of telemetric information to the Russian Federation is not required by the treaty for the launch of a missile defense interceptor, satellite launches, launches of missile defense sensor or intercept targets, or any missile described in clause (a) of paragraph 7 of Article III of the treaty.

CONVENTIONAL PROMPT GLOBAL STRIKE SYSTEMS

The United States is currently exploring a range of options for CPGS capability to strike targets anywhere in the world in an hour or less. The Department of Defense is examining CPGS within the context of its portfolio of all non-nuclear long-range strike capabilities, including land-based and sea-based systems as well as stand-off and/or penetrating bombers. According to the Department of State, investment recommendations stemming from this study will be reflected in the FY 2012 budget submission.[21]

The United States entered into negotiations on a replacement for the original START Treaty with a goal of ensuring that it maintains the ability to deploy conventional strategic-range systems. The chief U.S. negotiator of the New START Treaty, Assistant Secretary of State for Verification and Compliance Rose Gottemoeller, told the committee at its hearing on June 15, 2010:

> We were firm during the negotiations that the treaty must allow for strategic missiles [of] conventional configu-

[21] Department of State, Bureau of Verification, Compliance, and Implementation, "Conventional Prompt Global Strike," April 8, 2010, available at http://www.state.gov/t/vci/rls/139913.htm.

> ration and also that future non-nuclear systems of strategic range that do not otherwise meet the definitions of the treaty should not be considered new kinds of strategic offensive arms for the purposes of this treaty.

The Secretary of Defense's Representative to the Post-START Negotiations, Dr. Edward L. Warner III, explained that, with this goal in mind, the United States "agreed to a permit-and-count regime whereby conventionally armed ICBMs or SLBMs would be permitted but counted under the strategic delivery vehicle and strategic warhead ceilings." Thus, the New START Treaty makes no distinction between those ICBMs and SLBMs—as those terms are defined by the treaty—that carry nuclear warheads and those that carry non-nuclear warheads. Non-nuclear strategic delivery systems that otherwise satisfy the defined range criteria would count toward the treaty's limits on deployed ICBMs, SLBMs, and heavy bombers; their associated warheads; and deployed and non-deployed launchers and heavy bombers.

This approach largely matches that taken by the START Treaty. It is important to note, however, that START attributed, for each ICBM and SLBM, a total number of warheads against the warhead limit, often based on the total number of warheads—non-nuclear or nuclear—such ICBM or SLBM had been shown to be capable of fielding. Thus, an ICBM or SLBM armed with a single conventional warhead under the original START Treaty would have counted as having the attributable number of warheads assigned to that particular ICBM or SLBM even if that attribution number was far greater than the actual number of conventional warheads deployed on the missile. By contrast, only the number of conventional warheads actually deployed on each ICBM or SLBM—which may well be just one, for CPGS systems—would count toward the limits under the New START Treaty. (In addition, beyond its limitation on strategic delivery vehicles, START also explicitly barred the Parties from deploying ballistic missiles with a range greater than 600 kilometers on surface ships; New START contains no such prohibition.)

There are reasons for limiting ICBMs and SLBMs in the same way whether they carry nuclear or conventional warheads. It would be extremely difficult to verify compliance with a treaty that attempted to count conventionally armed ICBMs and SLBMs differently than nuclear-tipped ICBMs and SLBMs that otherwise shared the same physical characteristics. A ballistic missile capable of carrying a conventional warhead over 5,500 kilometers, or capable of being launched from a submarine and travelling over 600 kilometers, would be equally capable of delivering a nuclear payload. It is not possible to use national technical means of verification to determine from a distance whether a given missile holds nuclear or non-nuclear payloads under its nose cone. It is therefore not reasonable to expect one country to accept mutual limits to nuclear-armed missiles, while tolerating the other country's unlimited deployment of the same kinds of long-range missiles based only on the promise that those latter missiles are carrying non-nuclear warheads. It would be too easy in that situation for the second country to use its conventionally armed missiles as a mask for covertly-deployed nuclear ones, or for a nuclear breakout capability, and thus acquire superiority over the other side's strategic forces.

By basing treaty limits on the properties of the delivery vehicle, parties to a treaty can be more confident that the other side is not gaining an advantage by cheating on the treaty's limits in plain sight.

The preamble to the New START Treaty contains a statement that both sides are "[m]indful of the impact of conventionally armed ICBMs and SLBMs on strategic stability." The language does not impose a binding obligation on the Parties. In an answer for the record, Assistant Secretary Gottemoeller and Dr. Warner offered some explanation of Russian concerns regarding non-nuclear strategic-range options:

> It appears that Russia believes the deployment of conventionally-armed ICBMs and SLBMs would have an impact on strategic stability, if they were accurate and numerous enough to hold at risk a significant portion of Russia's deployed strategic deterrent systems. Russian commentators have raised the concern that the threshold for launching conventionally-armed ICBMs and SLBMs might be lower than that for launching a nuclear-armed missile, and that this would be destabilizing. Finally, Russian observers have also expressed concerns about the possibility that one would not be able to determine whether a conventionally-armed ICBM or SLBM in flight was, in fact, conventionally-armed, and whether it was being targeted on a third country or on Russia.

Assistant Secretary Gottemoeller and Dr. Warner added that Russia did not have any reason to fear U.S. CPGS capabilities over the life of this treaty, because those systems would not be aimed at Russia and would be deployed in insufficient numbers to threaten Russia's strategic offensive capabilities:

> If the United States chooses to acquire conventional prompt global strike systems, such systems would not be acquired for use against Russia. Moreover, because any U.S. plans for acquiring conventional prompt global strike systems would be limited to [a] small number of such systems, Russia could be assured that they would not pose a threat to the survivability of the Russian nuclear deterrent.

The committee agrees that the conventionally armed strategic-range systems that the United States might deploy over the life of the treaty will not undermine strategic stability between the United States and the Russian Federation, and it recommends that the Senate's resolution of advice and consent to ratification of the treaty include a declaration to this effect. Most such systems are still only in the early stages of research and development, and the treaty-limited systems that might be available for deployment within a few years (e.g., ICBMs or SLBMs with a conventional payload) would be so expensive as to warrant use only against the highest priority time-sensitive targets.

Pursuant to the Eighth Agreed Statement in Part Nine of the Protocol, the Parties also agreed that, considering military utility, they will simultaneously place only non-nuclear objects other than reentry vehicles and nuclear-armed reentry vehicles on a front sec-

tion of an ICBM or SLBM. Thus, ICBMs and SLBMs would not be deployed with both nuclear and non-nuclear reentry vehicles at the same time. The State Department's article-by-article analysis explains that "[t]his statement is premised on the shared assumption that there is no military utility in carrying nuclear-armed and conventionally-armed reentry vehicles on the same ICBM or SLBM." One effect of this agreement is to remove one possible reason for Russian concern regarding U.S. CPGS programs.

The committee examined extensively whether the treaty's limits on strategic offensive arms would allow the United States to deploy simultaneously a sufficiently robust CPGS capability and an appropriately sized nuclear deterrent. The executive branch made clear that it believed that the treaty's limits were certainly sufficient to accommodate the level of CPGS deployments that is foreseeable over the lifetime of the treaty. In an answer for the record, the Secretary of Defense stated:

> As envisaged by our military planners, the number of such conventionally armed delivery vehicles and the warheads they carry would be very small when measured against the overall levels of strategic delivery systems and strategic warheads. Should we decide to deploy them, counting this small number of conventional strategic systems and their warheads toward the treaty limits will not prevent the United States from maintaining a robust nuclear deterrent.

Admiral Mullen concurred, stating on March 26, 2010, that the treaty "protects our ability to develop a conventional global strike capability should that be required." When he testified before the committee on June 16, 2010, Principal Deputy Under Secretary of Defense for Policy Miller went on to explain:

> While our analysis of non-nuclear prompt global strike is still underway, DOD has concluded that any deployment of conventionally armed ICBMs or SLBMs with a traditional trajectory, which would count under the treaty limits, should be limited to a niche capability. *That's based on military considerations. The required number could easily be accounted for under the treaty's limits while still retaining a robust nuclear triad.* [Emphasis added.]

The committee sees no reason to doubt statements by the cognizant civilian and uniformed military officials that, at least over the ten-year duration of the treaty, the treaty's limits provide sufficient room to accommodate both the strategic nuclear forces and the limited number of CPGS weapons the United States is likely to deploy. The committee concurs that the New START Treaty's limits appear to provide, over at least the treaty's ten-year duration, sufficient margins in which to deploy those CPGS systems that would meet the treaty's definitions and therefore are subject to Article II's limits.

Moreover, the United States is also exploring CPGS capabilities that would not meet the definitions of ICBMs, SLBMs, or heavy bombers in the treaty, and which therefore would not count toward the treaty's limits. At the committee's hearing on June 16, 2010,

Principal Deputy Under Secretary of Defense for Policy Miller stated:

> DOD is also exploring the potential of conventionally armed long-range systems that fly a non-ballistic trajectory; for example, boost-glide systems. We are confident that such non-nuclear systems, which do not otherwise meet the definitions for the New START Treaty, would not be accountable as, "new kinds of strategic offensive arms," for the purposes of the treaty.

To be counted under the treaty's limits as a deployed ICBM, the weapon-delivery vehicle must be a land-based ballistic missile—that is, "a weapon-delivery vehicle that has a ballistic trajectory over most of its flight path," pursuant to the definition contained in paragraph 6 of Part One of the Protocol—with a range in excess of 5,500 kilometers. To be counted as a deployed SLBM, the weapon-delivery vehicle must be "a ballistic missile with a range in excess of 600 kilometers of a type, any one of which has been contained in, or launched from, a submarine." Thus, a land-based weapon-delivery vehicle that had a range in excess of 5,500 kilometers but that did not have a ballistic trajectory over most of its flight path would not count as an ICBM; similarly, a weapon-delivery vehicle of a type, any one of which has been contained in, or launched from, a submarine, that had a range in excess of 600 kilometers, but that did not have a ballistic trajectory over most of its flight path would not count as an SLBM.

The treaty contemplates that strategic offensive arms may emerge that do not meet the definitions of the items limited by Article II, and provides a mechanism for discussing the situation. Specifically, Article V, paragraph 2 of the treaty states that "When a Party believes that a new kind of strategic offensive arm is emerging, that Party shall have the right to raise the question of such a strategic offensive arm for consideration in the Bilateral Consultative Commission." In its article-by-article analysis, the Department of State explained its position with respect to counting strategic-range non-nuclear weapons that do not otherwise meet the definitions in the treaty:

> The Parties understand that they may use the BCC to discuss whether new kinds of arms are subject to the treaty. *The United States stated that it would not consider future, strategic range non-nuclear systems that do not otherwise meet the definitions of this treaty to be "new kinds of strategic offensive arms" for purposes of the treaty.* The Parties understand that, if one Party deploys a new kind of strategic range arm for delivering non-nuclear weapons that it asserts is not a "new kind of strategic offensive arm" subject to the treaty, and the other Party challenges that assertion, the deploying Party would be obligated to attempt to resolve the issue within the framework of the BCC. There is no requirement in the treaty for the deploying Party to delay deployment of the new system pending such resolution. [Emphasis added.]

Assistant Secretary Gottemoeller informed the committee, in response to a question for the record, that the United States ex-

pressed a similar view during negotiations for the original START Treaty regarding whether it was necessary to delay deployment of new kinds of strategic offensive arms while the Parties discussed how they might be handled under that treaty. When asked whether Russia agreed with the U.S. approach regarding the treatment of strategic-range non-nuclear systems that do not meet the definitions of the treaty, Assistant Secretary Gottemoeller and Dr. Warner stated for the record: "The Russian Federation did not make a definitive statement regarding this matter."

The committee agrees that the United States need not delay, in any way, the research, development, testing, evaluation, and deployment of strategic-range non-nuclear weapons systems that do not otherwise meet the definitions of the treaty while a question is discussed in the BCC concerning whether such a system is a new kind of strategic offensive arm. The committee notes that the Department of Defense has instructed personnel that New START will not impede U.S. research and development of CPGS systems. A September 3, 2010, memorandum from the Under Secretary of Defense for Acquisition, Technology and Logistics, provided in a letter of September 13, 2010, from the Secretary of Defense to the ranking member of the committee, states:

> The New START Treaty does not in any way limit or constrain research, development, testing, and evaluation (RDT&E) of any strategic concepts or systems, including prompt global strike capabilities. It is essential that the Department continue to conduct RDT&E on a wide range of advanced strategic concepts and systems, irrespective of whether or not such systems, if procured, would be accountable under the New START Treaty.

The committee recommends that the Senate's resolution of advice and consent to ratification of the New START Treaty contain an understanding, which would be included in the instrument of ratification provided to the Government of the Russian Federation, that parallels the statements on this point that were made by the United States in the negotiations.

As the United States proceeds with its development of CPGS systems, however, it would be wise to consider, inter alia, how each proposed system might be affected by New START and how each system could be deployed so as to minimize the risk that it would be mistaken for a nuclear-armed weapons system. The committee recommends that the Senate's resolution of advice and consent to ratification of the New START Treaty include a requirement that the President submit a report to the Armed Services and Foreign Relations Committees of the Senate that will address these issues regarding the CPGS systems that are currently under development. The committee further recommends that the President be required to consult with the Senate if the President ever concludes that the needed number of conventional warheads on ICBMs or SLBMs cannot be accommodated within the New START limits while sustaining a robust nuclear triad.

Some have questioned whether it was wise not to specifically exclude tests of CPGS systems from the telemetric information exchange provisions of Article IX of the New START Treaty. The committee notes that some such systems would be excluded from

the treaty in any event, because they will not meet any of the definitions of systems covered by the treaty. In any case, the telemetric information exchange provision does not require the exchange of telemetry on any given test; it merely provides a framework within which the Parties might agree to exchange such telemetry. One reason why the United States might find it in our national security interest to exchange such telemetry would be for the purpose of demonstrating that the system in question did not qualify as a strategic offensive arm under the treaty (e.g., that its range was too low or that the weapon-delivery vehicle did not have a ballistic trajectory over most of its flight path). Another reason might be that the Russian Federation was prepared to exchange telemetry from an especially interesting Russian test in return for this U.S. telemetry.

The committee believes that it would be prudent to require that the President, before agreeing to exchange telemetry on a test launch of a conventional prompt global strike system, certify to the Committees on Foreign Relations and Armed Services in the Senate that the provision of such information is either to demonstrate that such system is not limited by Article II of the New START Treaty or to receive in return significant telemetric information of a system deployed by the Russian Federation prior to December 5, 2009. The committee further recommends that the President be required to certify that such telemetry exchange is in the national security interest of the United States and that it will not undermine the effectiveness of the system being tested.

NON-STRATEGIC NUCLEAR WEAPONS

The United States has sought for at least two decades to limit and secure shorter-range, non-strategic nuclear weapons (also known as "tactical" or "theater" nuclear weapons). These weapons threaten to blur the distinction in decisionmakers' minds between conventional and nuclear war, even though the actual use of "non-strategic" nuclear weapons in war should be expected to produce physical effects—and international political consequences—much closer to those of "strategic" nuclear systems than to any conventional weapon. By virtue of their small size, mobility, and potential for widely dispersed deployment, numerous concerns have also been expressed about the possibility that non-strategic weapons could be stolen and used by a terrorist group.

Russia provides extremely little transparency regarding the number, location, and deployment status of its non-strategic nuclear weapons. (The United States does not publicly disclose information about the size of its non-strategic deployments.) Russia's lack of transparency contributes to widely varying estimates of the number of non-strategic weapons that it deploys or has stockpiled. One open source estimate concludes that Russia deploys about 2,000 non-strategic weapons.[22] The Congressional Commission on the Strategic Posture of the United States cited unnamed "senior Russian experts" who have estimated that Russia possesses some 3,800

[22] Robert S. Norris and Hans M. Kristensen, "Russian Nuclear Forces," *Bulletin of the Atomic Scientists,* January/February 2010; available at http://thebulletin.metapress.com/content/4337066824700113/fulltext.pdf.

non-strategic operational warheads.[23] Despite the uncertainty surrounding the size of Russia's operational non-strategic arsenal, there is wide agreement that the United States, in partnership with its NATO allies, deploys far fewer non-strategic weapons in Europe than Russia does in its territory.[24]

The Strategic Posture Commission concluded that, "As part of its effort to compensate for weaknesses in its conventional forces, Russia's military leaders are putting more emphasis on non-strategic nuclear forces . . .." Russia, in the Commission's view, "no longer sees itself as capable of defending its vast territory and nearby interests with conventional forces."[25] As Russia reduces the number of warheads deployed on strategic delivery systems, the relative importance of its non-strategic arsenal will increase. (The Strategic Posture Commission argued, however, that, while the size of Russia's non-strategic nuclear arsenal must be a consideration for the United States in its nuclear force planning, the United States need not seek numerical equality to Russia in non-strategic nuclear forces.) The Commission also noted that the current imbalance between U.S. and Russian non-strategic nuclear warheads is "worrisome to some U.S. allies in Central Europe," an analysis that Secretary Gates echoed in his testimony before the committee.[26]

Despite its concerns about Russia's non-strategic nuclear forces, the Strategic Posture Commission concluded in early 2009 that the next step in U.S.-Russian arms control should be to ensure that there is a successor to the START Treaty. It cautioned against over-reaching for innovative approaches in the negotiations on that successor treaty, and instead envisioned discussing non-strategic nuclear forces in a follow-on to START-replacement negotiations.[27]

The administration followed this recommendation: like the START Treaty, the START II Treaty, and the Moscow Treaty, the New START Treaty does not address non-strategic nuclear weapons. Presidents Obama and Medvedev in their April 2009 joint statement and their July 2009 joint understanding made clear from the outset that the purpose of the treaty was to replace the START Treaty and further reduce and limit "strategic offensive arms," thus excluding non-strategic nuclear weapons from the negotiations. Article I of the New START Treaty therefore requires the Parties to reduce and limit their strategic offensive arms. As noted in the State Department's article-by-article analysis, the term "strategic offensive arms" is not defined in the New START Treaty—as was the case in the preceding START Treaty. "Strategic," according to the State Department, indicates that, in general, the forces covered are those of intercontinental range, while "offensive" is in contrast to defensive strategic arms, such as ballistic missile defense systems. Articles II and III establish that the term "strategic offensive arms" applies in this treaty to: deployed ICBMs, SLBMs, and heavy bombers; their associated warheads; and deployed and non-deployed ICBM launchers, SLBM launchers, and

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[23] William J. Perry, Chairman and James R. Schlesinger, Vice-Chairman, *America's Strategic Posture, The Final Report of the Congressional Commission on the Strategic Posture of the United States,* Washington, D.C., May 6, 2009 (available at http://www.usip.org/files/America's_Strategic_Posture_Auth_Ed.pdf), p. 13.

[24] Russia is not believed to deploy non-strategic nuclear forces outside its national territory.

[25] Perry and Schlesinger, *America's Strategic Posture,* p. 12.

[26] *Ibid,* p. 21

[27] *Ibid,* pp. 66–68.

heavy bombers. Part One of the Protocol defines each of these terms based on the range of the systems, and on other criteria.

Ballistic missiles and bombers that do not satisfy the range and other criteria established for ICBMs, SLBMs, and heavy bombers are not limited by the treaty, even if they are capable of delivering a nuclear warhead. (The INF Treaty, which remains in force for the United States and the Russian Federation, does prohibit either side from possessing ground-launched ballistic missiles and ground-launched cruise missiles with ranges of 500 to 5,500 kilometers.) Similarly, cruise missiles, long-range missiles that do not have a ballistic trajectory over most of their flight path, and aircraft that are capable of delivering a nuclear gravity bomb, but that do not meet the heavy bomber range criteria, are not limited by the New START Treaty.

In its consideration of the New START Treaty, the committee focused much attention on the continued lack of a formal bilateral arms control agreement, other than the INF Treaty, governing non-strategic nuclear weapons. Secretary Schlesinger called the issue of Russia's deployment of relatively numerous non-strategic nuclear forces "frustrating, vexatious, and increasingly worrisome," although he did note that he had not anticipated that the New START negotiations would address the issue, and that he saw the New START Treaty as a precursor to negotiations on non-strategic nuclear weapons. Secretaries Perry and Kissinger, as well as Lt. Gen. Scowcroft, all concurred with Secretary Schlesinger that, in Secretary Kissinger's words, non-strategic nuclear weapons "will have to be included in any further deliberations." Indeed, Secretary Kissinger argued that the New START Treaty was "probably the last agreement on strategic arms that can be made without taking tactical nuclear weapons into account."

In an answer for the record to a question, the Secretary of State explained why the administration did not seek to include limits on non-strategic nuclear weapons in the New START Treaty:

> A more ambitious treaty that addressed tactical nuclear weapons would have taken much longer to complete, adding significantly to the time before a successor agreement, including verification measures, could enter into force following START's expiration in December 2009.

Beyond the issue of timing, the Secretary of State and the Secretary of Defense, in an answer for the record, offered a rationale for not addressing non-strategic nuclear weapons in these negotiations:

> Because of their limited range and very different roles from those played by strategic nuclear forces, the vast majority of Russian tactical nuclear weapons could not directly influence the strategic nuclear balance between the United States and Russia. [For example] Russian nuclear-armed sea launched cruise missiles, which could be launched from attack submarines deployed off U.S. coasts, hold locations in the United States at risk, but could not threaten deployed submarine-launched ballistic missiles (which will comprise a significant fraction of U.S. strategic forces under New START), and would pose a very limited threat to the hundreds of silo-based ICBMs that the

> United States will retain under New START. Because the United States will retain a robust strategic force structure under New START, Russia's tactical nuclear weapons will have little or no impact on strategic stability.

In response to another question for the record, the Secretaries pointed out, "We did not make this [i.e., reducing non-strategic nuclear weapons] an objective for this agreement, because from the outset the New START Treaty was intended to replace the START Treaty, which was about strategic offensive forces."

General Chilton stated in response to a question for the record that there remain important differences between strategic and non-strategic nuclear systems, and that the United States could call upon capabilities other than non-strategic nuclear weapons to address Russian capabilities:

> Under the assumptions of limited range and different roles, Russian tactical nuclear weapons do not directly influence the strategic balance between the US and Russia. Though numerical asymmetry exists in the numbers of tactical nuclear weapons the [United States] has and we estimate Russia possesses, when considered within the context of our total capability and given force levels as structured in New START, this asymmetry is not assessed to substantially affect the strategic stability between the [United States] and Russia. Furthermore, within the regional context, the [United States] relies on multiple capabilities, including its superior conventional force capabilities, tactical nuclear capabilities, U.S. strategic nuclear capabilities, ballistic missile defenses, and allied capabilities, to support extended deterrence and power projection.

Nevertheless, in its Nuclear Posture Review report, the administration stated that it was a goal to: "Engage Russia, after ratification and entry into force of New START, in negotiations aimed at achieving substantial further nuclear force reductions and transparency that would cover all nuclear weapons—deployed and non-deployed, strategic and nonstrategic."[28] The Secretary of State elaborated in an answer to a question for the record:

> It is the U.S. view that in any future reductions, our aim should be to seek Russian agreement to increase transparency on non-strategic nuclear weapons in Europe, relocate these weapons away from the territory of NATO members, and include non-strategic nuclear weapons in the next round of U.S.-Russian arms control discussions alongside strategic and non-deployed nuclear weapons.

The Secretary of State stated in an answer to another question for the record that "President Medvedev has expressed interest in further discussions on measures to further reduce both nations' nuclear arsenals." Nevertheless, former Secretaries Perry and Schlesinger argued that such a next step, while necessary, will likely prove to be exceedingly difficult to negotiate. Critics argue that this difficulty will be all the greater because the United States has

[28] *Nuclear Posture Review Report*, April 2010; available at http://www.defense.gov/npr/docs/2010%20Nuclear%20Posture%20Review%20Report.pdf.

given up so much that there is nothing left to offer in return for Russian willingness to reduce non-strategic nuclear weapons. Former Secretary of Defense Perry noted in a committee hearing, however, that Russia still has deep concerns regarding the United States' capacity to upload nuclear bombs and warheads from its significant reserve stockpile on its existing heavy bombers, ICBMs, and SLBMs. The Secretary of State's answer for the record suggests that the executive branch, at least, believes that each side will have something to gain in follow-on negotiations.

The committee recommends that the Senate include in its resolution of advice and consent to ratification of the New START Treaty a declaration calling upon the President to begin discussions with Russia as soon as possible on tactical nuclear weapons. It will be ever more difficult, if not impossible, to make additional progress on measures to limit or reduce strategic offensive arms if tactical nuclear weapons are not also addressed. An early priority in such efforts should be enhancing the transparency each side is willing to offer to the other regarding the size, location, deployment status, and security of these forces.

NEGOTIATING RECORD

As part of the committee's consideration of the treaty, and in particular in its evaluation of any effect the treaty might have on current and future U.S. missile defense efforts, several Members of the committee requested that the executive branch provide the "full negotiating record" of the treaty, which was to include all draft versions of the treaty, all memoranda and notes relating to the negotiating history of the treaty, and any and all other relevant documents or records, such as drafts, memoranda, notes, statements, records of meetings, working papers, transcriptions, correspondence, letters, electronic mail, or any other form of communication between representatives of the United States and the Russian Federation. The executive branch declined to provide this extensive collection of information. Instead, on August 3, 2010, the State Department provided a classified summary of discussions in the treaty negotiations on the issue of missile defense. Assistant Secretary of State for Legislative Affairs Richard R. Verma wrote to the committee that the summary

> [P]rovides a detailed account of the negotiations, starting in April 2009 through to the conclusion in March 2010, including Russian proposals regarding missile defense, the negotiations in Geneva between the parties as this issue evolved, and the U.S. responses and counterproposals regarding the language in the treaty.

The full text of Assistant Secretary Verma's letter is appended to this report.

The classified document was made available to Members of the committee and their appropriately cleared staff for their review.

There is little precedent for the Senate to undertake a review of the complete negotiating record for treaties pending its advice and consent. When the President submits a treaty to the Senate for its advice and consent, he typically provides a detailed written analysis of the treaty's provisions. In addition, executive branch officials testify and respond to questions for the record on the treaty,

including addressing questions about the executive branch's understanding of the meaning of particular treaty provisions. The Senate relies on these materials and testimony as representing authoritative statements about the treaty's meaning and effect. Consistent with this approach, the Senate did not review the negotiating record to the committee in connection with either the original START Treaty or the START II Treaty. Cable traffic from some arms control negotiations may have been provided to the Senate Arms Control Working Group while those negotiations progressed, but that accommodation to Senate interest was separate from the formal consideration of those treaties by the committee of jurisdiction.

The one recent exception to this practice arose in connection with the Senate's consideration of the INF Treaty. In that case, in response to a request from several Senators, the executive branch provided access to records of the INF negotiations conducted in the Geneva Nuclear and Space Talks and in ministerial and summit meetings. The documents involved were only those that were exchanged with Soviet negotiators. Then-Secretary of State George P. Shultz explained that the executive branch would not provide internal executive branch deliberative material that was not provided to the other side because "such material does not reflect mutual intent of the parties, and therefore, cannot be used as a basis for interpretation of obligations."

The circumstances that led Senators to request to review materials for the INF Treaty negotiating record were unusual. At the time the INF Treaty was pending before the Senate, a debate was underway between the Reagan Administration and some Members of the Senate over the proper interpretation of the ABM Treaty, to which the United States was a party at the time. In connection with that debate, the State Department Legal Adviser, Abraham Sofaer, suggested that statements made by the executive branch to the Senate during the ratification process for the ABM Treaty did not represent authoritative statements about the treaty's meaning and interpretation. In testimony to the Committee on Foreign Relations, Mr. Sofaer stated that, "When the Senate gives its advice and consent to the treaty, it is [only] to the treaty that is made, irrespective of the explanation [that the Senate] was provided."[29] This proposed doctrine regarding treaty consideration caused great concern within the committee and the Senate, and in response, several Senators demanded that the negotiating record for the INF Treaty be provided when the President submitted it for Senate consideration early in 1988. In the words of the committee's report at the time, these Senators were "underscoring the point that the Administration's assertions about the role of the Senate in treaty-making had destroyed any basis on which the Senate could operate in confidence of Executive good faith."

To respond to this erosion of trust between the Senate and the executive, then-Senator Biden proposed conditioning the Senate's advice and consent to ratification of the INF Treaty on the statement of certain principles, "which derive, as a necessary implica-

[29] Committee on Foreign Relations, "The INF Treaty," Executive Report 100-15, April 14, 1988, p. 88. The discussion that follows draws extensively from that report.

tion, from the provisions of the Constitution." The committee recommended the condition in order to

- "Avoid the need for other conditions pertaining to specific interpretations of the INF Treaty,"
- To "repudiate a pernicious doctrine that was asserted solely for a specific purpose," and
- To "establish a position with regard to future treaties such that the Senate can avoid repeating the inclusion of a formal condition."

The Senate adopted a modified version of this condition in the final resolution of advice and consent to ratification. As discussed later in this report, in the section-by-section analysis of the proposed resolution of advice and consent to ratification to the New START Treaty, the committee recommends citing by reference this condition as adopted by the full Senate.

Having responded to the ABM Treaty interpretation controversy with this condition on the INF Treaty's ratification, the committee turned its attention to what it called "the task of ensuring that Senate review of 'negotiating records' does not become an institutionalized procedure." The rationale that the committee offered in 1988 for recommending that the Senate not seek, as a matter of routine, the negotiating record in its consideration of treaties is worth reprinting in full today:

> First, a systematic expectation of Senate perusal of every key treaty's "negotiating record" could be expected to inhibit candor during future negotiations and induce posturing on the part of U.S. negotiators and their counterparts during sensitive discussions.
>
> Second, by seeking possession of the myriad internal Executive memoranda comprising the "negotiating record," the Senate would impose upon itself a considerable task with no clear purpose. Because this "record" does not constitute an agreed account of the negotiations, such documents have no formal standing. Accordingly, regularized efforts to reconcile these "snapshots" of the negotiation process with the resulting treaty text as explained by the Executive would serve only to divert the Senate's attention from the central aim of the ratification process—which is to build, between the Executive and the Senate, a clear "shared understanding" of the treaty text and the obligations which that text entails.
>
> The overall effect—of fully exposed negotiations followed by a far more complicated Senate review—would be to weaken the treaty-making process and thereby to damage American diplomacy.
>
> The traditional approach does not, of course, preclude references to the "record" where such reference can be useful in explaining the effect of treaty provisions which may appear ambiguous or about which questions may arise. The Executive may sometimes wish to initiate such reference to the "record"; on some occasions the Senate may request a detailed account of the interchange which resulted in a particular treaty provision. But this case-by-case approach is far superior to a systematic submission of

the "negotiating record," which implies either that treaties tend to be replete with ambiguity or that the Executive cannot be trusted to present an accurate account of the obligations to be assumed by the United States. Neither assumption should be allowed to govern the basic Executive-Senate interaction in the treaty-making process.

Now that the INF Treaty "negotiating record" has been made available to the Senate, the status of these documents requires resolution. In the Committee's view, that resolution would not have been satisfactorily achieved by any stipulation in the resolution of ratification declaring that the Senate had scrutinized the "record" and satisfied itself that the "record" was in harmony with the formal Executive branch presentation of the treaty. Such an approach could entail three significant problems:

(a) institutionally, it could imply that such scrutiny is important to the Senate's examination of treaties and thus should be institutionalized;

(b) retroactively, it could imply that such scrutiny should have been exercised in the past; and

(c) specifically, with regard to the INF Treaty, it could leave open the question of what is to be done if, in the future, there is an assertion—for example, by a subsequent Administration—that notwithstanding the Senate's perception of harmony there was an inconsistency between the "record" and the Executive presentation.

Accordingly, the Committee believes that no formal finding concerning the contents of the INF Treaty "negotiating record" would be wise. In the Committee's judgment, the status of this "record" is established by the basic principles affirmed in the Biden Condition. If U.S. treaty interpretation is to be based upon the shared understanding of the Senate and the Executive branch at the time of ratification, and if the common understanding is reflected in authoritative Executive branch statements made in seeking Senate consent to ratification, then sources of interpretation which appear at variance must be subordinated to those authoritative statements.

In sum, although internal Executive memoranda and other negotiating materials may have been available to members of the Senate, some of whom have sought to assure themselves that this "record" is consistent with the Administration's formal presentation, the clear corollary of the constitutional principles cited in the Biden Condition is that such documents need not have been examined for consistency and should not be deemed material to U.S. interpretation of the INF Treaty insofar as they are inconsistent with the Executive branch's formal presentation of the INF Treaty.

The committee believes this analysis remains correct today.

III. Views of the Committee on Armed Services

Between June and August of this year, the Committee on Armed Services reports that it held five hearings and three briefings on

the New START Treaty and related issues. On September 14, 2010, Senator Carl Levin, the committee's chairman, and Senator John McCain, its ranking member, each submitted a letter to the Foreign Relations Committee outlining their views on the treaty.

SENATOR LEVIN'S VIEWS

Senator Levin wrote that he supported the treaty because, "[a]s a verifiable treaty with enduring limitations, ratification of the New START Treaty will provide predictability, confidence, transparency, and stability in the U.S.-Russian relationship." Senator Levin noted in particular that the treaty would restore visibility into Russia's nuclear arsenal that disappeared with the expiration of the START Treaty in December 2009, that it provides sufficient flexibility for the United States to meet unexpected technical or political developments, and that it will lead to greater cooperation with Russia. Senator Levin also recommended four points for inclusion in the resolution of ratification, all of which are addressed in the resolution that the committee recommends to the Senate.

First, Senator Levin—noting that the only limitation on missile defense in the New START Treaty is the prohibition contained in Article V Paragraph 3 on the conversion of ICBM and SLBM launchers to missile defense interceptor launchers and vice versa—recommended that the resolution include an understanding explicitly stating that the New START Treaty does not constrain U.S. missile defense plans or programs in any other way. Understanding 1(A) in the resolution recommended by the committee does precisely this.

Second, Senator Levin wrote that the Senate should "urge the President to discuss with NATO and Russia the establishment of limitations on non-strategic or tactical nuclear weapons with the goal of reaching an agreement on reducing such weapons." Declaration 11 in the resolution recommended by the Committee on Foreign Relations:

> [C]alls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.

Third, Senator Levin—noting his committee's concern about the ability to maintain without testing the safety, security, and reliability of the nuclear weapons stockpile—wrote that the Senate:

> [S]hould urge the President to establish clear, realistic requirements for the modernization of the nuclear weapons complex, the life extension programs, and the scientific, experimental, and analytical tools needed by the laboratories to ensure a continued safe, secure, and reliable stockpile, and to request funds as needed on an annual basis to support these requirements.

Condition 9 of the resolution recommended by the Committee on Foreign Relations addresses this issue. It states that, because the United States is committed to proceeding with a robust stockpile stewardship program and to modernizing nuclear weapons produc-

tion capabilities, the United States is committed to providing the nuclear weapons labs with, at a minimum, the funds called for in the President's 1251 report. If appropriations fail to meet those levels—or if at any time more resources are required—the resolution requires the President to submit a report detailing the impact of the shortfall and how the President proposes to remedy it.

Finally, Senator Levin suggested that:

> [G]iven the concern that the absence of telemetric information will reduce the confidence that the United States will have in the overall capabilities of the Russian strategic offensive systems, the Senate should require submission of an annual report for the first 5 years of the New START Treaty that will assess the overall adequacy of the verification and inspection provisions to monitor compliance with the treaty, and their ability to provide adequate information on the overall capabilities of Russian strategic offensive systems.

The resolution recommended by the Committee on Foreign Relations addresses this concern in Condition 2(A), which requires the President, prior to entry into force and annually thereafter, to certify that U.S. NTM, combined with the verification activities provided for in New START, provide effective monitoring of Russian compliance with the treaty. Moreover, Condition 10 requires the President to submit to the Committees on Foreign Relations and Armed Services an annual report certifying Russian compliance with the treaty or detailing its noncompliance, and assessing the operation of New START's transparency measures, including the exchange of telemetric data. Also, Declaration 6(B) states that, given its concerns about compliance issues, the Senate expects the executive branch to brief the Committees on Foreign Relations and Armed Services at least four times a year on any compliance issues that have arisen in the course of implementing the treaty.

SENATOR MCCAIN'S VIEWS

In his letter, Senator McCain wrote, "The New START Treaty represents the continuation of decades-long efforts to promote strategic stability with Russia through the bilateral reductions of our nuclear weapons arsenals." He added, "I support many of the New START Treaty's goals," but he also said that "a number of significant flaws must be addressed by the Senate prior to ratification." The resolution of advice and consent to ratification recommended by the Foreign Relations Committee addresses many of the issues raised by Senator McCain.

First, Senator McCain wrote, "I am strongly opposed to the New START Treaty's references and legally-binding limitations on ballistic missile defense." He added, "I . . . strongly believe that the Resolution of Ratification must make it clear that any limitations on the development or deployment of missile defenses designed to protect the United States, its allies, and deployed forces will be prohibited." As cited above, Understanding 1(A) in the resolution recommended by the Committee on Foreign Relations says that "the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V," which prohibits the conversion of ICBM and

SLBM launchers for missile defense interceptor launchers and vice versa. Declaration 1(A)(iii) in the recommended resolution notes that "further limitations on the missile defense capabilities of the United States are not in the national interest of the United States." Declaration 1(B) states:

> The New START Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the United States Government currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack . . ..

Second, Senator McCain wrote:

> The resolution of ratification should address the modernization of both the weapons complex and the nuclear triad. At a minimum, the resolution should signal that a failure to adequately modernize could jeopardize U.S. national security and, in an extreme circumstance, could even constitute grounds for withdrawing from the treaty.

As noted above, Condition 9 in the resolution recommended by the Committee on Foreign Relations states the U.S. commitment to providing the nuclear weapons labs with, at a minimum, the funds called for in the President's 1251 report. If appropriations fail to meet those levels—or if at any time more resources are required—the resolution requires the President to submit a report detailing the implications of the shortfall and how he proposes to remedy it. Concerning the triad, Declaration 13 of the recommended resolution says:

> [I]t is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.

Third, Senator McCain voiced concern about the powers of the Bilateral Consultative Commission (BCC): "The resolution of ratification must establish limitations for the BCC and prohibit any role for this Commission that risk[s] impinging on the Senate's Constitutional responsibilities." The resolution recommended by the Committee on Foreign Relations addresses the limits of the BCC in a number of places. Condition 8 provides close oversight, requiring the President to consult with the Foreign Relations Committee 15 days before any meeting of the BCC to consider additional measures to improve the viability or effectiveness of the treaty or to determine whether the treaty applies to a new kind of strategic offensive arm; the consultation will address whether any resulting proposal, if adopted, would require the advice and consent of the Senate. Declaration 6(B) states that the Senate expects the executive branch to provide briefings on all compliance issues addressed at the BCC. Understanding 1(B) indicates that any additional limi-

tation on missile defense beyond that in paragraph 3 of Article V, including any agreed to at the BCC, would be subject to the advice and consent of the Senate. And Understanding 3(D)(ii) indicates that any prohibition on the deployment of future strategic-range, non-nuclear weapons systems, including any agreed to at the BCC, would require the Senate's advice and consent.

Fourth, Senator McCain wrote that, "the Resolution of Ratification should assert that any future arms control negotiations with Russia must address reductions in Russian tactical nuclear weapons." As noted above, Declaration 11 in the resolution recommended by the Committee on Foreign Relations:

> [C]alls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.

Fifth, Senator McCain wrote that, "the Resolution of Ratification should require that the President provide a plan for funding, developing, and deploying future CPGS capabilities as well as an assessment of whether such capabilities would be accountable under the New START Treaty." Condition 6 in the resolution recommended by the Committee on Foreign Relations requires the President to submit such a report to the Committees on Armed Services and Foreign Relations prior to entry into force of the New START Treaty.

Finally, articulating concerns about the treaty's provisions on verification and telemetry, Senator McCain wrote:

> [T]he Resolution of Ratification should require the President to report annually on the level of national confidence in Russian compliance with the treaty. Additionally . . . the United States [should] insist that Russia share telemetric data on any of those new strategic offensive systems developed over the duration of the treaty."

As noted above, Condition 2(A) in the resolution recommended by the Committee on Foreign Relations requires the President, prior to entry into force and annually thereafter, to certify that U.S. NTM, combined with the verification activities provided for in New START, provide effective monitoring of Russian compliance with the treaty. Moreover, Condition 10 requires the President to submit to the Committees on Foreign Relations and Armed Services an annual report certifying Russian compliance with the treaty and assessing the operation of New START's transparency measures, including the exchange of telemetric data. Finally, Condition 7 sets up a framework for seeking significant Russian telemetry in return for any telemetry the United States provides on CPGS systems.

The letters from Senator Levin and Senator McCain are reprinted below:

SEPTEMBER 14, 2010.

Hon. JOHN KERRY,
Chairman, Senate Committee on Foreign Relations,
Dirksen Senate Office Building, Washington, DC.

Hon. RICHARD LUGAR,
Ranking Member, Senate Committee on Foreign Relations,
Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN KERRY AND RANKING MEMBER LUGAR: The Committee on Armed Services has completed its review of the military implications of The Treaty between the United States and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, (the New START Treaty), signed on April 8, 2010. As requested, this letter is to provide you with my views on the New START Treaty and to offer my suggestions for issues the Foreign Relations Committee should consider in preparing a resolution of ratification for the treaty.

The committee held 5 hearings and 3 briefings on the treaty and related issues between June 17, 2010 and August 6, 2010.

The Senate Armed Services Committee's hearings allowed members to consider a broad range of issues associated with the treaty. On June 17, 2010, the Committee convened in open session to receive testimony on the New START Treaty and implications for national security from Hillary Rodham Clinton, Secretary of State; Robert M. Gates, Secretary of Defense; Dr. Steven Chu, Secretary of Energy; and Admiral Michael G. Mullen, Chairman of the Joint Chiefs of Staff. On July 15, 2010, the Committee received testimony in both open and closed session on sustaining nuclear weapons under the New START Treaty. Witnesses at this hearing included Dr. Michael R. Anastasio, Director of Los Alamos National Laboratory; Dr. George H. Miller, Director of Lawrence Livermore National Laboratory; Dr. Paul J. Hommert, Director of Sandia National Laboratories; and Dr. Roy F. Schwitters, Chairman of the JASON Defense Advisory Group. The Committee met in open session on July 20, 2010, to receive testimony on implementation of the New START Treaty. Appearing as witnesses at this hearing were Dr. James N. Miller, Principal Deputy Under Secretary of Defense for Policy; Thomas D'Agostino, Administrator of the National Nuclear Security Administration; and General Kevin P. Chilton, Commander of U.S. Strategic Command. The Committee met in open session on July 27, 2010, to receive independent analyses of the New START Treaty from Ambassador Stephen Pifer, Director of the Arms Control Initiative at the Brookings Institution; Franklin C. Miller, Independent Consultant; Dr. John S. Foster, Jr., Independent Consultant; and Dr. Keith B. Payne, Professor and Head of the Graduate Department of Defense and Strategic Studies at Missouri State University (Washington Campus). The Committee held its final open hearing on July 29, 2010, during which Senators continued to receive testimony on the New START Treaty from Rose E. Gottemoeller, Assistant Secretary of State for the Bureau of Verification, Compliance, and Implementation; and Dr. Edward L. Warner III, Secretary of Defense Representative to Post-START Negotiations.

The Committee also held three closed briefings to review the New START Treaty. The first of the Committee's closed sessions fo-

cused on the Intelligence Community's judgment of its ability to monitor compliance with the New START Treaty, while the remaining two sessions examined strategic force structure options for the United States and Russia, respectively, under the New START Treaty. The Committee convened on July 14, 2010, to consider the National Intelligence Estimate on the verifiability of the New START Treaty with Andrew M. Gibb, National Intelligence Officer for Weapons of Mass Destruction on the National Intelligence Council, as the witness before the Committee. The Committee met again on July 29, 2010, to receive a briefing on the Department of Defense strategic force structure options under the New START Treaty with Dr. Edward L. Warner III, Secretary of Defense Representative to Post-START Negotiations on behalf of the Department of Defense, and Mr. Michael S. Elliott, Deputy Director for Plans and Policy at the U.S. Strategic Command, as witnesses. On August 5, 2010, the Committee met in a final closed session to receive a briefing on Russian strategic force structure under the New START Treaty. Mr. Robert D. Walpole, Principal Deputy Director of the National Counterproliferation Center, and Mr. Charles F. Monson, Deputy National Intelligence Officer for Weapons of Mass Destruction (Ballistic and Land-Attack Cruise Missiles) for the National Intelligence Council, appeared as witnesses. During these three closed-session meetings, the witnesses appearing before the Committee were accompanied by, and the Committee was able to hear from, representatives from the broader Intelligence Community, including representatives from the Office of the Director of National Intelligence (ODNI), National Intelligence Council (NIC), Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Security Agency (NSA), State Department Bureau of Intelligence and Research (INR), and the Department of Energy (DOE).

I support the New START Treaty and the limitations on strategic offensives arms, including ballistic missiles, ballistic missile launchers, heavy bombers, and nuclear warheads that it contains. Since the expiration of the START I Treaty on December 4, 2009, the United States has not had visibility into Russian strategic offensive nuclear arms. This lack of transparency as well as the lack of limitations on the numbers of delivery systems, if not addressed through a New START Treaty, will lead to increasing uncertainty by each country in the makeup of the other country's forces, which in turn could prove destabilizing in the long term. While the Moscow Treaty established a limit of 1,700 to 2,200 operationally deployed strategic nuclear warheads by December 31, 2012, that treaty contains no verification or inspection provisions, no definition of "operationally deployed," and because it is not enduring, the day after the limitation must be achieved, it will no longer be in force.

I believe that the Senate should grant its consent to ratification of the New START Treaty because ratification of this treaty is in the national security interest of the United States for many reasons. One strong reason is that we again will have visibility into Russian nuclear arms. As a verifiable treaty with enduring limitations, ratification of the New START Treaty will provide predictability, confidence, transparency, and stability in the U.S.-Russian relationship.

As the Committee heard from Secretary of Defense Gates and the senior military commanders, the number of strategic ballistic missiles, ballistic missile launchers, heavy bombers, and nuclear warheads permitted under the treaty, was derived as a result of careful analysis of the capabilities needed to meet the deterrence requirements of the United States for the foreseeable future. The limitations in the treaty provide sufficient flexibility for the United States to address any unforeseen situation, including technical or political issues, through a robust nuclear triad. The limitations in the New START Treaty are 74 percent lower than the limitations in the Cold War era START I Treaty. That reflects the reality of the significant reductions in both warheads and delivery systems that both Russia and the United States have made in the 20 years since the end of the Cold War.

Previous treaties included prescriptive provisions, including provisions limiting the specific capabilities of specific strategic delivery systems, and the numbers of specific types of delivery systems that either the United States or Russia could possess. The New START Treaty limits the total numbers of deployed and non-deployed ICBM launchers, SLBM launchers, and heavy bombers equipped for nuclear armaments to 800; the total number of deployed ICBMs, deployed SLBMs, and deployed heavy bombers equipped for nuclear armaments to 700; and the total number of warheads on deployed ICBMs and SLBMs to 1550 warheads, with each deployed heavy bomber equipped for nuclear armaments counting as one warhead. These broad limits allow each side to balance their respective forces as they see fit. For the United States, the majority of the nuclear warheads will be deployed at sea on SLBMs, but the flexible limits will also allow the United States to retain a large number of single warhead ICBMs and heavy bombers equipped for nuclear armaments. Retention of unlimited numbers of non-deployed nuclear warheads will preserve the U.S. ability to upload additional warheads on the ICBMs if circumstances should require. In addition, this treaty will also allow the United States to maintain a large fleet of heavy bombers for conventional use only, as the treaty places no limits on heavy bombers that have been converted to non-nuclear use. The B-1 bomber will no longer be counted as a heavy bomber equipped for nuclear armaments, once their conversion has been completed, and many of the B-52H bombers will also be converted to non-nuclear capability.

During the course of the hearings and briefings conducted by the Armed Services Committee on the New START Treaty, there was considerable discussion on whether the treaty limits U.S. ballistic missile defenses. The testimony was clear: the treaty does not contain provisions that constrain the development or deployment of effective or planned U.S. missile defenses. The only limitation in the treaty itself dealing with missile defense is the provision (Article V, paragraph 3) that prohibits the conversion of ICBM and SLBM launchers for ballistic missile defense use. The United States has no plan or need to convert additional ICBM silos for missile defense use. Indeed, it would be dangerous for either side to convert silos because such action would cause ambiguity and uncertainty as to what was being launched.

A statement in the treaty preamble that recognizes the interrelationship between strategic offensive arms and strategic defen-

sive arms does not limit U.S. missile defenses, but states a fact that the United States has recognized since the Anti-Ballistic Missile (ABM) Treaty in 1972.

A Russian unilateral statement on U.S. ballistic missile defense programs is not a part of the treaty and does not limit or constrain the development or deployment of effective or planned U.S. missile defenses. Our own unilateral statement says that U.S. missile defenses are not intended to affect the strategic balance with Russia and that we will continue to improve and deploy missile defense systems. The Russian unilateral statement that Russia could withdraw from the treaty if the United States builds up missile defense system capabilities that threaten Russian strategic forces is nothing more than a recognition that either side could withdraw from the treaty if its supreme national interest is jeopardized. It is not a limitation on U.S. missile defenses.

The New START Treaty recognizes and adopts the reductions in strategic offensive systems that have been made by the United States and Russia, including nuclear warheads, since the end of the Cold War by establishing new lower limits for both deployed and non-deployed strategic offensive delivery systems and for deployed strategic nuclear warheads. The treaty will reinstate inspection and verification regimes lost with expiration of the START I Treaty and will re-establish the practice of having and complying with legally binding, verifiable arms control agreements.

Ratification will also lead to greater cooperation with Russia in other important areas. Failure to ratify this treaty, in the words of Secretary of State Clinton before our Committee on July 15, 2010, would have the opposite effect. She stated that "The consequences of not ratifying this treaty would have very serious impacts on our relationship with Russia and would frankly give aid and comfort to a lot of the adversaries we face around the world . . . It [failure to ratify] would very much undermine the relationship that President Obama has been leading us to establish to provide more confidence between the United States and Russia so that together we can tackle the threats posed by Iran, North Korea, and networks of terrorists." The New START Treaty will hopefully lead to discussions with Russia in the future to address non-strategic nuclear weapons and to ballistic missile defense cooperation.

I recommend a number of items be considered for inclusion in the resolution of ratification, as follows:

> 1. The prohibition in the New START Treaty on converting ICBM silos for missile defense purposes, and vice versa, does not place constraints on U.S. missile defense plans or programs because there are no plans or any programmatic reason to convert additional ICBM silos to missile defense uses. Indeed, it would be dangerous to allow such conversion because of the ambiguity and uncertainty that such conversions could generate. There are no other provisions in the New START Treaty that would limit U.S. missile defense programs. To make that conclusion abundantly clear, it would be useful for the Senate to include an understanding in its resolution of ratification that the New START Treaty and its accompanying documents, including the provision with respect to silo conversion, do not

constrain U.S. missile defense plans or programs to develop or deploy ballistic missile defenses.

2. Many of the members of the Armed Services Committee have expressed concern that the New START Treaty is limited to strategic offensive arms only. While non-strategic or tactical nuclear weapons are clearly an important issue for the United States and Russia to address, this is not an issue that can be addressed in bilateral treaty negotiations. NATO is an indispensible party to any future discussions for a treaty that would include resolutions or limitations on non-strategic or tactical nuclear weapons. Nevertheless, it is important to take steps that could lead to future agreements limiting non-strategic or tactical nuclear weapons. The Senate should urge the President to discuss with NATO and Russia the establishment of limitations on non-strategic or tactical nuclear weapons with the goal of reaching an agreement reducing such weapons.

3. During the Armed Services Committee hearings, considerable attention was paid to the ability of the Department of Energy and the National Nuclear Security Administration (NNSA) to maintain, without testing, the safety, security, and reliability of a smaller stockpile of nuclear weapons. While not an element of the New START Treaty, funding for modernization of the nuclear weapons complex and the Stockpile Stewardship Program, including the stockpile management and life extension programs, has become a significant topic of discussion. The committee heard from the directors of the three NNSA laboratories with responsibility for maintaining the nuclear weapons stockpile and discussed their concerns about both the financial and technical future of the laboratories, particularly their ability to maintain the scientific skills necessary to maintain a safe, secure, and reliable stockpile. The directors support ratification of the treaty because of their concern about the uncertainty that would result in the nuclear weapons program if the treaty were not ratified.

The committee also heard testimony from the Secretary of Defense, Secretary of Energy, and the Administrator of the NNSA discussing their commitment to reverse the downward budgetary trend in previous years and to make sure that the entire nuclear weapons complex is modernized so that a smaller stockpile will be safe, secure, and reliable into the future. While the modernization effort at the laboratories has been substantial, there has been a downward trend in the facility modernization efforts and the budget since 2005 that is reversed with the substantial increases in the fiscal year 2011 budget request and projected budgets for the out years. A portion of the increase will also support two major production facilities that are old and will have to be replaced. Each of these new facilities will be multi-billion dollar facilities and each is in the early phases of design. As a result, the specific design, technology, cost, and construction schedule all still need to be established. As more detail becomes available for the new facilities, and as each of the life extension programs

for specific nuclear weapons is defined, the exact amount needed for each year will have to be adjusted as part of the annual authorization and appropriation process.

Some members have expressed concern that financial support for modernization will not be sustained and that because the costs of the new buildings are not yet known the projected out-years funding is not enough. The Senate should urge the President to establish clear, realistic requirements for the modernization of the nuclear weapons complex, the life extension programs, and the scientific, experimental, and analytical tools needed by the laboratories to ensure a continued safe, secure, and reliable stockpile, and to request funds as needed on an annual basis to support these requirements.

4. The verification, inspection, and transparency provisions in the START I Treaty expired in December 2009, and the Moscow Treaty has no such provisions. As a result, there are currently no such provisions in effect that can provide insight into the respective strategic forces of each party. The New START Treaty includes a number of verification, inspection, and transparency provisions and protocols designed to provide information about each party's strategic offensive arms, and to ensure that each side is in compliance with the limitations and obligations contained in the treaty. The New START Treaty does not include the same level of exchange of telemetric data as the START I Treaty, primarily because the prohibitions and limitations in the New START Treaty do not need telemetric data to monitor and verify treaty compliance. Arms control treaties generally include mechanisms adequate to monitor, demonstrate, and ensure compliance with the limitations and obligations specific to the individual treaty. The extensive data exchanges and on-site inspections provided for in the New START Treaty are adequate to monitor compliance with the terms of the treaty. Nevertheless, the New START Treaty has been criticized because it does not include START I requirements for the exchange of telemetric information, although the extensive data exchange provided for, together with the on-site inspections of the New START Treaty, provide comparable information on new systems and will also provide substantially more information on the overall nature of the deployed and nondeployed systems of each country.

However, given the concern that the absence of telemetric information will reduce the confidence that the United States will have in the overall capabilities of the Russian strategic offensive systems, the Senate should require submission of an annual report for the first 5 years of the New START Treaty that will assess the overall adequacy of the verification and inspection provisions to monitor compliance with the treaty, and their ability to provide adequate information on the overall capabilities of Russian strategic offensive systems.

I hope you find these recommendations useful as you prepare to mark up the resolution of ratification for the New START Treaty. I appreciate the opportunity to share my views with you.

Sincerely,

CARL LEVIN,
Chairman.

September 14, 2010.

Hon. JOHN KERRY,
Chairman, Committee on Foreign Relations,
Dirksen Senate Office Building, Washington, DC.

Hon. RICHARD LUGAR,
Ranking Member, Committee on Foreign Relations,
Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN KERRY AND RANKING MEMBER LUGAR: The purpose of this letter is to provide my views, as Ranking Member of the Senate Armed Services Committee, on the national security implications of the Treaty with Russia on Measures for Further Reduction and Limitation of the Strategic Offensive Arms ("the New START Treaty"), based on numerous hearings and briefings in the Committee with administration officials and independent expert witnesses, as well as the administration's responses to numerous questions for the record concerning all aspect of the treaty. The New START Treaty represents the continuation of decades-long efforts to promote strategic stability with Russia through the bilateral reductions of our nuclear weapons arsenals. While I support many of the New START Treaty's goals, a number of significant flaws must be addressed by the Senate prior to endorsing ratification. If the New START Treaty is to be in the national security interests of the United States, the Senate's Resolution of Advice and Consent to Ratification must at a minimum establish binding prohibitions against constraints on ballistic missile defense; a long term commitment to the modernization of the nuclear weapons complex and the nuclear triad; limitations on the authority of the Bilateral Consultative Commission (BCC); and assurances that future arms control negotiations with Russia address reductions in tactical nuclear weapons.

Missile Defense

I am strongly opposed to the New START Treaty's references and legally-binding limitations on ballistic missile defense. Unlike arms control treaties of the past, the New START Treaty explicitly asserts the existence of an interrelationship between offensive and defensive strategic weapons. Such a linkage not only diverts attention from the more significant interrelationship between strategic and tactical offensive weapons but affords the Russian government the opportunity they so desire to draw unfounded linkages between strategic nuclear weapons and defensive arms. Russian Foreign Minister Sergei Lavrov has already done so, stating, "linkage to missile defense is clearly spelled out in the accord and is legally binding."

Prior to treaty negotiations, the administration told the Senate that the treaty would not reference missile defense, and no linkages would be drawn between offensive and defensive weapons. Then the Senate was informed that there would be such a ref-

erence, but only in the preamble of the treaty, which is not legally binding. However, in the final treaty text—not just in the preamble, but Article 5 of the treaty itself—there is a clear, legally-binding limitation on our missile defense options. While this limitation may not be a meaningful one, it is a limitation, and it sets a troubling precedent. I remain significantly concerned that the administration agreed to this language in the treaty text and strongly believe that the Resolution of Ratification must make it clear that any limitations on the development or deployment of missile defenses designed to protect the United States, its allies, and deployed forces will be prohibited.

Modernization of the Nuclear Weapons Complex and the Triad of Nuclear Delivery Vehicles

The resolution of ratification should address the modernization of both the weapons complex and the nuclear triad. At a minimum, the resolution should signal that a failure to adequately modernize could jeopardize U.S. national security and, in an extreme circumstance, could even constitute grounds for withdrawing from the treaty.

The May 2009 report by the bipartisan Perry-Schlesinger Strategic Posture Commission articulated to Congress the dire need for modernization of the nuclear weapons complex. At that time, the Commission stated that, while the National Nuclear Security Administration (NNSA) has a reasonable plan, they lacked the necessary funding to implement it properly. The administration's ten-year modernization plan that accompanied the New START Treaty—also referred to as the 1251 report—was expected to address these funding concerns. However, testimony before the Committee has made it increasingly clear that the President's plan may not meet our full recapitalization and modernization needs.

By combining funds already planned for sustainment with those for the modernization effort, the 1251 report painted a misleading picture. Estimates suggest that $70 billion, or almost 90 percent of the $80 billion allocated over the next ten years, will be required to simply sustain the complex at today's level. That leaves less than $10 billion for the design and construction of two major facilities that could alone cost more than $10 billion, as well as at least two and perhaps three multibillion dollar life extension programs. Indeed, the director of the Los Alamos National Laboratory testified this year that there is "already a gap emerging between expectations and fiscal realities," and that "much of the [administration's] planned funding increase for weapons activities do not come to fruition until the second half of the ten-year period."

The Nuclear Posture Review (NPR) endorsed retaining a smaller nuclear triad. However, with the exception of the next generation ballistic missile submarine, the NPR and the 1251 report provided little detail about long-term modernization efforts or the projected cost. The NPR recognized that decisions need to be made on the next generation ICBM, the next generation bomber, and the next air-launched cruise missile but incorrectly cited little urgency in making those decisions. The cost alone for modernizing both the nuclear weapons complex and the triad are substantial, and as we move to reduce the size of our nuclear stockpile, this modernization effort becomes all the more important. Factoring in the cost of mis-

sile defense and conventional prompt global strike—both essential and critical, but also costly, programs—the overall funding requirements could grow much larger than the administration has suggested. It is not clear how such funding requirements would be met, especially as pressure builds in the administration and Congress to reduce the growth of discretionary spending.

Recognizing that many questions remain concerning the cost of implementing the vision set forth in the NPR, the funding thus far outlined by the administration indicates significant uncertainty for the future of the nuclear weapons complex and the nuclear triad. I therefore urge the administration either to clarify its commitment to modernizing the weapons complex, to revise its plan for modernizing the national nuclear enterprise, or to clarify the risks entailed by a failure to fund adequately the priorities and programs identified in the 1251 report and the NPR.

Bilateral Consultative Commission

I have concerns with the New START Treaty's establishment of the Bilateral Consultative Commission (BCC), a body empowered to make unilateral modifications regarding undefined treaty implementation and technical issues. If left unchecked, the BCC risks undermining the Constitutional responsibilities of the Senate. The resolution of ratification must establish limitations for the BCC and prohibit any role for this Commission that risk impinging on the Senate's Constitutional responsibilities.

Tactical Nuclear Weapons

With respect to Russian Tactical Nuclear weapons, I remain concerned by the treaty's failure to address or at a minimum establish a framework for addressing the significant Russian disparity. Russia's non-strategic arsenal outnumbers that of the United States by a factor of ten-to-one and presents an immediate concern that must be addressed in the context of strategic reductions. As former Secretary of State Henry Kissinger has stated during testimony before the Committee on Foreign Relations, the distinction between strategic and non-strategic weapons is "bound to erode" as strategic arsenals are reduced, resulting in an imbalance which could, in Kissinger's words, "threaten [our] ability to undertake extended deterrence." To rectify these concerns, the Resolution of Ratification should assert that any future arms control negotiations with Russia must address reductions in Russian tactical nuclear weapons.

Conventional Prompt Global Strike

Significant uncertainty exists concerning the future of Conventional Prompt Global Strike (CPGS) if the New START Treaty were to enter into force. To date, the administration has failed to articulate its CPGS development and deployment strategy and it remains unclear if future capabilities would be subject to the limits in Article II of the treaty. Absent further clarification, the Resolution of Ratification should require that the President provide a plan for funding, developing, and deploying future CPGS capabilities as well as an assessment of whether such capabilities would be accountable under the New START Treaty.

Verification and Telemetry

The administration has argued that the same level of telemetry exchanges and on-site inspections required under the original START Treaty are no longer needed to verify the terms of the New START Treaty. While this may be true, the New START Treaty's permissive approach to verification will result in less transparency and create additional challenges for our ability to monitor Russia's current and future capabilities. Near-term assessments of the Russian nuclear force will benefit from the visibility gained through the legacy START verification protocols. However, the reduction of on-site inspections and the lack of meaningful telemetry data exchanges under the new treaty will greatly diminish our ability to assess and evaluate future Russian capabilities and may lead to increasing uncertainty. To address these concerns, the Resolution of Ratification should require the President to report annually on the level of national confidence in Russian compliance with the treaty. Additionally, as Russia continues to develop and deploy new strategic offensive capabilities over the years ahead, I believe it is in the national security interest of the United States to use the framework provided within the New START Treaty to insist that Russia share telemetric data on any of those new strategic offensive systems developed over the duration of the treaty.

Sincerely,

JOHN MCCAIN,
Ranking Member.

IV. VIEWS OF THE SELECT COMMITTEE ON INTELLIGENCE

The committee received classified letters from Senator Dianne Feinstein, chairman of the Select Committee on Intelligence, and Senator Christopher S. Bond, vice chairman of the Select Committee on Intelligence, expressing their views on the New START Treaty. These letters may be reviewed by all Senators in the Office of Senate Security.

V. COMMITTEE ACTION

Committee action on the New START Treaty began during the negotiations of the treaty: on June 18, August 5, October 8, November 4, and December 3, 2009, the Committee on Foreign Relations, along with the Committee on Armed Services and the Senate National Security Working Group, received closed briefings on the progress of negotiations from relevant executive branch officials, including the Honorable Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance and Chief U.S. Negotiator in Post-START Negotiations.

In addition, the committee conducted 12 hearings on the treaty.

On April 29, 2010, the committee held a hearing on "The Historical and Modern Context for U.S.- Russian Arms Control." The witnesses were the Honorable James R. Schlesinger, Chairman of the Board of the MITRE Corporation and former Secretary of Defense, Secretary of Energy, and Director of Central Intelligence, and the Honorable William J. Perry, Michael and Barbara Berberian Professor, Center for International Security and Cooperation, Stanford University, and former Secretary of Defense. Senator Kerry chaired the hearing.

On May 18, 2010, the committee held a hearing on "The New START Treaty." The witnesses were the Honorable Hillary Rodham Clinton, Secretary of State; the Honorable Robert M. Gates, Secretary of Defense; and Admiral Michael G. Mullen, USN, Chairman of the Joint Chiefs of Staff. Senator Kerry chaired the hearing.

On May 19, 2010, the committee held a hearing on "The History and Lessons of START." The witness was the Honorable James A. Baker III, Senior Partner, Baker Botts L.L.P., and former Secretary of State and Secretary of the Treasury. Senator Kerry chaired the hearing.

On May 25, 2010, the committee held a hearing on "The Role of Strategic Arms Control in a Post-Cold War World." The witness was the Honorable Henry Kissinger, Chairman of Kissinger McLarty Associates, and former National Security Advisor and Secretary of State. Senator Kerry chaired the hearing.

On June 8, 2010, the committee held a closed hearing on the negotiation of the treaty. The witnesses were the Honorable Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance and Chief U.S. Negotiator at the Post-START Negotiations, and the Honorable Edward L. Warner III, Secretary of Defense Representative to Post-START Negotiations. Senator Kerry chaired the hearing.

On June 10, 2010, the committee held a hearing on "Strategic Arms Control and National Security." The witnesses were Lieutenant General Brent Scowcroft, USAF (Ret.), President of the Scowcroft Group and former National Security Advisor, and the Honorable Stephen J. Hadley, Senior Adviser for International Affairs at the United States Institute of Peace and former National Security Advisor. Senator Kerry chaired the hearing.

On June 15, 2010, the committee held a hearing on the negotiation of the New START Treaty. The witnesses were the Honorable Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance and Chief U.S. Negotiator in Post-START Negotiations, and the Honorable Edward L. Warner III, Secretary of Defense Representative to Post-START Negotiations. Senator Kaufman chaired the hearing.

On June 16, 2010, the committee held a hearing on "The New START Treaty: Views from the Pentagon." The witnesses were the Honorable James N. Miller, Jr., Principal Deputy Under Secretary of Defense for Policy, General Kevin P. Chilton, USAF, Commander of United States Strategic Command, and Lieutenant General Patrick J. O'Reilly, USA, Director of the Missile Defense Agency. Senator Kerry chaired the hearing.

On June 24, 2010, the committee held a hearing on "The New START Treaty: Implementation—Inspections and Assistance." The witnesses were the Honorable James N. Miller, Jr., Principal Deputy Under Secretary of Defense for Policy, and Kenneth A. Myers III, Director of the Defense Threat Reduction Agency and the U.S. Strategic Command Center for Combating Weapons of Mass Destruction. Senator Casey chaired the hearing.

On June 24, 2010, the committee held a hearing on benefits and risks related to the treaty. The witnesses were the Honorable Robert G. Joseph, Senior Scholar at the National Institute for Public Policy and former Under Secretary of State for Arms Control and International Security, the Honorable Eric S. Edelman, Distin-

guished Fellow at the Center for Strategic and Budgetary Assessments and Visiting Scholar at the Philip Merrill Center for Strategic Studies at the Johns Hopkins University School of Advanced and International Studies, and former Under Secretary of Defense for Policy, and Dr. Morton H. Halperin, Senior Advisor at the Open Society Institute and former Director of the State Department Policy Planning Staff. Senator Shaheen chaired the hearing.

On July 14, 2010, the committee held a closed hearing on monitoring and verification of treaty compliance with Intelligence Community officials and the Honorable Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance. Senator Kerry chaired the hearing.

On July 15, 2010, the committee held a hearing on "Maintaining a Safe, Secure and Effective Nuclear Arsenal." The witnesses were Dr. Michael R. Anastasio, Director of Los Alamos National Laboratory; Dr. George H. Miller, Director of Lawrence Livermore National Laboratory; and Dr. Paul J. Hommert, Director of Sandia National Laboratories. Senator Kerry chaired the hearing.

At a business meeting on September 16, 2010, the committee met to consider the treaty and a draft resolution of advice and consent to ratification.

The committee first adopted by voice vote an amendment, in the form of a substitute, to the draft resolution, which was offered by Senator Lugar.

An amendment to the treaty offered by Senator Barrasso, to strike certain language in the treaty's preamble, was rejected, by a vote of 6 to 13. Ayes: Senators Isakson, Risch, DeMint, Barrasso, Wicker, and Inhofe; Nays: Senators Kerry, Dodd, Feingold, Boxer, Menendez, Cardin, Casey, Webb, Shaheen, Kaufman, Gillibrand, Lugar, and Corker.

An amendment to the resolution offered by Senator Risch, to include in the resolution a declaration on the modernization and replacement of strategic delivery vehicles, was adopted, by voice vote.

An amendment to the resolution offered by Senator Risch, to require certain missile defense activities, was rejected, by a vote of 7 to 12. Ayes: Senators Corker, Isakson, Risch, DeMint, Barrasso, Wicker, and Inhofe; Nays: Senators Kerry, Dodd, Feingold, Boxer, Menendez, Cardin, Casey, Webb, Shaheen, Kaufman, Gillibrand, and Lugar.

An amendment to the resolution offered by Senator Risch, to strike a declaration in the resolution on tactical nuclear weapons and to replace it with a new declaration on tactical nuclear weapons, was rejected, by a vote of 7 to 12. Ayes: Senators Corker, Isakson, Risch, DeMint, Barrasso, Wicker, and Inhofe; Nays: Senators Kerry, Dodd, Feingold, Boxer, Menendez, Cardin, Casey, Webb, Shaheen, Kaufman, Gillibrand, and Lugar.

An amendment to the resolution offered by Senator Inhofe, as modified, to include in the resolution a declaration on the deployment of a missile defense capability to ensure a shoot-look-shoot missile defense on both the east and west coasts of the United States by 2015, was rejected, by a vote of 5 to 14. Ayes: Senators Risch, DeMint, Barrasso, Wicker, and Inhofe; Nays: Senators Kerry, Dodd, Feingold, Boxer, Menendez, Cardin, Casey, Webb, Shaheen, Kaufman, Gillibrand, Lugar, Corker, and Isakson.

An amendment to the resolution offered by Senator DeMint, as modified, to include in the resolution a declaration concerning the defense of the United States and Allies against strategic attack, was adopted, by voice vote.

An amendment to the resolution offered by Senator Barrasso, to condition the Senate's advice and consent to ratification on a certification by the President that the President will not deploy fewer than 450 ICBMs, was rejected, by voice vote.

An amendment to the resolution offered by Senator Inhofe, as modified, to include in the resolution a declaration concerning missile modernization, was rejected, by a vote of 5–14. Ayes: Senators Risch, DeMint, Barrasso, Wicker, and Inhofe; Nays: Senators Kerry, Dodd, Feingold, Boxer, Menendez, Cardin, Casey, Webb, Shaheen, Kaufman, Gillibrand, Lugar, Corker, and Isakson.

The committee agreed by a vote of 14 to 4 to report the New START Treaty to the Senate, and to recommend to the Senate the resolution of advice and consent to ratification contained in this report, which includes 10 conditions, 3 understandings, and 13 declarations. Ayes: Senators Kerry, Dodd, Feingold, Boxer, Menendez, Cardin, Casey, Webb, Shaheen, Kaufman, Gillibrand, Lugar, Corker, and Isakson; Nays: Senators Risch, Barrasso, Wicker, and Inhofe. Senator DeMint was not present during this vote, but later wrote to the chairman of the committee to indicate that he would have voted against the resolution if he had been present.

VI. Committee Recommendation and Comments

The committee believes that the New START Treaty will contribute to the security of the United States by limiting Russian strategic offensive arms while re-establishing an intrusive verification and transparency regime. It will give the United States flexibility in how it meets the treaty's limits. The treaty's verification provisions will deepen U.S. understanding of Russia's nuclear forces, and bringing it into force will contribute to U.S. efforts to prevent the spread of nuclear weapons to rogue states and terrorists. Even though America's relationship with Russia is now strong enough that neither side fears an attack from the other, it still makes sense for the nuclear superpowers—our two countries possess some 90 percent of the world's atomic weaponry—to establish clear limits on their arsenals. The predictability that stems from having such limits, along with the transparency provided by the monitoring and verification provisions contained in New START, produces stability that will make it less likely that a crisis would arise and would help make any such crisis less dangerous.

Accordingly, the committee urges the Senate to act promptly to give its advice and consent to ratification of the treaty, as set forth in this report and the accompanying resolution of advice and consent. The committee has included in the resolution of advice and consent 10 conditions, 3 understandings, and 13 declarations.

CONDITION (1). GENERAL COMPLIANCE

The committee recommends that the Senate condition its advice and consent to ratification by requiring that the President take several steps if the President determines that the Russian Federation is acting or has acted in a manner that is inconsistent with

the object and purpose of the New START Treaty, or is in violation of the treaty, to such an extent as to threaten the national security interests of the United States. In such a case, the President shall consult with the Senate regarding the implications of such actions by the Russian Federation. The President shall also urgently seek a meeting with the Russian Federation at the highest level with the objective of bringing the Russian Federation into full compliance with its obligations. Finally, the President shall then promptly submit a report to the Senate detailing: (a) whether adherence to the New START Treaty remains in the national security interest of the United States; and (b) how the United States will redress the impact of Russian actions on the national security interests of the United States.

Strategic arms control succeeds only when all parties to an agreement abide by its terms, and the Senate will keep a watchful eye on the implementation of such a sensitive agreement as the New START Treaty. This condition is modeled on the Senate's resolution of advice and consent to ratification of the START II Treaty (the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following documents, which are integral parts thereof: the Elimination and Conversion Protocol; the Exhibitions and Inspections Protocol; and the Memorandum of Attribution; Treaty Doc. 103-1), which was agreed to in the Senate on January 26, 1996. As discussed earlier, in the section on treaty compliance and verification, the committee does not anticipate that the Russian Federation will pursue actions that are inconsistent with the object and purpose of the treaty, or will violate the treaty, in ways that threaten the national security interests of the United States. The committee nevertheless feels it is important, as a condition of advice and consent to ratification, to establish what steps the President must take in case that expectation is not fulfilled.

CONDITION (2). PRESIDENTIAL CERTIFICATIONS AND REPORTS ON NATIONAL TECHNICAL MEANS.

Through its regime of notifications, inspections, and exhibitions, the New START Treaty will provide important information about Russian strategic offensive arms that United States National Technical Means of verification (NTM) are not able to provide on their own. At the same time, the United States will rely upon NTM, in addition to the treaty's verification and transparency mechanisms, to independently confirm that the Russian Federation is in compliance with the provisions of the treaty. The committee therefore recommends that, as a condition of its advice and consent to ratification, the Senate require that, prior to the treaty's entry into force pursuant to Article XIV, paragraph 1 of the treaty, and annually thereafter, the President certify that United States NTM, in conjunction with the verification activities provided for in the treaty, are sufficient to ensure effective monitoring of Russian compliance with the provisions of the treaty. Each certification subsequent to the initial certification is to be accompanied by a report to the Senate, in unclassified or classified form, indicating how such NTM, including collection, processing, and analytic resources, will be utilized to ensure effective monitoring of Russian compliance. Subse-

quent reports shall update the long-term plan to maintain New START Treaty monitoring. This condition is modeled on a condition that the Senate placed on its advice and consent to ratification of the START II Treaty.

CONDITION (3). REDUCTIONS.

The committee recommends that the Senate include a condition in its resolution of advice and consent to ratification that would require that, if, prior to entry into force of the New START Treaty, the President plans to implement reductions of United States nuclear forces below the levels currently planned and consistent with the Moscow Treaty, the President will consult with the Senate prior to implementing such reductions. The condition further states that the President shall not implement any such reductions until the President submits to the Senate a determination that such reductions are in the national security interest of the United States.

This condition is modeled on a condition that the Senate placed on its advice and consent to ratification of the START II Treaty. The committee includes this condition to make clear that the Senate will closely examine any proposed reductions in our nation's strategic nuclear forces that are not matched by reductions in Russia's forces and enshrined in arms control treaties that have been considered and approved by the Senate.

CONDITION (4). TIMELY WARNING OF BREAKOUT.

The committee recommends that the Senate condition its advice and consent to ratification of the treaty with a requirement that if the President, in consultation with the Director of National Intelligence, determines that the Russian Federation intends to break out of the limits on strategic offensive arms specified in Article II of the treaty, then the President shall immediately consult with the Senate with a view to determining whether adherence to the treaty remains in the national interest of the United States.

As discussed earlier, in the section on treaty compliance and verification, the committee considers it unlikely that the Russian Federation would pursue such a breakout capability, given economic constraints and the costs and consequences of detection and a resulting competition with the United States in an overt race to produce extra warheads and the missiles or bombers and associated armaments to carry them. Nevertheless, the committee feels that it is important for the Senate to require the President to take the actions required by this condition if the President determines that the Russian Federation is going down such a path.

CONDITION (5). UNITED STATES MISSILE DEFENSE TEST TELEMETRY.

In light of the discussion in the section of this report on missile defense and telemetry exchange, the committee recommends including in the resolution of advice and consent to ratification a condition that, before ratifying the treaty, the President certify to the Senate that the United States is indeed not required to provide telemetric information on the launch of any satellite launches, missile defense sensor targets, or missile defense intercept targets, even when such launches use the first stage of an ICBM or SLBM limited by the treaty.

With respect to missile defense interceptors, the New START Treaty treats telemetric information no differently than the START Treaty. As the Secretary of Defense stated in answer to a question for the record, the New START Treaty "neither prohibits, nor does it require, the provision of missile defense interceptor test telemetry to Russia." In order to be absolutely clear on this point, the committee recommends that the Senate condition its advice and consent to ratification on a requirement that the President certify that the provision of telemetric information to the Russian Federation is not required for the launch of any missile defense interceptors. It also recommends conditioning ratification on the President's making a similar certification with respect to the provision of telemetric information for any missile (as described in Article III, paragraph 7(a)) of a type developed and tested solely to intercept and counter objects not located on the surface of the Earth; such a missile is not treated as a ballistic missile, and is therefore not limited by the treaty.

CONDITION (6). CONVENTIONAL PROMPT GLOBAL STRIKE.

The committee recommends that the Senate include a condition in its resolution of advice and consent to ratification that would require the President to submit, prior to the entry into force of the New START Treaty, a report to the Committees on Armed Services and Foreign Relations of the Senate containing several items related to United States development and deployment of conventional prompt global strike systems. Specifically, the report, which may be supplemented by a classified annex, shall contain: a list of all conventionally armed, strategic-range weapon systems that are currently under development; an analysis of the expected capabilities of each such system; a statement for each such system as to whether any of the limits in Article II of the treaty would apply to such system; an assessment of the costs, risks, and benefits of each nonnuclear prompt global strike capability; a discussion of alternative deployment options and scenarios for each weapon system; and a summary of the measures that would be used with respect to each such system to help distinguish non-nuclear from nuclear systems and thereby reduce the risks of misinterpretation and a resulting claim that such systems might alter strategic stability.[30]

The condition would further require that if, at any time after the New START Treaty enters into force, the President concludes that the deployment of conventional warheads on ICBMs or SLBMs is required at levels that cannot be accommodated within the limits specified in Article II of the treaty while sustaining a robust United States nuclear triad, then the President shall consult immediately with the Senate regarding the reasons for such determination. The Senate has been assured by the executive branch that conventional prompt global strike will be pursued during the life of the treaty with very little impact on U.S. nuclear forces. If that should change, this condition is intended to result in prompt consultation with the Senate.

[30] The information, reports, and other relevant materials generated under the resolution of advice and consent will go to the committees of the Senate named in the relevant provisions. Such information is also relevant to the interests of members of the National Security Working Group (NSWG), a large portion of whom also sit on the same committees. Accordingly, the committee will work to ensure that all such information is shared with the NSWG, to the extent possible.

CONDITION (7). UNITED STATES TELEMETRIC INFORMATION.

As noted in the section of this report on missile defense and telemetry exchange and in the section on conventional prompt global strike systems, after the two sides agree on the number of test launches on which to exchange telemetric information, each Party gets to decide for itself which particular launches it will use to meet its quota. There is no treaty obligation, therefore, to provide telemetry on the test of a conventional prompt global strike system. There could be cases, however, in which that would be in the national security interest of the United States. The committee recommends that the Senate include in its resolution of advice and consent to ratification a condition that, prior to agreeing to provide to the Russian Federation any amount of telemetric information for a U.S. test launch of a prompt global strike system, the President shall certify to the Committees on Foreign Relations and Armed Services in the Senate that the provision of such information is either to demonstrate that such system is not limited by Article II of the New START Treaty or to receive in return significant telemetric information on a system not deployed by the Russian Federation prior to December 5, 2009. The President must also certify that providing the telemetric information is in the national security interest of the United States and will not undermine the effectiveness of the system in question.

CONDITION (8). BILATERAL CONSULTATIVE COMMISSION.

Article XII establishes a Bilateral Consultative Commission (BCC) in order "[t]o promote the objectives and implementation" of the treaty. Article XV, paragraph 2 states that, under the auspices of the BCC, the Parties may, without resorting to the procedures required to bring the full agreement into force in the first place, reach agreement on changes only to the Protocol and its integral Annexes (and not to main treaty text), and only provided that such changes do not affect substantive rights or obligations under the treaty. (The BCC can be a forum for discussing changes to the main treaty text and changes to the Protocol and its integral Annexes that do affect substantive rights or obligations under the treaty, but any such changes take effect only pursuant to the procedures required to bring the agreement into force in the first place; in the United States, the President would need the advice and consent of the Senate to ratify such changes, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.) Within these parameters, Section I of Part Six of the Protocol authorizes the BCC, among other things, to resolve questions relating to compliance with the Parties' obligations under the treaty, to agree upon such additional measures as may be necessary to improve the viability and effectiveness of the treaty, and to resolve questions related to the applicability of provisions of the treaty to a new kind of strategic offensive arm.

The committee recommends that the Senate condition its advice and consent to ratification on a requirement that, before any meeting of the BCC to consider a proposal for additional measures to improve the viability and effectiveness of the treaty or to resolve questions related to the applicability of provisions of the treaty to a new kind of strategic offensive arm, the President consult with

the committee with regard to whether the proposal would constitute an amendment to the treaty requiring the advice and consent of the Senate pursuant to Article II, section 2, clause 2 of the Constitution. This requirement is designed to ensure that the Senate has the opportunity to participate fully in decisions about any use of the BCC's procedures to make changes to the treaty's protocol or annexes, and to ensure that the Senate's role in the treaty making process will be respected.

CONDITION (9). UNITED STATES COMMITMENTS ENSURING THE SAFETY, SECURITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.

The New START Treaty places no limitation on the management of either deployed or non-deployed warheads, and its terms do not affect the investments that the United States will make to ensure that its nuclear deterrent remains safe, secure, and reliable. In fact, Article V, paragraph 1 of the treaty explicitly states that "modernization and replacement of strategic offensive arms may be carried out." The treaty will not by itself affect how the United States maintains its nuclear weapons stockpile. Dr. Paul Hommert, Director of Sandia National Laboratories, which among other things is responsible for the design, development, and qualification of non-nuclear components of nuclear weapons and for the systems engineering and integration of the nuclear weapons in the stockpile, emphasized this point in his testimony before the committee:

> The New START Treaty, if ratified and entered into force, would not constrain or interfere with the upcoming stockpile life extension imperatives. It would not change our planned approach or the tools we will apply. It would not limit the required introduction of modern technologies into existing warhead designs and the realization of the attendant benefits.

The committee felt, however, that the treaty should be viewed within the context of our nation's overall nuclear weapons policy, including by better understanding the results to date of the ongoing nuclear stockpile stewardship program and by examining the future resources that might be needed to sustain and modernize the nuclear infrastructure. This was an unusual departure for the committee, and it reflected the unusual extent to which the issue of stockpile stewardship has been raised regarding a treaty that does not limit the development, testing, or production of nuclear weapons. The committee explored these questions in part by conducting hearings that included General Chilton and the directors of the Los Alamos, Lawrence Livermore, and Sandia national nuclear weapons laboratories.

The committee concludes that reductions in strategic offensive arms and continued support for our nation's nuclear weapons stockpile and supporting infrastructure should move forward together. In its proposed resolution of advice and consent to ratification, the committee therefore recommends that the Senate declare its commitment to proceeding with a robust stockpile stewardship program and to maintaining nuclear weapons production capabilities and capacities, in order to ensure the safety, reliability, and performance of the United States nuclear arsenal at the New START Treaty levels. This provision closely parallels a provision

included in the Senate-approved START II resolution of advice and consent. The committee further recommends that the Senate declare the United States' commitment to maintaining United States nuclear weapons laboratories and protecting the core nuclear weapons competencies therein.

In the committee's hearing on June 16, 2010, General Chilton testified that

> [T]he [Nuclear Posture Review] and the President's Budget recognize the need to improve, sustain, and ensure all necessary elements of a safe, secure, and effective deterrence enterprise, including weapons, delivery systems, warning and communication capabilities, and their supporting human capital and technological infrastructures, and to make sustained investments to adequately preserve these capabilities for their foreseeable future. These investments are required in order to confidently reduce the overall U.S. stockpile while sustaining the credibility of our nuclear stockpile, which is fundamental to effective deterrence. Investments that revitalize [the National Nuclear Security Administration's] aging infrastructure and intellectual capital strengthen our security with the facilities and people needed to address technological surprises, geopolitical change, and a range of cutting-edge national security challenges.

He further stated for the record that "sustained funding will be required to ensure our continued confidence in our strategic deterrent. If increases contained in the FY11 budget submission do not materialize, we will experience delays in addressing aging concerns with our systems."

Dr. Michael Anastasio, Director of Los Alamos National Laboratory, testified that he viewed the administration's FY 2011 budget request for defense activities of the National Nuclear Security Administration (NNSA) "as a positive first step," and he urged its approval by Congress. At the same time, he noted his concern that

> . . . some may perceive that the FY11 budget request meets all of the necessary budget commitments for the program; however, there are still significant financial uncertainties, for example, the design of the UPF [the Uranium Processing Facility] and CMRR [the Chemistry and Metallurgy Research Replacement Nuclear Facility] are not complete and the final costs remain uncertain.

As noted above, in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84), Congress required that, not later than 30 days after the later of the date of the enactment of that act or the date the President submitted a follow-on treaty to the START Treaty to the Senate for its advice and consent, the President submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report on the plan to (a) enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States; (b) modernize the nuclear weapons complex; and (c) maintain the delivery platforms for nuclear weapons. The report was required to include

an estimate of the budget requirements to carry out the plan over a 10-year period. The Administration submitted the classified 1251 report on May 13, 2010, the date on which the President submitted the New START Treaty to the Senate.[31]

Pursuant to sections 4203 and 4204 of the Atomic Energy Defense Act (50 U.S.C. 2523 and 2524), the Secretary of Energy is required to submit an annual update of the plan for maintaining the nuclear weapons stockpile, as well as the long-term plan to extend the effective life of the weapons in the nuclear weapons stockpile without the use of nuclear weapons testing. Secretary of Energy Steven Chu submitted the "FY 2011 Stockpile Stewardship and Management Plan" in May 2010. The plan was aligned with Nuclear Posture Review Report and the plan contained in the 1251 report.

The 10-year plan would provide approximately $80 billion from FY 2011 through FY 2020 for NNSA's Weapons Activities account to sustain and modernize the nuclear weapons stockpile and supporting infrastructure, starting with a request of approximately $7 billion for FY 2011, an increase of $624 million over the FY 2010 level. The plan provides for increases each year until FY 2018, reaching a height of $9.0 billion before falling back to $8.8 billion in FY 2020. To be sure, because the plan in the 1251 report is presented in current year, or nominal, funding, some of the increased funding is necessary simply to keep up with inflation. But even after accounting for inflation, the administration has calculated that in constant FY 2010 dollars the plan would be worth $73.16 billion; thus, the plan would generate an extra $9.16 billion, in FY 2010 dollars, over the next ten years, an increase of over 14 percent above the baseline level of activity.

Through FY 2015, the administration has listed as its priorities under the plan the following:

- Complete the ongoing Life Extension Program (LEP) for the W76 warhead and full nuclear scope life extension program study and follow-on activities for the B61 bomb to ensure first production begins in FY 2017.
- Begin an LEP study in FY 2011 to explore the life extension options for the W78 system.
- Increase pit manufacturing capacity and capability at the Plutonium Facility (PF)–4 (part of the main plutonium facility) at Los Alamos National Laboratory.
- Complete the design and begin construction of the Chemistry and Metallurgy Research Facility Replacement Nuclear Facility (CMRR-NF) at the Los Alamos National Laboratory. Plan and program to complete construction by 2020, followed by full operations by 2022.
- Complete the design and begin construction of the Uranium Processing Facility (UPF) at the Y–12 National Security Complex. Plan and program to complete construction by 2020, followed by full operations by 2022.
- Increase warhead surveillance and essential science, technology, and engineering (ST&E) investments to support stock-

[31] A public fact sheet on the plan outlined in the report, titled "The New START Treaty—Maintaining a Strong Nuclear Deterrent," is available at http://www.whitehouse.gov/sites/default/files/New%20START%20section%201251%20fact%20sheet.pdf. It is also appended to this report.

pile assessment and certification in the absence of underground nuclear testing.

According to the "FY 2011 Stockpile Stewardship and Management Plan," funding for the W76–1 LEP would continue at relatively steady levels from FY 2011 through FY 2017, funding for the B61 LEP would increase from FY 2011 to FY 2018 before beginning to tail off, and funding for a W78 LEP would increase from FY 2011 until FY 2021, with a substantial increase from FY 2013 to FY 2014. Planning for the UPF, which would replace five old production buildings, and the CMRR–NF is not yet complete. According to the "FY 2011 Stockpile Stewardship and Management Plan," the plan reflected in the 1251 report includes $8 billion to accommodate possible future changes in planning estimates for these two facilities. Additionally, the ten-year plan includes an estimated increase of approximately $100 million per year starting in FY 2016 for ST&E campaigns within the nuclear weapons complex.

Ten-year funding plans are unique. Even within existing five-year plans, such as the Future-Years Nuclear Security Plan (FYNSP), there is a possibility that new information will produce new estimates for how much a given program of work will cost. Such is the case with the plan contained in the 1251 report and the "FY 2011 Stockpile Stewardship and Management Plan." The committee therefore recommends that the Senate include a condition that the United States is committed to providing the resources needed to achieve objectives related to ensuring the safety, reliability, and performance of the United States nuclear arsenal, at a minimum at the levels set forth in the 1251 report. The committee further recommends that the Senate require that if appropriations are enacted that fail to meet the resource requirements set forth in 1251 report, the President submit to Congress, within 60 days of such enactment, a report detailing: (a) how the President proposes to remedy the resource shortfall; (b) if additional resources are required, the proposed level of funding required and an identification of the activity for which additional funds are required; (c) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and (d) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a Party to the New START Treaty. In this regard, the committee notes that in a letter to the committee on September 15, 2010, Vice President Joseph R. Biden, Jr., stated, "Later this fall, the Administration will provide the Congress with information that updates the Section 1251 report. At that time, and in our future budgets, we will address any deficiencies in the Future Years National Security Program." The full letter from the Vice President is reprinted at the end of this report.

CONDITION (10). ANNUAL REPORT.

The committee's proposed resolution would require the executive branch to submit a report to the Committees on Foreign Relations and Armed Services not later than January 31, 2012, and each year thereafter, which would provide information on several matters. The report is to include details on each Party's reductions in strategic offensive arms during the previous calendar year (though

the first report should cover the full time prior to December 31, 2011, that the treaty was in force).

In keeping with recommended Declaration 6 regarding the importance of compliance with the treaty, the report is also to provide a certification that the Russian Federation is in full compliance with the terms of the treaty; if that cannot be provided, the report shall have a detailed discussion of any noncompliance by the Russian Federation.

Article VI of the treaty and Part Three of the Protocol establish the parameters for permissible methods to convert or eliminate treaty-accountable items. To eliminate an item from treaty accountability, it must be rendered inoperable, pursuant to Part Three of the Protocol, section I, paragraph 2. To meet this standard, Part Three of the Protocol permits the Parties to develop new procedures for elimination of ICBM launchers, SLBM launchers, and heavy bombers. The United States sought flexibility in the treaty's elimination procedures to ease the burdens and costs imposed on the Parties in eliminating items from treaty accountability. If the other Party has a question about the new procedures, the question will be discussed in the framework of the BCC. While the new procedures must be discussed and demonstrated within the framework of the BCC as requested by the other Party, the possessing Party would not be obligated to delay the use of the new procedures. The committee believes that, on balance, the treaty's flexibility on developing new procedures to eliminate treaty-limited items may prove to be a reasonable approach for reducing costs while still resulting in verifiable arms reductions. The committee nevertheless thinks that the Senate will need to watch very closely to understand how this new approach works in practice. It therefore recommends that the Senate include as part of this annual report a certification by the President that any conversion or elimination procedures that have been adopted do not result in ambiguities that could defeat the object and purpose of the treaty. If such a certification cannot be made, then the report shall include a list of any cases in which a conversion or elimination procedure that Russia has demonstrated nevertheless remains ambiguous or otherwise does not satisfy the criteria established in Part Three of the Protocol, as well as a summary of the steps the United States has taken in light of the situation.

The committee also recommends that this annual report include an assessment of the treaty's transparency mechanisms, including the extent to which either Party has encrypted or otherwise impeded the collection of telemetric information, and the extent and usefulness of exchanges of telemetric information. Finally, the committee recommends that this annual report include an assessment of the whether a strategic imbalance exists that endangers the national security interests of the United States.

UNDERSTANDING (1). MISSILE DEFENSE.

As discussed in the sections of this report on missile defense, the committee focused extensive attention on whether the New START Treaty would prevent the United States from effectively defending itself and its allies against ballistic missile attack and, if so, how. In multiple hearings and numerous questions for the record, the committee sought information on this question from executive

branch witnesses including the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Principal Deputy Under Secretary of Defense for Policy, the Director of the Missile Defense Agency, and the Secretary of Defense's Representative to the Post-START Negotiations.

To reflect what the committee has learned in its examination of this matter, the committee recommends that the Senate include in its resolution of advice and consent to ratification an understanding of the United States, which shall be included in the instrument of ratification that the United States provides to the Russian Federation, in accordance with Article XIV, paragraph 1, to bring the treaty into force. The provision states that it is the understanding that the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V, which states:

> Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this treaty for placement of missile defense interceptors therein.

It is also the understanding of the United States that any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3, Article V of the treaty, including any changes agreed to under the auspices of the BCC, may enter into force for the United States only with the advice and consent of the Senate as set forth in Article II, section 2, clause 2 of the Constitution of the United States. Finally, the provision notes that it is the understanding of the United States that the April 7, 2010, unilateral statement by the Russian Federation does not impose a legal obligation on the United States.

UNDERSTANDING (2). RAIL-MOBILE ICBMS.

The committee recommends that the Senate include in its resolution of advice and consent to ratification an understanding of the United States, which shall be included in the instrument of ratification that the United States provides to the Russian Federation, regarding rail-mobile ICBMs. This provision states that it is the understanding of the United States that any rail-mobile-launched ballistic missile with a range in excess of 5,500 kilometers would be an ICBM, as the term is defined in paragraph 37 of Part One of the Protocol (in the English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the treaty. It is the understanding of the United States also that an erector-launcher mechanism for launching an ICBM and the railcar or flatcar on which it is mounted would be a launcher of ICBMs, as the term is defined in paragraph 28 (in the English-language numbering) of Part One of the Protocol, for the purposes of the treaty, including Article II. It is also the understanding of the United States that if either Party should produce a rail-mobile ICBM system, the BCC would address the application of other parts of the treaty to that system, including Articles III,

IV, VI, VII, and XI of the treaty and relevant portions of the Protocol and the Annexes to the Protocol. It is the understanding of the United States that any such agreement is subject to the requirements of Article XV (regarding how such changes can brought into effect), and that if such agreement creates substantive rights or obligations that differ significantly from those in the New START Treaty regarding a "mobile launcher of ICBMs" as defined in Part One of the Protocol, then such an amendment would need to be considered an amendment to the treaty to which the procedures established by Article XV, paragraph 1 apply.

As discussed in the section of this report on rail-mobile launchers of ICBMs, the text of the treaty leads the committee to conclude that, if the Russian Federation were to again build and deploy ICBMs launched from rail-mobile launchers, those ICBMs would count as deployed ICBMs, and their launchers would count as ICBM launchers. The executive branch shares this conclusion. The committee has no reason to think that there is any dispute with Russia about this matter. The committee believes that it is unlikely that either the United States or the Russian Federation will produce rail-mobile ICBM launchers or deploy rail-mobile ICBMs for the duration of the treaty. The committee proposes this provision so that the United States will fully communicate its understanding regarding the treaty's language and effect regarding rail-mobile ICBMs to the Russian Federation.

UNDERSTANDING (3). STRATEGIC-RANGE, NON-NUCLEAR WEAPON SYSTEMS.

The committee recommends that the Senate include in its resolution of advice and consent to ratification an understanding of the United States regarding strategic-range non-nuclear weapon systems, which shall be communicated to the Russian Federation. This provision states that it is the understanding of the United States that the United States will not consider future, strategic-range non-nuclear weapon systems that do not otherwise meet the definitions of the New START Treaty to be "new kinds of strategic offensive arms" subject to the treaty; that nothing in the treaty restricts United States research, development, testing, and evaluation of strategic-range, non-nuclear weapons, including any weapon that is capable of boosted aerodynamic flight; and that nothing in the treaty prohibits deployments of strategic-range non-nuclear weapon systems.

The purpose of the treaty is to reduce and limit strategic offensive arms. Article II of the treaty establishes specific limits on certain strategic offensive arms, namely, ICBMs and ICBM launchers, SLBMs and SLBM launchers, heavy bombers, ICBM warheads, SLBM warheads, and nuclear warheads counted for deployed heavy bombers. Definitions for these terms are provided in Part One of the Protocol. Article V, paragraph 2 states that when a Party believes that a new kind of strategic offensive arm is emerging, that Party shall have the right to raise the question of such a strategic offensive arm for consideration in the BCC. In the State Department article-by-article analysis that was included the President's message to the Senate transmitting the New START Treaty, the executive branch informed the Senate that, "the United States stated [during the negotiations] that it would not consider future, stra-

tegic range non-nuclear systems that do not otherwise meet the definitions of this treaty to be "new kinds of strategic offensive arms' for purposes of the treaty." The committee's recommendation would ensure that the United States formally communicate this understanding to the Russian Federation, thus making clear that this position was understood and endorsed by the Senate when it considered the treaty.

DECLARATION (1). MISSILE DEFENSE.

In addition to above conditions and understandings, the committee recommends that the Senate include in its resolution of advice and consent to ratification 13 declarations, which express the intent of the Senate. The first two of these declarations concerns missile defense.

In 1996, the Senate made clear in its resolution of advice and consent to ratification of the START II Treaty that missile defense would be an essential element of 21st century deterrence. Similarly, the committee recommends that the Senate declare that it is the sense of the Senate:

- That it is the policy of the United States, pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), "to deploy as soon as is 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)";
- That defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and
- That further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States.

The committee further recommends that the Senate declare that the New START Treaty and the statement made by the Russian Federation on April 7, 2010, do not limit in any way, and must not be interpreted as limiting, activities that the United States Government currently plans or that might be required over the duration of the treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack, including further planned enhancements to the Ground-Based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe.

The committee recommends further that the resolution state the Senate's expectation that the executive branch will provide regular briefings on missile defense issues related to the treaty and on U.S.-Russia missile defense dialogue and cooperation. To help ensure that the BCC is not used in a manner that would undermine U.S. missile defense options, the committee recommends that the resolution also call for briefings before and after each BCC meeting. The committee has been assured that the briefings and reports that this and other declarations expect from the executive branch will indeed be provided by the executive branch, as has been the case with similarly-worded declarations in the resolutions of advice and consent to ratification of past strategic arms control treaties.

DECLARATION (2). DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.

The committee recommends the Senate note that it is a paramount obligation of the United States to defend its people, armed forces, and allies against nuclear attack to the best of its ability. Because of the vulnerabilities inherent in the condition of mutual assured destruction, which depends upon two nuclear-armed powers fearing each other's nuclear retaliatory capabilities, the committee recommends the Senate express its hope that the United States and the Russian Federation can move cooperatively to a less risky strategic relationship, in which case the United States is ready to cooperate with the Russian Federation on strategic defenses. Noting the proliferation of weapons of mass destruction, the declaration states that strategic stability can be enhanced by strategic defenses and that the United States remains free to construct a layered missile defense system. Finally, it states that the United States remains committed to improving its strategic defensive capabilities, as is allowed by the treaty.

DECLARATION (3). CONVENTIONALLY ARMED, STRATEGIC-RANGE WEAPON SYSTEMS.

As discussed earlier, in the section on conventional prompt global strike systems, the United States does not intend to use against Russia any conventional prompt global strike systems it may acquire. Furthermore, over the duration of the treaty, any such systems that the United States may deploy will be in numbers far too limited to pose any threat to the survivability of the Russian nuclear deterrent. Consistent with these facts, the committee recommends that the Senate include a declaration that conventionally armed weapon systems not co-located with nuclear-armed systems do not affect strategic stability between the United States and the Russian Federation.

DECLARATION (4). NUNN-LUGAR COOPERATIVE THREAT REDUCTION.

Congress first approved a program of Cooperative Threat Reduction (CTR) in November 1991 legislation offered by Senators Richard Lugar and Sam Nunn, after a failed coup in Moscow and the disintegration of the Soviet Union threatened the safety and security of Soviet nuclear forces and facilities. In addition, the START Treaty, which had been signed earlier that year, mandated steep reductions in the Soviet arsenal, and the Lisbon Protocol called for the return to Russia of all Soviet nuclear warheads based in the newly independent states of Ukraine, Belarus, and Kazakhstan. The linkage between the START Treaty and Nunn-Lugar was made plain by former Secretary Baker, who stated in testimony before the Committee on May 19, 2010, that:

> START also enabled our diplomatic, scientific, and military establishments to form deeper levels of trust and collaboration. And as [Senator Lugar] knows very well, a direct result of that was the Nunn-Lugar Cooperative Threat Reduction Program, which immeasurably improved our security by helping keep nuclear material out of the hands of terrorists. I really don't think Nunn-Lugar would have been nearly as successful as it was if the Russians had

lacked the legally binding assurance of parallel U.S. reductions through the START Treaty.

The committee strongly believes that the CTR Program has played a major role in the elimination of strategic offensive arms that were taken out of service due to implementation of the START Treaty, and has played, in concert with the non-proliferation programs of the Department of Energy, a very significant role in securing Russian nuclear weapons and stocks of fissile materials. The committee believes that the CTR Program can facilitate Russian implementation of its obligations under the New START Treaty. Even if Russian elimination of certain ICBMs, SLBMs, ICBM launchers, SLBM launchers, and heavy bombers is not required to keep Russian forces within the limits of the treaty, continuing CTR Program assistance to eliminations enables the Russian Government to eliminate old, destabilizing systems. The committee recommends that in the resolution of advice and consent to ratification, the Senate state that it is its sense that the CTR Program has made an invaluable contribution to the safety and security of weapons of mass destruction, including nuclear weapons and materials in Russia and elsewhere, and that the President should continue the global CTR Program and CTR assistance to Russia, including for the purpose of facilitating implementation of the New START Treaty.

DECLARATION (5). ASYMMETRY IN REDUCTIONS.

The committee recommends that the Senate include in its resolution of advice and consent to ratification a declaration that it is the sense of the Senate that the President should regulate reductions in United States strategic nuclear forces so that the number of strategic offensive arms accountable under the New START Treaty that are possessed by the Russian Federation does not exceed the comparable number of accountable strategic offensive arms possessed by the United States to such an extent that a strategic imbalance endangers the national security interests of the United States. The Senate included similar language in a declaration in its resolution of advice and consent to ratification of the START II Treaty. At that time, there was greater concern that the United States might be financially capable of carrying out the reductions required to comply with the limits and schedules for reductions under the START and START II treaties more quickly than the Russian Federation could, even with assistance under the Nunn-Lugar CTR Program. The Senate wanted to make clear that it did not want the United States to move too quickly in its reductions.

In the case of the New START Treaty, the Parties are given seven years after the treaty's entry into force to comply with the limits established by Article II. The size of the Russian Federation's strategic offensive arsenal has already been limited in recent years due to economic constraints and, as Admiral Mullen testified to the committee, the Russian Federation is already below the treaty's limits on strategic delivery vehicles. Nevertheless, Russia and the United States will need to comply with all of the treaty's limits within seven years. The committee believes that this provision is needed in order to make clear that, in meeting its obligations under the treaty, the United States should not move so quickly in

its reductions that a significant strategic imbalance with Russia's strategic forces is created.

DECLARATION (6). COMPLIANCE

In addition to the compliance condition that the committee has recommended, the committee also recommends that the Senate's resolution of advice and consent to ratification include a declaration regarding compliance. The committee recommends that the Senate declare that the New START Treaty will remain in the interests of the United States only to the extent that the Russian Federation is in strict compliance with its obligations under the treaty.

The declaration recommended by the committee would call for the executive branch to offer briefings regarding compliance issues to the Foreign Relations and Armed Services Committees before and after each meeting of the BCC, to keep those committees informed especially of compliance issues that are to be raised in that forum and of the results of such efforts.

DECLARATION (7). EXPANSION OF STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.

The committee recommends that the resolution of advice and consent to ratification include a declaration that if, during the time the treaty remains in force, the President determines that there has been an expansion of the strategic arsenal of any country not party to the treaty so as to jeopardize the supreme interests of the United States, then the President should consult immediately with the Senate to determine whether adherence to the treaty remains in the national interest of the United States. The Senate included a similar declaration in its resolution of advice and consent to ratification of the START II Treaty.

General Chilton stated, in an answer to a question for the record, that:

> Our nuclear forces are postured today to deter other nuclear capable nations from attacking the U.S. and to also assure allies to whom the U.S. has extended an umbrella of strategic deterrence. . . . New START's lower strategic force levels are based on force analyses conducted during the Nuclear Posture Review. . . . In reaching these conclusions, the analyses conducted during the Nuclear Posture Review took into account the nuclear arsenals of other declared nuclear weapon states, as well as the nuclear programs of proliferant states.

The committee accepts that the analysis regarding the level of strategic offensive arms to be limited in this bilateral treaty accounted for our current understanding and projections of the size of nuclear arsenals other than those of the Russian Federation. And the committee does not at this time expect that an expansion of another strategic arsenal would occur during the duration of this treaty that would force the United States to withdraw from the treaty. The committee recommends this declaration, however, to make clear that the Senate will remain watchful for this possibility. This declaration will further ensure that, if unanticipated changes in those arsenals should occur, the executive branch and

the Senate will work together to evaluate whether the New START Treaty poses an unacceptable constraint in responding to those changes.

DECLARATION (8). TREATY INTERPRETATION.

The Committee on Foreign Relations has taken pains to maintain the constitutional role of the United States Senate in the treatymaking process. To that end, the resolution of advice and consent to ratification of the INF Treaty, approved by the Senate on May 27, 1988, included an important condition (1) that has been cited by reference in every subsequent resolution of advice and consent to ratification of an arms control treaty:

> (A) the United States shall interpret a treaty in accordance with the common understanding of the treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;
>
> (B) Such common understanding is based on:
>
> (i) first, the text of the treaty and the provisions of this resolution of ratification; and
>
> (ii) second, the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the treaty;
>
> (C) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute; and
>
> (D) if, subsequent to ratification of the treaty, a question arises as to the interpretation of a provision of the treaty on which no common understanding was reached in accordance with paragraph (B), that provision shall be interpreted in accordance with applicable United States law.

In 1997, a similarly important condition was added to the resolution of advice and consent to ratification of the Conventional Armed Forces in Europe Treaty (CFE) Flank Document, which condition has also been cited by reference in subsequent resolutions of advice and consent to ratification for arms control treaties:

> Nothing in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through majority approval of both Houses.

Each of these conditions applies to all treaties. For this reason, the Senate has not needed to restate them as conditions in subsequent resolutions of advice and consent to ratification. Rather, it has cited them by reference in declarations of its intent, as this declaration does, so as to remind subsequent administrations of the continuing obligations imposed by the Senate's treaty-making role under the United States Constitution.

DECLARATION (9). TREATY MODIFICATION OR REINTERPRETATION.

The committee recommends that the Senate include in its resolution of advice and consent to ratification a declaration that any agreement or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the New START Treaty, including the time frame for implementation of the New START Treaty, should be submitted to the Senate for its advice and consent to ratification, in accordance with Article II, section 2, clause 2 of the Constitution of the United States. The recommended declaration matches one that the Senate included in its resolution of advice and consent to ratification of the START II Treaty. This limitation on treaty reinterpretation by the executive branch should not be read as undermining Article XV, paragraphs 1 and 2 of the treaty; pursuant to those paragraphs, any change to the main treaty text and any change to the Protocol that affects substantive rights or obligations of the Parties under the treaty may enter into force only in accordance with the procedures governing entry into force of the treaty, which preserves the role of the Senate.

DECLARATION (10). CONSULTATIONS.

To provide a formal expression of the Senate's concerns and expectations regarding action to extend, supersede, or withdraw from the treaty, the committee recommends that the resolution of advice and consent to ratification contain a declaration of the Senate's expectation that the President will consult with the Senate prior to actions relevant to paragraphs 2 or 3 of Article XIV. This declaration is similar to one the Senate included in its resolution of advice and consent to ratification of the Moscow Treaty.

The Senate and this committee have an institutional interest in the close observation of arms control negotiations and the successful implementation of resulting agreements. Past administrations have recognized that consultation with the Senate prior to taking actions relating to signing, amending, or withdrawing from such agreements may avert serious disagreements. The committee recognizes that this declaration cannot affect any authority the Constitution grants in this regard.

Should it become necessary for a Party to withdraw from the treaty, Article XIV provides for three months' notice of such a decision. Should a circumstance arise in which prior consultation with the Senate on a decision to supersede, extend, or withdraw from the treaty is not feasible, notably if the Senate were out of session, the committee expects that the President, to the extent that it is feasible, will consult the leadership of the Senate and the committee. This declaration is a formal request that the executive branch maintain the consultation policy to which past administrations have committed.

DECLARATION (11). TACTICAL NUCLEAR WEAPONS.

As noted earlier, in the section on non-strategic nuclear weapons, the United States followed the recommendation of the Strategic Posture Review Commission and did not seek to limit tactical nuclear weapons (sometimes referred to as "non-strategic nuclear weapons" or "theater nuclear weapons") in its negotiations to re-

place the expiring START Treaty, which similarly did not limit tactical nuclear weapons. The committee accepts the Secretary of State's conclusion that "[a] more ambitious treaty that addressed tactical nuclear weapons would have taken much longer to complete, adding significantly to the time before a successor agreement, including verification measures, could enter into force following START's expiration in December 2009." The committee therefore urges the administration to begin discussions with Russia as soon as possible on tactical nuclear weapons. To this end, the committee recommends that the Senate include in its resolution of advice and consent to ratification a provision calling upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the United States and the Russian Federation, and would secure and reduce tactical nuclear weapons in a verifiable manner.

Given the concerns, as discussed above, concerning the security of tactical nuclear weapons, the committee also recommends that, as part of this declaration, the Senate urge the President to engage the Russian Federation with the objective of establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of non-strategic nuclear weapons maintained by the other Party. The Senate should also urge the President to provide United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons. These provisions are modeled on a declaration contained in the Senate's resolution of advice and consent to ratification of the Moscow Treaty.

DECLARATION (12). FURTHER STRATEGIC ARMS REDUCTIONS.

The committee recommends that the Senate include in its resolution of advice and consent to ratification a declaration that recognizes the obligation under Article VI of the Nuclear Non-Proliferation Treaty "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at any early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control," and that calls upon the other nuclear weapons states to give careful and early consideration to corresponding reductions of their own nuclear arsenals. Upon the entry into force of the New START Treaty, the United States and the Russian Federation will accept a limit on the size of their nuclear arsenals (which will come into effect seven years later) at levels lower than they have fielded in decades. The committee believes that it is important to stress to other nuclear weapons states that they also have an obligation under the NPT, toward which those states should take similarly concrete steps.

The committee also recommends that the Senate include a declaration that further arms reduction agreements obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States. This declaration states nothing more than what

is already established law, contained in section 303(b) of the Arms Control and Disarmament Act, as amended (22 U.S.C. 2573(b)).

DECLARATION (13). MODERNIZATION AND REPLACEMENT OF UNITED STATES STRATEGIC DELIVERY SYSTEMS.

The committee recommends that the Senate include in its resolution of advice and consent to ratification a declaration of the importance to the U.S. nuclear deterrent of the triad of delivery vehicles—ICBMS, SLBMs, and bombers—and that it state the U.S. commitment to modernizing and replacing those delivery vehicles.

VII. TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol, including Annex on Inspection Activities to the Protocol, Annex on Notifications to the Protocol, and Annex on Telemetric Information to the Protocol, all such documents being integral parts of and collectively referred to in this resolution as the "New START Treaty" (Treaty Document 111–5), subject to the conditions of subsection (a), the understandings of subsection (b), and the declarations of subsection (c).

(a) CONDITIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following conditions, which shall be binding upon the President:

(1) GENERAL COMPLIANCE.—If the President determines that the Russian Federation is acting or has acted in a manner that is inconsistent with the object and purpose of the New START Treaty, or is in violation of the New START Treaty, so as to threaten the national security interests of the United States, then the President shall—

(A) consult with the Senate regarding the implications of such actions for the viability of the New START Treaty and for the national security interests of the United States;

(B) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of bringing the Russian Federation into full compliance with its obligations under the New START Treaty; and

(C) submit a report to the Senate promptly thereafter, detailing—

(i) whether adherence to the New START Treaty remains in the national security interests of the United States; and

(ii) how the United States will redress the impact of Russian actions on the national security interests of the United States.

(2) PRESIDENTIAL CERTIFICATIONS AND REPORTS ON NATIONAL TECHNICAL MEANS.—(A) Prior to the entry into force of the New START Treaty, and annually thereafter, the President shall

certify to the Senate that United States National Technical Means, in conjunction with the verification activities provided for in the New START Treaty, are sufficient to ensure effective monitoring of Russian compliance with the provisions of the New START Treaty and timely warning of any Russian preparation to break out of the limits in Article II of the New START Treaty. Following submission of the first such certification, each subsequent certification shall be accompanied by a report to the Senate indicating how United States National Technical Means, including collection, processing, and analytic resources, will be utilized to ensure effective monitoring. The first such report shall include a long-term plan for the maintenance of New START Treaty monitoring. Each subsequent report shall include an update of the long-term plan. Each such report may be submitted in either classified or unclassified form.

(B) It is the sense of the Senate that monitoring Russian Federation compliance with the New START Treaty is a high priority and that the inability to do so would constitute a threat to United States national security interests.

(3) REDUCTIONS.—(A) The New START Treaty shall not enter into force until instruments of ratification have been exchanged in accordance with Article XIV of the New START Treaty.

(B) If, prior to the entry into force of the New START Treaty, the President plans to implement reductions of United States strategic nuclear forces below those currently planned and consistent with the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed at Moscow on May 24, 2002 (commonly referred to as "the Moscow Treaty"), then the President shall—

(i) consult with the Senate regarding the effect of such reductions on the national security of the United States; and

(ii) take no such reductions until the President submits to the Senate the President's determination that such reductions are in the national security interest of the United States.

(4) TIMELY WARNING OF BREAKOUT.—If the President determines, after consultation with the Director of National Intelligence, that the Russian Federation intends to break out of the limits in Article II of the New START Treaty, the President shall immediately inform the Committees on Foreign Relations and Armed Services of the Senate, with a view to determining whether circumstances exist that jeopardize the supreme interests of the United States, such that withdrawal from the New START Treaty may be warranted pursuant to paragraph 3 of Article XIV of the New START Treaty.

(5) UNITED STATES MISSILE DEFENSE TEST TELEMETRY.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the New START Treaty does not require, at any point during which it will be in force, the United States to provide to the Russian Federation telemetric information under Article IX of the New START Treaty, Part

Seven of the Protocol, and the Annex on Telemetric Information to the Protocol for the launch of—

(A) any missile defense interceptor, as defined in paragraph 44 of Part One of the Protocol to the New START Treaty;

(B) any satellite launches, missile defense sensor targets, and missile defense intercept targets, the launch of which uses the first stage of an existing type of United States ICBM or SLBM listed in paragraph 8 of Article III of the New START Treaty; or

(C) any missile described in clause (a) of paragraph 7 of Article III of the New START Treaty.

(6) CONVENTIONAL PROMPT GLOBAL STRIKE.—(A) The Senate calls on the executive branch to clarify its planning and intent in developing future conventionally armed, strategic-range weapon systems. To this end, prior to the entry into force of the New START Treaty, the President shall provide a report to the Committees on Armed Services and Foreign Relations of the Senate containing the following:

(i) A list of all conventionally armed, strategic-range weapon systems that are currently under development.

(ii) An analysis of the expected capabilities of each system listed under clause (i).

(iii) A statement with respect to each system listed under clause (i) as to whether any of the limits in Article II of the New START Treaty apply to such system.

(iv) An assessment of the costs, risks, and benefits of each system.

(v) A discussion of alternative deployment options and scenarios for each system.

(vi) A summary of the measures that could help to distinguish each system listed under clause (i) from nuclear systems and reduce the risks of misinterpretation and of a resulting claim that such systems might alter strategic stability.

(B) The report under subparagraph (A) may be supplemented by a classified annex.

(C) If, at any time after the New START Treaty enters into force, the President determines that deployment of conventional warheads on ICBMs or SLBMs is required at levels that cannot be accommodated within the limits in Article II of the New START Treaty while sustaining a robust United States nuclear triad, then the President shall immediately consult with the Senate regarding the reasons for such determination.

(7) UNITED STATES TELEMETRIC INFORMATION.—In implementing Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol, prior to agreeing to provide to the Russian Federation any amount of telemetric information on a United States test launch of a conventionally armed prompt global strike system, the President shall certify to the Committees on Foreign Relations and Armed Services of the Senate that—

(A) the provision of United States telemetric information—

(i) consists of data that demonstrate that such system is not subject to the limits in Article II of the New START Treaty; or

(ii) would be provided in exchange for significant telemetric information regarding a weapon system not listed in paragraph 8 of Article III of the New START Treaty, or a system not deployed by the Russian Federation prior to December 5, 2009;

(B) it is in the national security interest of the United States to provide such telemetric information; and

(C) provision of such telemetric information will not undermine the effectiveness of such system.

(8) BILATERAL CONSULTATIVE COMMISSION.—Not later than 15 days before any meeting of the Bilateral Consultative Commission to consider a proposal for additional measures to improve the viability or effectiveness of the New START Treaty or to resolve a question related to the applicability of provisions of the New START Treaty to a new kind of strategic offensive arm, the President shall consult with the Chairman and ranking minority member of the Committee on Foreign Relations of the Senate with regard to whether the proposal, if adopted, would constitute an amendment to the New START Treaty requiring the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(9) UNITED STATES COMMITMENTS ENSURING THE SAFETY, RELIABILITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.—

(A) The United States is committed to ensuring the safety, reliability, and performance of its nuclear forces. It is the sense of the Senate that—

(i) the United States is committed to proceeding with a robust stockpile stewardship program, and to maintaining and modernizing the nuclear weapons production capabilities and capacities, that will ensure the safety, reliability, and performance of the United States nuclear arsenal at the New START Treaty levels and meet requirements for hedging against possible international developments or technical problems, in conformance with United States policies and to underpin deterrence;

(ii) to that end, the United States is committed to maintaining United States nuclear weapons laboratories and preserving the core nuclear weapons competencies therein; and

(iii) the United States is committed to providing the resources needed to achieve these objectives, at a minimum at the levels set forth in the President's 10-year plan provided to the Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84).

(B) If appropriations are enacted that fail to meet the resource requirements set forth in the President's 10-year plan, or if at any time more resources are required than

estimated in the President's 10-year plan, the President shall submit to Congress, within 60 days of such enactment or the identification of the requirement for such additional resources, as appropriate, a report detailing—

(i) how the President proposes to remedy the resource shortfall;

(ii) if additional resources are required, the proposed level of funding required and an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(iii) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and

(iv) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a Party to the New START Treaty.

(10) ANNUAL REPORT.—As full and faithful implementation is key to realizing the benefits of the New START Treaty, the President shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate not later than January 31 of each year beginning with January 31, 2012, which will provide—

(A) details on each Party's reductions in strategic offensive arms between the date the New START Treaty entered into force and December 31, 2011, or, in subsequent reports, during the previous year;

(B) a certification that the Russian Federation is in compliance with the terms of the New START Treaty, or a detailed discussion of any noncompliance by the Russian Federation;

(C) a certification that any conversion and elimination procedures adopted pursuant to Article VI of the New START Treaty and Part Three of the Protocol have not resulted in ambiguities that could defeat the object and purpose of the New START Treaty, or—

(i) a list of any cases in which a conversion or elimination procedure that has been demonstrated by Russia within the framework of the Bilateral Consultative Commission remains ambiguous or does not achieve the goals set forth in paragraph 2 or 3 of Section I of Part Three of the Protocol; and

(ii) a comprehensive explanation of steps the United States has taken with respect to each such case;

(D) an assessment of the operation of the New START Treaty's transparency mechanisms, including—

(i) the extent to which either Party encrypted or otherwise impeded the collection of telemetric information; and

(ii) the extent and usefulness of exchanges of telemetric information; and

(E) an assessment of whether a strategic imbalance exists that endangers the national security interests of the United States.

(b) UNDERSTANDINGS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following understandings, which shall be included in the instrument of ratification:

(1) 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 requirements of paragraph 3 of Article V of the New START Treaty, which states, "Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this treaty for placement of missile defense interceptors therein.";

(B) any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 of Article V, including any limitations agreed under the auspices of the Bilateral Consultative Commission, 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, as set forth in Article II, section 2, clause 2 of the Constitution of the United States; and

(C) the April 7, 2010, unilateral statement by the Russian Federation on missile defense does not impose a legal obligation on the United States.

(2) RAIL-MOBILE ICBMS.—It is the understanding of the United States that—

(A) any rail-mobile-launched ballistic missile with a range in excess of 5,500 kilometers would be an ICBM, as the term is defined in paragraph 37 of Part One of the Protocol (in the English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the New START Treaty;

(B) an erector-launcher mechanism for launching an ICBM and the railcar or flatcar on which it is mounted would be an ICBM launcher, as the term is defined in paragraph 28 of Part One of the Protocol (in the English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the New START Treaty;

(C) if either Party should produce a rail-mobile ICBM system, the Bilateral Consultative Commission would address the application of other parts of the New START Treaty to that system, including Articles III, IV, VI, VII, and XI of the New START Treaty and relevant portions of the Protocol and the Annexes to the Protocol; and

(D) an agreement reached pursuant to subparagraph (C) is subject to the requirements of Article XV of the New START Treaty and, specifically, if an agreement pursuant to subparagraph (C) creates substantive rights or obliga-

tions that differ significantly from those in the New START Treaty regarding a "mobile launcher of ICBMs" as defined in Part One of the Protocol to the New START Treaty, such agreement will be considered an amendment to the New START Treaty pursuant to Paragraph 1 of Article XV of the New START Treaty and will be submitted to the Senate for its advice and consent to ratification.

(3) STRATEGIC-RANGE, NON-NUCLEAR WEAPON SYSTEMS.—It is the understanding of the United States that—

(A) future, strategic-range non-nuclear weapon systems that do not otherwise meet the definitions of the New START Treaty will not be "new kinds of strategic offensive arms" subject to the New START Treaty;

(B) nothing in the New START Treaty restricts United States research, development, testing, and evaluation of strategic-range, non-nuclear weapons, including any weapon that is capable of boosted aerodynamic flight;

(C) nothing in the New START Treaty prohibits deployments of strategic-range non-nuclear weapon systems; and

(D) the addition to the New START Treaty of—

(i) any limitations on United States research, development, testing, and evaluation of strategic-range, non-nuclear weapon systems, including any weapon that is capable of boosted aerodynamic flight; or

(ii) any prohibition on the deployment of such systems, including any such limitations or prohibitions agreed under the auspices of the Bilateral Consultative Commission,

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, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(c) DECLARATIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) MISSILE DEFENSE.—(A) It is the sense of the Senate that—

(i) pursuant to the National Missile Defense Act of 1999 (Public Law 106–38), it is the policy of the United States "to deploy as soon as is 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)";

(ii) defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and

(iii) further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States.

(B) The New START Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the United States Government

currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack, including further planned enhancements to the Ground-based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe.

(C) Given its concern about missile defense issues, the Senate expects the executive branch to offer regular briefings, not less than twice each year, to the Committees on Foreign Relations and Armed Services of the Senate on all missile defense issues related to the New START Treaty and on the progress of United States-Russia dialogue and cooperation regarding missile defense.

(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.

(3) CONVENTIONALLY ARMED, STRATEGIC-RANGE WEAPON SYSTEMS.—Consistent with statements made by the United States that such systems are not intended to affect strategic stability with respect to the Russian Federation, the Senate finds that conventionally armed, strategic-range weapon systems not co-

located with nuclear-armed systems do not affect strategic stability between the United States and the Russian Federation.

(4) NUNN-LUGAR COOPERATIVE THREAT REDUCTION.—It is the sense of the Senate that the Nunn-Lugar Cooperative Threat Reduction (CTR) Program has made an invaluable contribution to the security and elimination of weapons of mass destruction, including nuclear weapons and materials in Russia and elsewhere, and that the President should continue the global CTR Program and CTR assistance to Russia, including for the purpose of facilitating implementation of the New START Treaty.

(5) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the New START Treaty, the President should regulate reductions in United States strategic offensive arms so that the number of accountable strategic offensive arms under the New START Treaty possessed by the Russian Federation in no case exceeds the comparable number of accountable strategic offensive arms possessed by the United States to such an extent that a strategic imbalance endangers the national security interests of the United States.

(6) COMPLIANCE.—(A) The New START Treaty will remain in the interests of the United States only to the extent that the Russian Federation is in strict compliance with its obligations under the New START Treaty.

(B) Given its concern about compliance issues, the Senate expects the executive branch to offer regular briefings, not less than four times each year, to the Committees on Foreign Relations and Armed Services of the Senate on compliance issues related to the New START Treaty. Such briefings shall include a description of all United States efforts in United States-Russian diplomatic channels and bilateral fora to resolve any compliance issues and shall include, but would not necessarily be limited to, a description of—

(i) any compliance issues the United States plans to raise with the Russian Federation at the Bilateral Consultative Commission, in advance of such meetings; and

(ii) any compliance issues raised at the Bilateral Consultative Commission, within thirty days of such meetings.

(7) EXPANSION OF STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that if, during the time the New START Treaty remains in force, the President determines that there has been an expansion of the strategic arsenal of any country not party to the New START Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the New START Treaty remains in the national interest of the United States.

(8) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) of the resolution of advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet

Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols (commonly referred to as the "INF Treaty"), approved by the Senate on May 27, 1988, and condition (8) of the resolution of advice and consent to the ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (commonly referred to as the "CFE Flank Document"), approved by the Senate on May 14, 1997.

(9) TREATY MODIFICATION OR REINTERPRETATION.—The Senate declares that any agreement or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the New START Treaty, including the time frame for implementation of the New START Treaty, should be submitted to the Senate for its advice and consent to ratification.

(10) CONSULTATIONS.—Given the continuing interest of the Senate in the New START Treaty and in strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate expects the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article XIV of the New START Treaty.

(11) TACTICAL NUCLEAR WEAPONS.—(A) The Senate calls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.

(B) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(i) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(ii) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

(12) FURTHER STRATEGIC ARMS REDUCTIONS.—(A) Recognizing the obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at any early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control," and in anticipation of the ratification and entry into force of the New

START Treaty, the Senate calls upon the other nuclear weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(B) The Senate declares that further arms reduction agreements obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(13) MODERNIZATION AND REPLACEMENT OF UNITED STATES STRATEGIC DELIVERY VEHICLES.—In accordance with paragraph 1 of Article V of the New START Treaty, which states that, "Subject to the provisions of this treaty, modernization and replacement of strategic offensive arms may be carried out," it is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.

VIII. MINORITY VIEWS OF SENATORS RISCH, DEMINT, BARRASSO, WICKER, AND INHOFE

In the 18 years since the original START Treaty was ratified, a lot has changed for U.S. national security, our global interests, and those of our allies. During the Cold War, the United States and NATO had to rely on nuclear weapons as a deterrent to a numerically superior Soviet conventional force.

Today the world is much different. Russia relies on nuclear weapons—mostly tactical nuclear weapons—to counter superior conventional U.S. and NATO forces while threatening new NATO members near its borders. Meanwhile, the United States must balance a rising China—and its growing conventional and nuclear arsenals—with security commitments to protect more than 30 nations that make up the pledge of U.S. extended deterrence. Further, countries like Iran and North Korea pose potentially severe risks to U.S. forces abroad, U.S. allies, and global stability with their chemical, biological, and nuclear weapons programs as well as their growing ballistic missile capabilities. This is in addition to a number of other countries with ballistic missile and nuclear, chemical, and biological weapons programs.

These new actors increase the spectrum of threats we and our allies must face, and this uncertainty places a larger burden on the U.S. nuclear umbrella to assure our allies. Our nuclear and conventional forces must be strong enough to deter any aggressor or combination of aggressors for the foreseeable future.

However, we believe the Obama administration was narrowly centered on the issue of "resetting" U.S. relations with Russia which focused almost exclusively on bilateral nuclear stability between the United States and Russia in these negotiations and paid little attention to the question of maintaining multilateral nuclear stability in an uncertain and proliferated world.

New START supposedly establishes a ceiling of 1,550 warheads on strategic nuclear delivery vehicles. Yet, due to the porous limita-

tions and permissive bomber and other counting rules, that would allow unlimited air-launched cruise missiles and could include other uncounted options like sea-launched cruise missiles, there is a distinct possibility that by the end of the ten-year life of this treaty Russia will easily have well over 2,000 real—as opposed to accountable—deployed strategic nuclear warheads and thousands of tactical nuclear warheads. At the same time, China could have on the order of 500 to 1,000 warheads, Pakistan and India could have roughly 150 each, and Iran and North Korea could have roughly 50 each. This, of course, excludes the weapons that may be retained by our allies including France and Great Britain.

Thus, the United States may need to address the requirements for deterrence with a force of 1,550 deployed strategic warheads in a world where cumulatively the rest of the world could retain more than double this number, and in the context of an unpredictable coalition dynamic.

Yet, as Secretary of Defense Gates answered, the Department of Defense's "Office of Net Assessment was not tasked to provide a net assessment of the New START Treaty's numerical limitations." Before New START was signed, the Office of the Net Assessment should have been directed to study the appropriateness of the numerical limitations imposed by New START, the qualitative structure of the U.S. strategic nuclear forces under the treaty, and how the United States would attempt to maintain deterrence and assurance in this proliferated environment. And Senators should have been given access to the analysis U.S. Strategic Command provided to the Department of Defense before they were asked to vote on the Resolution of Ratification.

U.S. military leaders have testified that New START allows the U.S. forces necessary for deterrence. However, there are also three fundamental assumptions underlying this conclusion; each of which is optimistic in the extreme—(1) U.S. planning guidance for strategic forces would remain the same; (2) there would be no requests for an increase in forces; and (3) Russia would be compliant with New START. Assuming Russian treaty compliance violates the historical record, and it ignores the very real evidence of renewed Russian nuclear threats to U.S. allies and friends.

In addition, there are many plausible threat scenarios, including many not involving Russia, that could emerge during the tenure of New START that would demand significant changes in current planning and new deterrence requirements. Would New START provide the necessary forces and flexibility if the administration's three optimistic assumptions do not hold? We do not believe it does.

Instead of looking at the new and shifting 21st century challenges, New START embraces the paradigm of the Cold War by focusing only on Russia with its porous limits on nuclear warheads, delivery vehicles, and inspection regimes. As Secretary of State Clinton stated, "the New START Treaty is needed in order to provide a critical framework for the strategic nuclear relationship between the United States and Russia." Secretary Clinton's comment by definition ignores the nuclear forces that exist or will exist shortly in other countries. And the lack of precise definitions and inclusion of other provisions in New START means that U.S. offen-

sive and defensive conventional forces could be substantially constrained.

Already, Russia is below New START's limits on strategic delivery vehicles and launchers due to atrophy of its strategic nuclear force. The only party that will actually have to eliminate strategic delivery vehicles and launchers under the provisions of the treaty is the United States.

New START is a bad deal coming and going: it neither places effective limits on a future Russian renewal of its strategic nuclear forces (the beginnings of which already can be seen), nor does it demand real Russian reductions now. This the administration touts as a great negotiating accomplishment.

From these issues come a list of our specific concerns for U.S. security and that of our friends.

MISSILE DEFENSE

First, missile defense is a key component of our defense posture—and that of our allies. It is clear there is a fundamental disagreement between the United States and the Russian Federation on missile defense and what constitutes any qualitative or quantitative improvements. If a treaty is supposed to show points of agreement, this treaty falls far short.

Lacking consensus, the Obama administration says that the preamble of the treaty, which mentions an "interrelationship between strategic offensive and defensive arms that will become more important as strategic arms are reduced," was a non-binding concession given to appease the Russians. Russian officials, in turn, say that it is legally binding and that they would like to recreate the 1972 Anti Ballistic Missile treaty that severely limited missile defense. Despite the preamble, this treaty also limits missile defense in Article V. While this administration has stated it has no plans to act in a way inconsistent with Article V, a future administration may find these limits unacceptable. Under New START, the administration has created new missile defense limitations in the body of treaty, and opened the door to more restrictions.

This treaty, and the debate during the Foreign Relations Committee's business meeting, also highlights a fundamental contrast between treaty supporters and ourselves on the effect missile defense systems have on strategic stability. Senator Lugar's efforts to limit further damage to missile defense in his Resolution of Ratification go a long way, but do not fully alleviate our concerns. We were particularly troubled by the lengthy debate over whether it was in the national security interest of the United States to move away from the policy of mutual assured destruction toward a fundamentally defensive posture. Senator DeMint's amendment sought to address this 20th century thinking, but the concern, voiced by administration officials during the business meeting, over words like "remain committed" to a layered ballistic missile defense capability in his amendment, is quite disturbing.

For more than 50 years, the Russians have argued against U.S. missile defense plans and we have no doubt that, despite Senator Lugar's language, the Russians will attempt to use the Bilateral Consultative Commission as a forum to discuss missile defense plans and seek further concessions. For all of this capitulation to

the Russians on this issue, it is still unclear what the United States received for making this concession.

Given all of the concerns expressed by Senators and the adamant insistence that nothing was "given away," it is still perplexing that the administration is unwilling to share the negotiating record with the Senate on this important topic. If the negotiating record is as the administration has described, and the President had approached the Senate as a partner in the ratification process, many of these concerns could have been addressed quickly.

However, answers to Senator Wicker's questions for the record on missile defense called into question the commitment of the Obama administration to fully implement the Ballistic Missile Defense Review Report from February 2010, and the objection to further efforts by Senator Barrasso, Senator Risch, and Senator Inhofe to amend the treaty and Resolution of Ratification further eroded our confidence in the administration's commitments on this important issue.

TACTICAL NUCLEAR WEAPONS

Second, what is even more perplexing is that if the preamble language is non-binding, then why did the administration forgo seeking an equal statement on tactical nuclear weapons? If missile defenses and conventionally-armed ballistic missiles are relevant to strategic nuclear reductions, why is there no linkage with nonstrategic nuclear weapons, such as Russia's plan to develop long-range, nuclear-armed, sea-launched cruise missiles?

The United States has made enormous security commitments to allies around the world, and especially to our NATO partners. The United States is a protector of many, while Russia is a protector of none, and U.S. extended deterrence is intended to protect and assure these countries against attack as much as it is to protect the United States.

As a result, Russian tactical nuclear weapons deployed on the borders of our NATO allies—but based inside of Russian territory—represent a very real threat. However, with a small number of U.S. tactical nuclear weapons in Europe, U.S. extended deterrence is provided in large part by U.S. strategic nuclear forces. This is the course the United States has chosen for decades. Hence, there is a long-standing interrelationship between strategic and tactical nuclear weapons, that can undermine deterrence and the assurances of allies when the United States accepts limits that reduce the flexibility of our strategic forces and cuts strategic warheads so low that Russia's tactical arsenal alone dwarfs the entire U.S. nuclear arsenal.

Sadly, the Obama administration does not seem to understand this relationship. As Secretary Clinton stated, "tactical nuclear weapons do not directly influence the strategic balance between the United States and Russia." Unfortunately, because of this narrow thinking, President Obama removed the issue of tactical nuclear forces from the negotiations so early that he denied negotiators one of the few points of leverage that could have guaranteed missile defense would not have been in the treaty.

The Committee's Resolution of Ratification only offers a simple declaration regarding how to address the disparity between the United States and Russian tactical nuclear weapons. We do not

share the administration's optimism that this treaty will lead to an agreement on tactical nuclear weapons. Russia is currently not honoring its commitments under the Presidential Nuclear Initiative of the early 1990s regarding these weapons and the rejection by the committee of Senator Risch's amendment regarding this issue highlights the unwillingness to deal with it.

CONVENTIONAL PROMPT GLOBAL STRIKE

Third, New START places limits on conventional strategic offensive capabilities and further limits U.S. deterrence flexibility and options. As the State Department Bureau of Verification, Compliance, and Implementation website states; "long-range conventional ballistic missiles would count under the treaty's limit of 700 delivery vehicles, and their conventional warheads would count against the limit of 1,550 warheads."

The administration attempts to justify this situation by saying START I did not make a distinction between nuclear and conventional warheads on ballistic missiles. However, START I was also written 20 years ago, before advancements in military technology and U.S. capabilities were able to envision new types of systems. While conventional prompt global strike (CPGS) is still an infant technology, the limitations in New START substantially restrict further development and deployment of the most mature technology, instead betting on as of yet unproven advanced technologies, and in the process limiting U.S. options to respond to future threats, which was another key goal of the Russian Federation.

U.S. engagements in Iraq and Afghanistan have shown that advancements in military technology can be instrumental, but they have also shown the limitations of integrating existing technology with time-sensitive information. CPGS could offer an incredible capability to swiftly respond to a threat anywhere in the world, and eliminate the threat before it matures.

Whether emerging threats come from non-state actors, terrorist organizations, or rogue nations, this capability could also provide the President with a valuable and scalable option to respond to emerging threats without the need to rely on nuclear force, such as a rogue nation with only a few nuclear weapons. If required to conduct a large-scale conventional military operation in an anti-access environment, the U.S. military could also find a weapons system like this necessary.

The unwillingness of the Obama administration to understand this changing dynamic or to protect American interests and flexibility is dangerous. These constraints are more troubling when President Obama argues that New START's reductions are acceptable because the United States has such a strong conventional force-endorsed by Secretary Gates in his written answers. Yet, Secretary Gates is also pushing to cut spending on U.S. conventional capabilities, and simultaneously seeks to transfer $5 billion from our military to the Department of Energy.

It is disconcerting that the only place where President Obama could find money for modernization was the Department of Defense. The founding mission of DOE was to ensure that the building and maintenance of U.S. nuclear weapons remained in civilian hands. Sadly, it appears the core mission of DOE is now a low pri-

ority, but our conventional military forces and their readiness should not have to suffer because of misplaced priorities at the DOE.

Since this treaty was intended to focus on strategic nuclear reductions, the inclusion of CPGS remains dubious. Although the State Department's analysis determined that CPGS options would count under the treaty's central limits, it remains unclear if it is really compelled by the terms of the treaty or is simply the intent of the negotiating parties. Because the Obama administration again refuses to share the negotiating record, the Resolution of Ratification should have included an understanding or reservation that an intercontinental ballistic missile (ICBM) or submarine-launched ballistic missile loaded with only a conventional warhead should not count towards the treaty's central limits pertaining to either delivery vehicles or warheads.

At a minimum the existing resolution should be expanded to ensure that it is not in the jurisdiction of the Bilateral Consultative Commission to limit the deployment of CPGS systems of the United States.

INSPECTIONS AND VERIFICATION

If the United States is to accept increased uncertainty and risk, then we should have absolute confidence in our ability to monitor the Russians and verify compliance. However, the effectiveness and adequacy of any arms control treaty's verification measures ultimately depends on what and how the treaty limits operate. By reverting back to the Cold War standard of U.S.-Russian strategic nuclear parity and basing deterrence on mutual nuclear threats, New START establishes the need for the kind of vigorous verification measures found in the START I treaty.

Despite Secretary Clinton's comment that this treaty "provides detailed rules and significant transparency regarding each side's strategic forces through its extensive verification regime," we do not share the administration's confidence. To the contrary, verification in this treaty is very weak in comparison to START I, especially for the warhead limit.

First, quality is just as important as quantity because the details matter and the treaty falls short on both counts. Over the life of START I the United States conducted roughly 600 inspections; under New START we are limited to 18 annually (180 total). With 35 Russian facilities and only 17 U.S. facilities to inspect, Russia begins at a significant advantage.

Second, the Obama administration has touted New START's inspection regime as being a monumental shift toward counting actual warheads, instead of using attribution accounting rules. However, the treaty relies on an annual limit of ten Type I inspections, which would provide the United States with visibility on only about two to three percent of the entire missile force each year. Conveniently, these are the same kind of inspections that the Russians illegally obstructed, for certain types of missiles, throughout the START I Treaty. Now, that obstruction seems to be acceptable practice.

Fortunately, START I did not rely on these inspections alone for verification; it wisely relied primarily on our National Technical Means (NTM) to verify an "attribution" rule that in general, count-

ed warheads based on their demonstrated capability. (Under this rule, a missile type was considered to have a certain attributed number of warheads, such that warhead verification became an exercise of simply multiplying numbers of missiles observed with satellites multiplied by the attributed warhead number.)

New START abandoned many limitations on strategic nuclear weapons as well as this tried and true verification structure, and relies instead on good Russian inspection behavior for verification. This is unwise. If the Russians continue their obstruction, our ability to verify the warhead limit will be substantially degraded. Hypothetically, even if the Russians departed from past practice and did not obstruct the inspections, their utility is still inherently limited.

The Russians are not required to tell us how many warheads are located on each missile at the initial data exchange. Instead, it's only after a U.S. inspection team declares its intention to visit a missile site that the Russians will declare how many re-entry vehicles are deployed on missiles located at that inspection site. The U.S. team then gets to look at only one of those missiles. There is no way to determine from this single inspection whether the rest of the Russian missile force also contains that number of warheads. The United States cannot deduce from so few inspections whether Russia is complying with the overall 1,550 limit. No one should be under the illusion that we are "counting" Russian warheads. The lack of confidence in verifying this central limit undermines confidence in the entire agreement.

Third, the warhead limit is not our only verification concern. START I's reliance on NTM to verify its warhead limits was buttressed by two other key measures, both of which were dropped from New START—(1) continuous portal/perimeter monitoring at the Russian assembly plant for mobile ICBMs (the type most difficult to monitor with NTM); and (2) full access to telemetry, which is extremely useful for understanding missile systems, including whether the Russians were complying with START I's prohibition on flight-testing missiles that exceded the warhead limit for each type of missile. As a result of New START's omission or limitation of these important verification measures, the uncertainty with respect to Russian mobile ICBM production and overall missile capabilities will increase substantially. Secretary Gates admitted in his testimony before the committee that U.S. ability to monitor this treaty would decline over time.

As the number of nuclear weapons decreases, verification becomes even more important and must become more robust because the benefits of cheating increase. On this point New START moves completely in the wrong direction.

COMPLIANCE

As we referenced earlier, Russia has a long track record of ignoring international agreements that it has signed. Russia repeatedly violated START I all the way to its expiration in December 2009, as clearly stated in the 2005 and 2010 State Department Compliance Reports.

Specifically, Russian failures to comply with telemetry sharing under START I raises concerns about U.S. access to data, and New START does nothing to ensure telemetry is shared regarding bal-

listic missile delivery vehicles for warheads. It simply leaves this issue to the BCC to resolve at some later point.

Russia has also directly impeded U.S. inspectors' ability to accurately account for the number of reentry vehicles (RVs) on ballistic missiles, which again speaks to the efficacy of the Type I inspections under New START. As the 2005 State Department report noted, "Russian RV covers, and their method of emplacement, have in some cases hampered U.S. inspectors from ascertaining that the front section of the missiles contains no more RVs than the number of warheads attributed to a missile of that type under the treaty."

In addition, the U.S. government has serious concerns with Russian compliance on the Chemical Weapons Convention, the Biological Weapons Convention, and the Conventional Forces in Europe Treaty.

Russia has a long history of acting in bad faith and violating arms control agreements and commitments. The disregard for international arms control treaties when it does not suit Russian interests provides little support to the assumption that Russia will in good faith comply with the New START Treaty.

MODERNIZATION

According to Secretary Gates, the United States is the only nuclear nation that is not currently pursuing nuclear modernization. The French, Russians, British, and others are constantly designing and building new weapons so that their scientists and engineers do not lose critical skills. Secretary Gates has also made clear that nuclear modernization is a prerequisite to nuclear reductions. As he stated in a speech to the Carnegie Endowment, "To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program."

Sadly, the United States has starved its own capabilities for so long that we have lost core competencies in our ability to maintain current weapons as well as have the capability to design and build new weapons. As some, including professors Keir Lieber and Daryl Press, have pointed out the United States must preserve options.

In our opinion this does not mean we currently need to build new weapons immediately, but it does mean that if the United States wants to remain a leader in the international system, we cannot cede this ability to other nations. It is imperative that we unshackle our scientists and allow them the freedom to pursue scientific discovery as they see fit. Simply turning them into systems analysts for weapons that were designed 30 years ago does not keep the United States on the cutting edge. Unfortunately, President Obama's Nuclear Posture Review (NPR) does precisely that.

In a letter signed by ten former DOE National Lab Directors to Secretary Gates and Secretary of Energy Chu they stated:

> Unfortunately, we are concerned that language in the NPR imposes unnecessary constraints on our engineers and scientists when it states that "the United States will give strong preference to options for refurbishment or reuse," and that the replacement of nuclear components "would be undertaken only if critical Stockpile Management Program (SMP) goals could not otherwise be met,

and if specifically authorized by the President and approved by Congress."

Based on our experience as former laboratory directors, we believe this "higher bar" for certain life extension options will stifle the creative and imaginative thinking that typifies the excellent history of progress and development at the national laboratories, and indeed will inhibit the NPR's goal of honing the specialized skills needed to sustain the nuclear deterrent. If these skills are not exercised, they will be lost. Moreover, the United States is already taking on a certain amount of risk by not testing its nuclear weapons. Failure to preserve nuclear weapons skill sets will add further risk, and unnecessarily so.

Further, President Obama and his administration must commit the levels of funding necessary to modernize our nuclear complex, the warheads themselves, and the delivery vehicles and platforms necessary for our nuclear deterrence. While President Obama's fiscal year 2011 budget and Section 1251 plan are a good start, it is clear that it does not completely meet the needs for the nuclear complex. And the Resolution of Ratification could do more to ensure the President honors his commitments to modernization.

While many focus on the warheads themselves, the modernization of U.S. strategic delivery vehicles and platforms that make up the nuclear triad is also vitally important. Unfortunately, the funding as outlined by the Secretary of Defense is barely adequate to replace the Ohio class submarines, but leaves virtually no funding for intercontinental ballistic missile (ICBM) life extensions, a follow on ICBM to replace the Minuteman III, a new long-range bomber, and a follow on to our aged air-launched cruise missile. In the absence of such modernization programs, the U.S. strategic forces will not retain the survivability and flexibility that is necessary to deter enemies and assure allies. This raises questions about the intentions of this administration. Senators have been told that maintaining the nuclear triad is vital to "stability" at the reduced force levels in the treaty, but after years of delay the administration has yet to make any decisions about strategic delivery vehicles beyond a replacement submarine.

We believe the committee's proposal for advancing nuclear weapons modernization is of uncertain reliability. The administration itself has stated explicitly that its highest nuclear policy priority is non-proliferation and movement toward nuclear disarmament. The Resolution of Ratification includes a provision designed to ensure sustained funding for the President's ten-year plan for preserving the safety, reliability and performance of U.S. nuclear forces, which he submitted pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010. This provision purports to embody a deal between the President and the Senate to sustain nuclear weapons modernization for ten years in exchange for Senate consent to the ratification of New START.

Such a deal is made necessary by what we believe is the accurate assumption that the President does not favor the provisions in the section 1251 plan on their merits, but only as a means for securing the ratification of New START. Nevertheless, the relevant provision in the Resolution of Ratification leaves it to the President alone to determine if resources become inadequate to support the

plan and trigger the reporting requirement to identify the additional resources to preserve nuclear modernization.

Senators Inhofe and Risch's efforts on this were additional steps to ensure the specific modernization of our strategic delivery vehicles, and while the committee accepted a modified version of Senator Risch's amendment, it does not satisfy all of the concerns we have.

PROCESS

We are also very disappointed in the lack of respect for the constitutional role that the Senate plays in any treaty process. Some treaties require more scrutiny than others, and sadly, the process by which this treaty has been considered by the Senate Foreign Relations Committee has been negligent. In May when hearings were first starting, seven Senators on this committee requested nine witnesses (letter attached). Some of these individuals support the treaty and some do not, but Senators felt these voices were important and necessary to cover the breadth of concerns.

In twelve hearings there were only two voices of opposition out of twenty-two. This is a far cry from the normal precedent of the minority being allowed to have one witness on each panel. Also, the fact that no former national lab directors were invited to testify demonstrated a lack of balance and serious scrutiny on key issues. When all the witnesses have been hand-picked by the chairman to avoid critical voices, the argument that this treaty has been fully vetted and endorsed by witnesses lacks credibility.

Given a stacked deck of witnesses, it is even more troubling that questions for the record were not answered in a timely manner. In fact, the administration did not provide substantive answers to any questions for the record until after the last administration witness testified. The desire of the Obama administration to avoid serious and thoughtful consideration of the merits of this treaty only leaves us to speculate why the administration was filibustering Senators' requests for more information.

Further the administration delayed releasing reports, which would have provided the larger context necessary for Senators to understand. These reports included a National Intelligence Estimate, Force Structure report, State Department Compliance Reports, and other documents (letter attached). With some provisions of this treaty so contentious, providing the negotiating record on these points would have been a wise and prudent gesture. The insistence on trusting administration officials without any supporting documentation simply undermines their credibility.

The rush to ratify this treaty and avoid scrutiny has been of serious concern, and the argument made by some administration officials that any Senator standing in the way was doing so for political reasons is inappropriate and disrespectful.

While the administration wants to see New START in place to restart the inspections that have been absent since START I expired in December 2009, we do not believe their mistakes should force the Senate to surrender its obligations or due diligence. START I provided a five year extension to keep inspections in place, which the administration did not exercise. And Senator Lugar introduced the START I Treaty Inspections and Monitoring Protocol Continuation Act to do likewise. We voted for this legisla-

tion when it came before the Foreign Relations Committee, but the administration was uninterested in this approach.

However, it should be clear that the Obama administration took five months after START I's expiration to complete the treaty's negotiations, sign it, and send it to the Senate. Why was the anniversary of President Obama's speech in Prague a more important deadline than the expiration of START I? More importantly, it took the administration more than 12 months to negotiate this treaty, but it has sought the ratification of this treaty through the Senate in less than five months.

To put this in context, the Senate considered START I for almost an entire year, and the Moscow Treaty, which was much shorter and far less complex than New START laid before the Senate for almost nine months. The rush to ratification undermines the important role of advice and consent that the Senate must exercise on any treaty of this magnitude.

Combined with a lack of transparency, the rush creates an impression that the administration is hiding something. Given the changing nature of global security, a more thoughtful and measured approach should have been taken, and the administration should not have filibustered Senators' requests for information and clarity.

CONCLUSION

In conclusion, we believe the treaty will substantially limit U.S. flexibility and constrain the overall strategic posture of the United States in a way that emerging threats and nations could weaken U.S. national security, undermine security for important friends and allies, and possibly encourage proliferation. The United States appears to have received nothing in return for its concessions on strategic nuclear force levels, conventional strategic forces, or missile defense. The treaty effectively requires unilateral U.S. reductions and its limitations are so porous and permissive that it does not place effective ceilings on the slowly emerging comprehensive Russian strategic modernization program. Moreover, these concessions in New START deprive the United States the leverage that would be necessary for negotiating any future meaningful nuclear reduction agreements.

While we believe the Committee's Resolution of Ratification serves to identify the most important flaws and weaknesses either derived from, or found within, New START, we cast our votes in opposition to reporting New START to the Senate for consideration based on our view that the proposed remedies in the Resolution of Ratification adopted by the Committee are insufficient. We sincerely hope these issues can be resolved before a final vote on the floor of the U.S. Senate.

LETTER FROM SENATORS CORKER, ISAKSON, RISCH, DEMINT, BARRASSO, WICKER, AND INHOFE TO SENATOR KERRY, MAY 18, 2010

U.S. SENATE,
Washington, DC, May 18, 2010.

Hon. JOHN KERRY,
Chairman, Senate Foreign Relations Committee,
Dirksen Senate Office Building, Washington. DC.

DEAR MR. CHAIRMAN: We deeply appreciate your efforts and those of the Committee to hold hearings in order to carefully examine the new Strategic Arms Reduction Treaty.

As you know, while the issue of arms control is not a new one, most of us have never had to consider an arms control treaty in the U.S. Senate, and none of us have done so while serving on the Foreign Relations Committee. Given the unique role the Committee plays in consideration of treaties, we were encouraged by your statement that, "the way to ratify it is to fully explain it, vet it, and thoroughly address any kinds of concerns that people may have."

In order to fully understand the provisions of this treaty and its potential impacts on American security and that of our allies and friends, it is necessary to hear from a wide range of witnesses.

Below is a list of individuals who are uniquely qualified to address the potential effects of this treaty. We would appreciate having a majority of them testify to cover the breadth of issues.

- Ambd. John Bolton—Fellow, American Enterprise Institute
- Gen. Kevin Chilton—Commander, U.S. Strategic Forces Command
- Ambd. Eric Edelman—Fellow, Center for Strategic and Budgetary Assessments
- Mr. Brian Green—Former Dep. Asst. Secretary of Defense for Strategic Capabilities
- Dr. Keith Payne—President, National Institute for Public Policy
- Mr. Stephen Rademaker—Former Asst. Secretary of State for Arms Control
- Mr. Dimitri Simes—President, The Nixon Center
- Ambd. Dave Smith—Fellow, Potomac Institute for Policy Studies
- Ambd. James Woolsey—Former Director of Central Intelligence

Thank you for your patience as we analyze this complex treaty. We appreciate your assistance with this matter and look forward to working with you to schedule these witnesses.

Sincerely.

BOB CORKER.
JOHNNY ISAKSON.
JAMES RISCH.
JIM DEMINT.
JOHN BARRASSO.
ROGER WICKER.
JAMES INHOFE.

LETTER FROM SENATORS CORKER, ISAKSON, RISCH, DEMINT, BARRASSO, WICKER, AND INHOFE TO SENATOR KERRY, JUNE 29, 2010

U.S. SENATE,
Washington, DC, June 29, 2010.

Hon. JOHN KERRY,
Chairman, Senate Foreign Relations Committee,
Dirksen Senate Office Building, Washington. DC.

DEAR MR. CHAIRMAN: We deeply appreciate your efforts to hold a number of hearings in order to carefully examine the new Strategic Arms Reduction Treaty currently before the Senate Foreign Relations Committee.

Considering the history of past arms control treaties, the number of hearings being held on New START seems appropriate. However, we are concerned by a recent press release announcing your intention to move the treaty out of committee before the August recess.

We believe that a full and open debate on the substance and implications of this treaty is necessary and that should determine when the committee votes on this treaty. If the Senate moves according to the announced schedule, the ratification process would be one of the quickest in the history of arms control treaties—faster than START I and even the Moscow Treaty, which was significantly less complex than New START.

Also a month ago, we sent a letter requesting a number of witnesses that would help fully vet this treaty. Some of the proposed witnesses support the treaty and some do not. Unfortunately, the recently announced series of hearings does not adequately address the request we made. According to your press release and subsequent hearing notices, only two of the nine witnesses we requested would appear before you seek to vote the treaty out of committee.

Further, the Senate has not received the National Intelligence Estimate, the State Department Verifiability Assessment, nor the five State Department Compliance Reports. These reports are crucial to understanding the real world implications of the New START Treaty. The 2005 Compliance Report alone highlighted a number of direct violations of START I by the Russians. For five years and two administrations we have not seen a single report to confirm if Russia has improved its transparency with the United States and is completely honoring its treaty obligations.

In addition, both the Senate Armed Services Committee and Senate Select Committee on Intelligence will need to hold hearings on this treaty and submit their own reports to the Foreign Relations Committee. Even if we receive these reports quickly, it leaves little time for serious and thoughtful consideration of what may be in them.

Finally, we have still not received the full negotiating record nor answers from any administration witnesses regarding the questions for the record that many of us submitted. Both the record as well as responses to our questions would be helpful in making scheduled hearings more fruitful, but are especially critical to timely consideration and voting.

We take very seriously the role of advise and consent for treaties that the Senate—and especially our committee—has in this process. And given these outstanding issues, we believe talk of sched-

uling a business meeting is premature. We encourage you to work with us to make sure this treaty is fully understood and vetted, and ask that you wait to schedule a business meeting on this treaty until after everyone has testified and members have had a reasonable amount of time to review all the reports, documents, and answers.

Thank you for your patience as we analyze this complex treaty. We appreciate your assistance with this mailer and look forward to working with you to schedule a business meeting at the appropriate time.

Sincerely.

BOB CORKER.
JOHNNY ISAKSON.
JAMES RISCH.
JIM DEMINT.
JOHN BARRASSO.
ROGER WICKER.
JAMES INHOFE.

IX. Additional Documents

LETTER FROM THE HONORABLE JOSEPH R. BIDEN, JR., VICE PRESIDENT OF THE UNITED STATES, SEPTEMBER 15, 2010

THE VICE PRESIDENT
WASHINGTON

September 15, 2010

The Honorable John F. Kerry
Chairman, Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Since the New Strategic Arms Reduction Treaty (New START) was submitted to the Senate for advice and consent, questions posed during committee hearings on the Treaty have highlighted, among other things, the Administration's plans to modernize the U.S. nuclear weapons complex, in particular the President's budget request for FY 2011 and projected out-year requests to accomplish the missions of the Stockpile Stewardship and Management Programs. I write to assure the Committee of the Administration's strong support for this program.

As you know, the *Nuclear Posture Review* (NPR), published in April, addresses U.S. national security goals and details this Administration's commitment to sustaining an arsenal of nuclear weapons that meets 21st century standards of safety, security, and effectiveness. The entire Administration is committed to taking the steps necessary to realize this objective.

Our budgets seek to reverse five years of declining support for nuclear stockpile management. The President's FY 2011 budget request for weapons activities in the National Nuclear Security Administration (NNSA) provides the funds needed to "ramp-up" activity and revitalize the enterprise in the near term. We have submitted plans for significant funding increases, starting with a $624 million increase in FY 2011 and increasing to a $1.64 billion plus-up by FY 2015. This is a cumulative increase of more than $5.68 billion over the FY 2010 five-year plan. The FY 2011-2015 President's Budget was based on the best estimates available at that time, and reflected our assessment of necessary investments and the capacities to absorb increased funding.

Earlier this spring, the Administration provided reports to Congress describing our 10- and 20-year plans, respectively, to sustain and modernize nuclear delivery systems, and the nuclear stockpile and the associated infrastructure. As the President has demonstrated in these plans and in his budget, he recognizes that the modernization of the Nation's nuclear deterrent will require sustained higher-level investments over many years.

Out-year budgets are, by definition, projections built on assumptions. NNSA has used the time since the spring – when the NPR and New START were concluded – to work on updating initial assumptions. We now have a more complete understanding of stockpile requirements, including the life extension program needs. Similarly, the designs of key facilities such as the Uranium Processing Facility and the Chemical and Metallurgy Research Replacement Facility have progressed. Based on information learned since the submission of the President's FY 2011 budget and the report under section 1251 of the National Defense Authorization Act for FY 2010, we expect that funding requirements will increase in future budget years.

Later this fall, the Administration will provide the Congress with information that updates the Section 1251 report. At that time, and in our future budgets, we will address any deficiencies in the Future Years Nuclear Security Program. We are also prepared to brief the oversight committees and interested Senators as these programs progress, so that Congress can have full visibility into the program and confidence in our processes.

Finally, the Administration has actively engaged the House and Senate Appropriations Committees in support of the President's 2011 request, and we will continue to do so. Moreover, as further evidence of the President's commitment to an immediate start to his modernization initiatives, the Administration earlier this month recommended that the Committees provide for a rate of operations consistent with the President's request for NNSA weapons activities during any continuing resolution period.

This Administration has expressed its unequivocal commitment to recapitalizing and modernizing the nuclear enterprise, and seeks to work with Congress on building a bipartisan consensus in support of this vital project. I look forward to continued work with Congress to ensure that we accomplish our shared objective to maintain and strengthen U.S. nuclear security.

Sincerely,

Joseph R. Biden, Jr.

cc: The Honorable Richard G. Lugar
Ranking Member

LETTER FROM THE HONORABLE ROBERT M. GATES, SECRETARY OF DEFENSE, JULY 30, 2010

[redacted]

THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

JUL 30 2010

The Honorable John Kerry
Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

(U) As the Senate considers the New Strategic Arms Reduction Treaty (New START) with Russia, I would like to share the Department's assessment of the military significance of potential Russian cheating or breakout, based on the recent National Intelligence Estimate (NIE) on monitoring the Treaty. As you know, a key criterion in evaluating whether the Treaty is effectively verifiable is whether the U.S. would be able to detect, and respond to, any Russian attempt to move beyond the Treaty's limits in a way that has military significance, well before such an attempt threatened U.S. national security.

[redacted]

(U) The Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander, U.S. Strategic Command, and I assess that Russia will not be able to achieve militarily significant cheating or breakout under New START, due to both the New START verification regime and the inherent survivability and flexibility of the planned U.S. strategic force structure. Additional Russian warheads above the New START limits would have little or no effect on the U.S. assured second-strike capabilities that underwrite stable deterrence. U.S. strategic submarines (SSBNs) at sea, and any alert heavy bombers will remain survivable irrespective of the numbers of Russian warheads, and the survivability of U.S. inter-continental ballistic missiles (ICBMs) would be affected only marginally by additional warheads provided by any Russian cheating or breakout scenario.

(U) If Russia were to attempt to gain political advantage by cheating or breakout, the U.S. will be able to respond rapidly by increasing the alert levels of SSBNs and

[redacted]

[redacted]

bombers, and by uploading warheads on SSBNs, bombers, and ICBMs. Therefore, the survivable and flexible U.S. strategic posture planned for New START will help deter any future Russian leaders from cheating or breakout from the Treaty, should they ever have such an inclination.

(U) This assessment does not mean that Russian compliance with the New START Treaty is unimportant. The U.S. expects Russia to fully abide by the Treaty, and the U.S. will use all elements of the verification regime to ensure this is the case. Any Russian cheating could affect the sustainability of the New START Treaty, the viability of future arms control agreements, and the ability of the U.S. and Russia to work together on other issues. Should there be any signs of Russian cheating or preparations to breakout from the Treaty, the Executive branch would immediately raise this matter through diplomatic channels, and if not resolved, raise it immediately to higher levels. We would also keep the Senate informed.

(U) Throughout my testimony on this Treaty, I have highlighted the Treaty's verification regime as one of its most important contributions. Our analysis of the NIE and the potential for Russian cheating or breakout confirms that the Treaty's verification regime is effective, and that our national security is stronger with this Treaty than without it. I look forward to the Senate's final advice and consent of this important Treaty.

Sincerely,

[redacted]

LETTER FROM THE HONORABLE ROBERT M. GATES, SECRETARY OF DEFENSE, WITH ATTACHMENT, SEPTEMBER 30, 2010

THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

SEP 13 2010

The Honorable Richard G. Lugar
Ranking Member
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Senator Lugar,

Thank you for your letter of August 17, 2010, regarding the relationship between the New START Treaty (NST) and the development and deployment of future conventional prompt global strike (CPGS) systems, particularly boost-glide systems.

As I and other administration officials have testified, the NST protects the U.S. ability to develop and deploy CPGS capabilities, should the U.S. decide to do so. Just as in the START Treaty, conventionally armed ICBMs or SLBMs, based on existing or new types of ICBMs and SLBMs, are allowed under the NST and would be counted against the Treaty's strategic delivery vehicle and warhead limits. However, the U.S. stated during the negotiations it would not consider non-nuclear systems that do not otherwise meet the definitions of the NST to be accountable as "new kinds of strategic offense arms" for the purposes of the NST. Boost-glide systems fit under this category of non-nuclear systems.

The Department of Defense (DoD) is currently conducting a study of long-range strike options; this work will be completed in time to inform the FY 2012 President's Budget. At this time, no decisions have been made on which, if any, CPGS delivery systems to acquire or when such systems would be fielded, if acquired. However, based on analysis of the options, the Department has concluded that any deployment of NST-accountable conventional ICBMs or SLBMs during the 10-year life of the NST would be limited, and could be accommodated within the aggregate limits of the NST while sustaining a robust nuclear Triad.

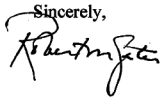
Because NST-accountable conventionally armed ICBMs or SLBMs, if deployed, would play a niche role in military operations, the maximum number of deployed missiles and warheads would be a small percentage of the NST limits. The 2010 Nuclear Posture Review analysis concluded that, should we decide to deploy these accountable systems, counting this small number of systems and warheads as part of the NST limits would not prevent the U.S. from maintaining a robust nuclear deterrent.

With regard to CPGS systems not accountable under the NST, the Department is exploring potential conventionally armed, long-range systems, not defined as an ICBM or SLBM, including those that fly a non-ballistic trajectory (e.g., boost-glide systems). Such systems would have significant advantages, including the ability to "steer around" other countries to avoid over-flight and could have flight trajectories distinguishable from an ICBM or SLBM. If such a boost-glide system were developed for nuclear warhead delivery, however, it could be considered as a new kind of strategic offensive arm and be subject to the NST following discussion of the matter in the Bilateral Consultative Commission.

The Treaty does not in any way limit or constrain research, development, testing, and evaluation (RDT&E) of any strategic concepts or systems, including prompt global strike capabilities. The Department continues to conduct RDT&E on a wide range of advanced strategic systems, irrespective of whether or not such systems, if procured, would be accountable under the NST. In fact, Under Secretary of Defense for Acquisition, Technology and Logistics, Ashton Carter, recently issued guidance (enclosed) to the Department to continue the full range of RDT&E efforts under the Treaty.

On August 19 and September 10, 2010, a team of DoD experts met with staff from the Senate Foreign Relations Committee and the Senate Armed Services Committee staff to discuss DoD activities as they pertain to the relationship between the NST and the development and deployment of future CPGS systems. The discussion in these meetings included a review of DoD RDT&E work on candidate CPGS systems and a description of the status of the ongoing long-range strike study with regard to these systems. I trust that these discussions and the information provided in this letter address the matters raised in your letter, and provide the information needed for the Committee to move forward in its consideration of the New START Treaty.

Sincerely,



Enclosure:
As stated

cc:
The Honorable John F. Kerry
Chairman

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

SEP 0 8 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARY OF DEFENSE FOR POLICY
UNDER SECRETARY OF DEFENSE (COMPTROLLER)
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Research, Development, Testing, and Evaluation (RDT&E) of Strategic Concepts or Systems under the New START Treaty

As you know, on April 8, 2010, President Obama signed the New START Treaty, and the Senate is now considering whether to provide its advice and consent to ratification. The following implementation guidance is provided pursuant to DoD Directive 2060.1.

The New START Treaty would limit the numbers of deployed intercontinental ballistic missiles (ICBMs), submarine launched ballistic missiles (SLBMs), and heavy bombers and their associated warheads, as well as both deployed and non-deployed ICBM launchers, SLBM launchers, and heavy bombers equipped for nuclear armaments. However, U.S. negotiators made clear during the New START Treaty negotiations that we would not consider future, strategic-range non-nuclear systems that do not otherwise meet the definitions of this Treaty to be "new kinds of strategic offensive arms" for purposes of the Treaty. If ratified, the New START Treaty will have a ten-year duration.

The New START Treaty does not in any way limit or constrain research, development, testing, and evaluation (RDT&E) of any strategic concepts or systems, including prompt global strike capabilities. It is essential that the Department continue to conduct RDT&E on a wide range of advanced strategic concepts and systems, irrespective of whether or not such systems, if procured, would be accountable under the New START Treaty.

Ashton B. Carter

LETTER TO THE HONORABLE CARL LEVIN, CHAIRMAN, COMMITTEE ON ARMED SERVICES, FROM ADMIRAL MICHAEL G. MULLEN, USN, CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JUNE 9, 2010

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

WASHINGTON, D.C. 20318-9999

9 June 2010

The Honorable Carl Levin
Chairman, Committee on Armed Services
United States Senate
Washington, D.C. 20510-6050

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

Copy to:

The Secretary of Defense
The Honorable John McCain
Ranking Member

LETTER TO THE HONORABLE CARL LEVIN, CHAIRMAN OF THE COMMITTEE ON ARMED SERVICES, FROM GENERAL JAMES E. CARTWRIGHT, USMC, VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF, SEPTEMBER 2, 2010

THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF
WASHINGTON, D.C. 20318-9999

The Honorable Carl Levin
Chairman, Committee on Armed Services
United States Senate
Washington, D.C. 20510-6050

2 Sep 10

Mr. Chairman,

You recently offered an opportunity for me to clarify my position regarding comments I made during my confirmation hearing as Vice Chairman of the Joint Chief of Staff before the Senate Armed Services Committee (SASC), on 9 July 2009. At that early stage of NPR analysis and New START negotiation, I was asked for my view on the force structure implications of the low-end of the limits being discussed with the Russians in New START, whether I agreed with the commitment to reduce our strategic delivery vehicles to fall within a range of 500 to 1,100, and my view on the point at which such reductions would necessitate replacing our nuclear triad with a dyad.

I stated then that if we are successful in creating an environment conducive to a world without nuclear weapons, we should be able to achieve force structure numbers closer to the low-end limits of the range, with the caveat that achieving lower numbers would be linked to our ability to recapitalize our nuclear weapons complex and implement a warhead modernization strategy. I went on to say I would be very concerned if we reduced our strategic delivery vehicles below the midpoint of the New START negotiating range of 500 to 1,100 deployed strategic delivery vehicles and that I would express my best military judgment to leadership if we approached a range that I believed would endanger our strategic deterrent.

At the time of my testimony in July 2009, we anticipated there would be two treaty limits in New START, one for strategic warheads and one for strategic delivery vehicles. This would mean that each ICBM, SLBM and heavy bomber would count against the strategic delivery vehicle limit until it was eliminated. We also believed that all strategic delivery vehicles above the agreed treaty limit would be eliminated according to rules similar to those used under START. With that understanding, we assessed that a proposed limit of 800 on strategic delivery vehicles would provide sufficient flexibility to maintain the nuclear Triad and meet our deterrence objectives as established in the NPR.

However, as the New START negotiations progressed, three concepts emerged within the Treaty that would change our thinking and ultimately the acceptability of a somewhat lower treaty limit on deployed strategic delivery

vehicles. The first concept established a distinction between deployed and non-deployed ICBMs, SLBMs and heavy bombers. Adopting this approach more accurately reflects how both sides deploy their forces and, most importantly, will not require the United States to eliminate ballistic missiles or heavy bombers simply to account for the normal flow of strategic delivery systems into and out of maintenance facilities, including the sustained rotational presence of two Ohio-class strategic submarines in lengthy, mid-life refueling overhaul throughout most of the coming decade. The second concept created the option to "convert" individual SLBM launchers on strategic submarines in a manner such that they can no longer launch a ballistic missile and thus would not count as SLBM launchers in the Treaty. This created the possibility to reduce the number of launchers on each of our 14 Ohio-class submarines from 24 to 20, while maintaining the capability to deploy the desired number of warheads across the 20 Trident II (D5) SLBMS carried on each submarine. Finally, the third concept maintained the option to convert heavy bombers to conventional-only weapon systems. We concluded that by taking advantage of these concepts, the United States would be able to field a diverse triad of fully capable strategic nuclear forces within a proposed limit of 700 deployed ICBMs, SLBMs and heavy bombers, Our baseline strategic force structure designed to meet these objectives is outlined in DoD's Report to Congress in response to Section 1251 of the FY10 NDAA.

In summary, I believe the treaty limitation of 700 deployed strategic delivery vehicles imposed by New START provides a sound framework for maintaining stability and allows us to maintain a strong and credible deterrent that ensures our national security while moving to lower levels of strategic nuclear forces. Furthermore, the right to retain non-deployed ICBMs, SLBMs and heavy bombers and to convert individual SLBM launchers and heavy bombers provides the opportunity to maintain a triad throughout the life of the Treaty.

Respectfully,

JAMES E. CARTWRIGHT
General, USMC
Vice Chairman
of the Joint Chiefs of Staff

Copy to:

The Honorable John McCain
Ranking Member

LETTER FROM THE HONORABLE RICHARD R. VERMA, ASSISTANT SECRETARY OF STATE FOR LEGISLATIVE AFFAIRS, AUGUST 3, 2010

United States Department of State

Washington, D.C. 20520

AUG 03 2010

Dear Mr. Chairman:

I write in response to requests related to the negotiation of the Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms (the "New START Treaty"). Specifically, in a May 6 letter to the President, several members of the Committee asked for "all draft versions of the treaty, all memoranda or notes relating to the negotiating history of the Treaty, and any and all other documents or records constituting the *travaux prèparatoires*. The request, by it terms, covers a wide array of internal Executive Branch communications, including "drafts, memoranda, notes, statements, records of meetings, working papers, transcriptions, correspondence, letters, electronic mail and any other form of communication among representatives and officials of the United States."

Since the date of the letter, President Obama transmitted the New START Treaty to the Senate. The transmittal package included a detailed, article-by-article analysis of the Treaty. This analysis is nearly 200 pages long and includes information regarding the U.S. interpretation of the Treaty. These materials were prepared in close coordination with the treaty negotiators and provide a detailed explanation of U.S. rights and obligations under the New START Treaty.

Following signature of the Treaty, senior Administration officials, including members of the negotiating team, have been widely available to answer questions on the Treaty and the negotiations. Administration witnesses testified at 10 hearings before three Senate committees. Administration representatives, including members of the negotiating team, also conducted numerous briefings for Senators and staff.

In June, the Intelligence Community submitted a National Intelligence Estimate for the New START Treaty; it addresses the challenges of monitoring Russian compliance with the Treaty's obligations. Additionally, the State Department submitted a report, pursuant to Section 306 of the Arms Control and Disarmament Act, on the verifiability of the Treaty.

The Honorable
John F. Kerry, Chairman,
Committee on Foreign Relations,
United States Senate.

Finally, the Executive Branch has answered nearly 500 questions for the record regarding the Treaty, and is preparing answers to around 280 more questions. Like other components of the advice and consent process, these questions address all aspects of the New START Treaty.

In sum, the Administration has provided a vast amount of information regarding the New START Treaty to the Committee. We have made every effort to provide the Committee with a full understanding of every right and obligation the United States would undertake as a party to the Treaty, were it to enter into force. And indeed, our colleagues from the intelligence community, the Joint Chiefs of Staff, the Defense Department, and our own State Department witnesses repeatedly testified about the Executive Branch's consistent understanding of the Treaty's terms.

If we were to provide the Committee with access to the "negotiating record" as requested, we would be contributing to a practice that, as noted by Chairman Kerry, would damage the treaty-making process and erode the constitutional allocation of responsibility.

The longstanding practice in consideration of treaties is that the Senate does not request, and the Executive does not provide, the negotiating record. That was the case throughout the 110th Congress, when some 90 treaties were approved by the Senate. That was also the case in the Senate's consideration of other major arms control and security treaties over the past two decades, including the Moscow Treaty in 2002 and 2003, the START I and START II Treaties in the 1990s, and the three instance in the past 12 years when the North Atlantic Treaty Organization was expanded. This practice of reviewing and approving treaties without access to the negotiating record has consistently occurred during both Democratic and Republican majorities in the Senate, and Democratic and Republican administrations.

There have been rare exceptions to this general rule, including during the Senate's consideration of the Intermediate-Range Nuclear Forces (INF) Treaty in 1988, when the Reagan Administration agreed to the provided certain materials from the record under strict terms and conditions to the Senate.

Significantly, the Foreign Relations Committee warned against repeating this practice in its report on the INF Treaty. The report cautioned that a

"systematic expectation of Senate perusal of every key treaty's negotiating record could be expected to inhibit candor during future negotiations and induce posturing on the part of U.S. negotiators and their counterparts during sensitive discussions. Moreover, the Committee noted that the overall effect of such review "would be to weaken the treaty-making process and thereby to damage American diplomacy." We share these serious concerns. We are also concerned about providing information that would include confidential executive branch communications and deliberations.

We are prepared, however, to provide a classified summary of discussions in the New START Treaty negotiations on the issue of missile defense, an area of considerable interest to many Senators during Senate hearings. This expection to longstanding practice is consistent with an approach suggested during the Committee's hearing on May 18, when Senator DeMint indicated that he would accept "some record of the discussion related to our missile defense and the linkage that was included in the preamble." The summary provides a detailed account of the negotiations, starting in April 2009 through the conclusion in March 2010, including Russian proposals regarding missile defense, the negotiations in Geneva between the parties as this issue evolved, and the U.S. responses and counterproposals regarding the language in the Treaty. Of course, members of the negotiating team remain available to brief Senators on any aspect of the negotiations. Provision of this summary does not constitute a waiver of any privileges that may apply.

We have delivered a copy of the SECRET/NOFORN summary on your behalf to the Foreign Relations Committee so that you and your appropriately cleared staff may read it at your convenience. Under Executive Order 13526, the Department may not disseminate classified information outside the Executive Branch except under conditions that ensure that the information will be given protection equivalent to that afforded such information within the Executive Branch. Classified, proprietary, intelligence sources, and other sensitive information may not be publicly disclosed or handled in such a manner that might lead to public disclosure. We ask that you protect the classified information by applying standards at least as stringent as E.O. 13526 on the handling of classified information.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

Richard R. Verma

Richard R. Verma
Assistant Secretary
Legislative Affairs

LETTER FROM FORMER COMMANDERS OF STRATEGIC AIR COMMAND, AND U.S. STRATEGIC COMMAND, JULY 14, 2010

July 14, 2010

Senator Carl Levin
Chairman
Senate Armed Services Committee

Senator John McCain
Ranking Member
Senate Armed Services Committee

Senator John F. Kerry
Chairman
Senate Foreign Relations Committee

Senator Richard G. Lugar
Ranking Member
Senate Foreign Relations Committee

Gentlemen:

As former commanders of Strategic Air Command and U.S. Strategic Command, we collectively spent many years providing oversight, direction and maintenance of U.S. strategic nuclear forces and advising presidents from Ronald Reagan to George W. Bush on strategic nuclear policy. We are writing to express our support for ratification of the New START Treaty. The treaty will enhance American national security in several important ways.

First, while it was not possible at this time to address the important issues of non-strategic weapons and total strategic nuclear stockpiles, the New START Treaty sustains limits on deployed Russian strategic nuclear weapons that will allow the United States to continue to reduce its own deployed strategic nuclear weapons. Given the end of the Cold War, there is little concern today about the probability of a Russian nuclear attack. But continuing the formal strategic arms reduction process will contribute to a more productive and safer relationship with Russia.

Second, the New START Treaty contains verification and transparency measures—such as data exchanges, periodic data updates, notifications, unique identifiers on strategic systems, some access to telemetry and on-site inspections—that will give us important insights into Russian strategic nuclear forces and how they operate those forces. We will understand Russian strategic forces much better with the treaty than would be the case without it. For example, the treaty permits on-site inspections that will allow us to observe and confirm the number of warheads on individual Russian missiles; we cannot do that with just national technical means of verification. That kind of transparency will contribute to a more stable relationship between our two countries. It will also give us greater predictability about Russian strategic forces, so that we can make better-informed decisions about how we shape and operate our own forces.

Third, although the New START Treaty will require U.S. reductions, we believe that the post-treaty force will represent a survivable, robust and effective deterrent, one fully

capable of deterring attack on both the United States and America's allies and partners. The Department of Defense has said that it will, under the treaty, maintain 14 Trident ballistic missile submarines, each equipped to carry 20 Trident D-5 submarine-launched ballistic missiles (SLBMs). As two of the 14 submarines are normally in long-term maintenance without missiles on board, the U.S. Navy will deploy 240 Trident SLBMs. Under the treaty's terms, the United States will also be able to deploy up to 420 Minuteman III intercontinental ballistic missiles (ICBMs) and up to 60 heavy bombers equipped for nuclear armaments. That will continue to be a formidable force that will ensure deterrence and give the President, should it be necessary, a broad range of military options.

We understand that one major concern about the treaty is whether or not it will affect U.S. missile defense plans. The treaty preamble notes the interrelationship between offense and defense; this is a simple and long-accepted reality. The size of one side's missile defenses can affect the strategic offensive forces of the other. But the treaty provides no meaningful constraint on U.S. missile defense plans. The prohibition on placing missile defense interceptors in ICBM or SLBM launchers does not constrain us from planned deployments.

The New START Treaty will contribute to a more stable U.S.-Russian relationship. We strongly endorse its early ratification and entry into force.

Sincerely,

General Larry Welch
USAF, Ret

General John Chain
USAF, Ret

General Lee Butler
USAF, Ret

Admiral Henry Chiles
USN, Ret

General Eugene Habiger
USAF, Ret

Admiral James Ellis
USN, Ret

General Bennie Davis
USAF, Ret

FACT SHEET ON THE PLAN IN THE 1251 REPORT, MAY 13, 2010

The New START Treaty – Maintaining a Strong Nuclear Deterrent

Earlier today, the President submitted the New START Treaty to the Senate for its advice and consent to ratification. An important milestone for the President's non-proliferation agenda, the treaty will limit the U.S. and Russia to significantly fewer strategic arms, while permitting each Party the flexibility to determine for itself the structure of its strategic forces within the Treaty limits.

The President has also provided to Congress a classified report, as required by Section 1251 of the National Defense Authorization Act for FY 2010, on the comprehensive plan to: (1) maintain delivery platforms; (2) sustain a safe, secure, and reliable U.S. nuclear weapons stockpile; and (3) modernize the nuclear weapons complex. This report is based on the policies and principles in the Nuclear Posture Review and describes a comprehensive plan for sustaining a strong nuclear deterrent for the duration of the New START Treaty and beyond. The plan includes investments of $80 billion to sustain and modernize the nuclear weapons complex over the next decade.

Nuclear Force Structure under New START. The Secretary of Defense, based on recommendations from the Joint Chiefs of Staff, has established a baseline nuclear force structure that fully supports U.S. security requirements and conforms to the New START limits. This force structure – which provides a basis for future planning -- provides the flexibility to make adjustments as appropriate, and as permitted by the treaty:

- The United States currently has 450 intercontinental ballistic missile (ICBM) silos. The baseline plan will retain up to 420 deployed ICBMs, all with a single warhead.
- The United States currently has 94 deployable nuclear-capable bombers. Under the baseline plan, some will be converted to conventional-only bombers (not accountable under the treaty), and up to 60 nuclear-capable bombers will be retained.
- The United States currently has 14 strategic nuclear submarines (SSBNs). Under the baseline plan, all 14 will be retained. The United States will reduce the number of SLBM launchers (launch tubes) from 24 to 20 per SSBN, and deploy no more than 240 SLBMs at any time.

Over the next decade, the United States will invest well over $100 billion in nuclear delivery systems to sustain existing capabilities and modernize some strategic systems.

Stockpile Stewardship and Infrastructure Modernization. U.S. nuclear weapons will undergo extensive life extension programs in the coming years to ensure their safety, security and effectiveness. Maintaining a credible nuclear deterrent requires that the United States operate a modern physical infrastructure and sustain a highly capable workforce. The Administration's modernization plan will ensure that our nuclear complex has the essential capabilities to support a strong nuclear deterrent – as well as arms control, non-proliferation, and counter-proliferation requirements -- over the next decade and beyond. The President is committed to modernizing the nuclear complex and maintaining a safe, secure, and effective nuclear deterrent without nuclear testing.

The President requested $7 billion in FY 2011 for stockpile sustainment and infrastructure investments, a nearly 10% increase over FY 2010. As outlined below, the Administration intends to invest $80 billion in the next decade to sustain and modernize the nuclear weapons complex.

Projections for Weapons Stockpile and Infrastructure Costs *(then-year dollars in $ billions)*

	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
TOTAL	6.4	7.0	7.0	7.1	7.4	7.7	8.4	8.9	9.0	8.7	8.8

○