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MAPPING
A NATIONAL SECURITY
FAILURE

Ratification of the
New START treaty

BEN LERNER

NOVEMBER 2011

**MAPPING A NATIONAL SECURITY FAILURE:
RATIFICATION OF THE NEW START TREATY**

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THE CENTER FOR SECURITY POLICY

1901 Pennsylvania Avenue, Suite 201

Washington, DC 20006

Phone: (202) 835-9077 Email: info@securefreedom.org

For more information, please see securefreedom.org

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INTRODUCTION

On December 22, 2010, the United States Senate voted to ratify the Treaty Between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms—known more popularly as the New Strategic Arms Reduction Treaty, or “New START.” At its most basic level, New START imposed ceilings on the number of strategic nuclear warheads and launchers that could be deployed by the United States or Russia. Substantively, however, New START was a severely flawed treaty with numerous negative implications for U.S. national security, both in terms of what the treaty outlined in its text as well as what was omitted from it.

Equally problematic, New START was pushed through the Senate through a flawed process that emphasized speedy ratification at the expense of fully informed and balanced deliberation, particularly with respect to missile defense, and that enabled the Obama administration to use questionable pledges of nuclear modernization to persuade key Senators to vote in favor of the treaty—pledges that can reasonably be called into question given subsequent developments.

In order to fully understand the substantive and procedural pitfalls that came to define the New START treaty and the push for its ratification, it is necessary first to place the treaty in the context of two of the Obama administration’s major foreign policy objectives: 1) the intent to “reset” the U.S. relationship with Russia; and 2) the desire to bring about a “world without nuclear weapons.”

RUSSIAN “RESET”

The Obama administration’s prioritization of U.S.-Russia relations manifested itself early, at the highest levels. On February 7, 2009, Vice President Joseph Biden addressed the 45th Munich Conference on Security Policy, during which he stated in part:

The United States rejects the notion that NATO’s gain is Russia’s loss, or that Russia’s strength is NATO’s weakness. The last few years have seen a dangerous drift in relations between Russia and the members of our Alliance. It is time—to paraphrase President Obama—it’s time to press the reset button and to revisit the many areas where we can and should be working together with Russia.¹

Secretary of State Hillary Clinton would famously follow up on Vice President Biden’s address with a visit to Russia’s then-Foreign Minister Sergei Lavrov, presenting him with a prop “reset button” as an official (if theatrical) signal that the Obama administration was seeking a renewed relationship with Russia.

The perceived need for a “reset” of U.S.-Russia relations stemmed from several points of contention between the two nations going back to the administration of President George W. Bush, as well as between Russia and NATO, and was fueled by the perceived need for Russian cooperation on U.S. wartime efforts in Afghanistan and on addressing the burgeoning Iranian nuclear weapons program. The Bush administration had planned to deploy missile defense systems in Poland and the Czech Republic, and had signaled support for the expansion of NATO to include Ukraine and Georgia, both former Soviet republics.² Tensions between Washington and Moscow were further exacerbated by the Russian invasion of neighboring Georgia in the summer of 2008, resulting in President Bush declaring that Russia must withdraw its forces from there, and vowing that the United States would “work with our allies to ensure Georgia’s independence and territorial integrity.”³ Dmitry Medvedev, President of the Russian Federation, spelled out a list of particulars

in early 2009, citing U.S. missile defense initiatives and attempted NATO expansion among the reasons for the deterioration in the relationship:

Unfortunately, relations soured because of the previous U.S. administration's plans—specifically, deployment of the U.S. global missile defense system in Eastern Europe, efforts to push NATO's borders eastward and refusal to ratify the Treaty on Conventional Armed Forces in Europe. All of these positions undermined Russia's interests and, if implemented, would inevitably require a response on our part.⁴

Adding some sense of urgency to the idea of “resetting” relations with Russia was the government of Kyrgyzstan's announcement on 3 February 2009—just days after Russia had offered Kyrgyzstan a \$2 billion aid package—that American troops would have to leave that nation's Manas airbase, which had served as a key supply conduit for operations in Afghanistan.⁵ It was not lost on some analysts when a few days later, Russia offered its airspace for American use to transport supplies to Afghanistan—sending a signal that Russia had no problem asserting itself as a critical player in U.S. war efforts there.⁶

The issue of Iran's nuclear program also played a role in motivating the “reset.” Just a few weeks after Vice President Biden's remarks in Munich, then-Secretary of Defense Robert Gates stated that the United States was seeking to reopen dialogue with Moscow on the issue of Iran's nuclear weapons program.⁷ The White House would later identify Russia's 2010 support for United Nations sanctions against Iran—specifically, United Nations Security Council Resolution 1929—as having resulted from the U.S.-Russia “reset” initiative,⁸

The New START treaty would come to be cast interchangeably as an instrument of the reset and as a product of it. The “Reset” Fact Sheet released by the White House on 24 June, 2010, declared: “On the occasion of President Medvedev's visit to the United States and one year after President Obama visited Russia, it is time to take stock of what has been achieved from this change in policy and what remains to be done in developing a more substantive relationship with Russia.”⁹ The first item to be highlighted: The New START Treaty.

Rose Gottemoeller, Assistant Secretary of State for Verification, Compliance and Implementation, and key U.S. negotiator for New START, would go on to frame the relationship between the “reset” and New START this way:

We have gotten some immediate benefits into the Russian relationship from working so closely together on the START deal. I see an effect particularly on our ability to work with the Russians on Iran.

The result was I think their full support for this very good sanctions resolution that was passed after the treaty was signed in April. And the Russians have been working with us in other ways on Iran that's very important.

So I think there are some perhaps penalties that we would pay in the US-Russia relationship [if the U.S. failed to ratify New START].¹⁰

“ A W O R L D W I T H O U T N U C L E A R W E A P O N S ”

The second contextual pillar on which President Obama’s pursuit of New START rested was his ambition to lead the effort to phase out nuclear weapons globally altogether. This agenda did not originate with President Obama, but he and his allies were straightforward about framing New START as one of its principal building blocks.

The movement to ban nuclear weapons globally has been around for several decades, but it gained significant mileage and, critically, bipartisan cover with the advent of the Global Zero campaign. Founded in late 2006 by two anti-nuclear activists, the campaign received an important boost from some unlikely sources in the form of a series of *Wall Street Journal* op-eds penned jointly by former Secretaries of State Henry Kissinger and George Shultz (who served under Presidents Nixon and Reagan, respectively), former Secretary of Defense Bill Perry (who served under President Bill Clinton), and former Senator Sam Nunn (D-Georgia), who had previously served as Chairman of the Senate Armed Services Committee.

In January, 2007, Mssrs. Kissinger, Shultz, Perry and Nunn (who would later come to be known collectively as the “four horsemen of the apocalypse”) fired their first critical shot in the pages of the *Journal*:

Nuclear weapons today present tremendous dangers, but also an historic opportunity. U.S. leadership will be required to take the world to the next state—to a solid consensus for reversing reliance on nuclear weapons globally as a vital contribution to preventing their proliferation into potentially dangerous hands, and ultimately ending them as a threat to the world...

...Reassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal would be, and would be perceived as, a bold initiative consistent with America’s moral heritage. The effort could have a profoundly positive impact on the security of future generations...

...We endorse setting the goal of a world free of nuclear weapons and working energetically on the actions required to achieve that goal.¹¹

The significance of these particular authors making this argument was considerable. As *The Economist* recently framed it:

...All were veterans of America's cold-war security establishment with impeccable credentials as believers in nuclear deterrence...[s]uddenly, Global Zero was able to recruit people who were a far cry from the old 'ban the bomb' crowd.¹²

The "four horsemen" would continue to make their case the following year, with another *Wall Street Journal* piece in early 2008:

...With nuclear weapons more widely available, deterrence is decreasingly effective and increasingly hazardous... [I]nspired by [reaction to the *Wall Street Journal* essay from 2007], we convened veterans of the past six administrations... There was general agreement about the importance of the vision of a world free of nuclear weapons as a guide to our thinking about nuclear policies, and about the importance of a series of steps that will pull us back from the nuclear precipice.¹³

Notably, the first step mentioned is this "series of steps" was the extension of the verification provisions of the Strategic Arms Reductions Treaty (START) of 1991, which would expire in December 2009. The need for putting START verification mechanisms back in place would later become one of the arguments advanced by supporters of New START ratification.

The "Global Zero" agenda went on to receive its official boost from President Obama on 5 April, 2009, in Prague. This would constitute the President's first explicit linkage between New START and his broader "de-nuclearization" ambitions:

So today, I state clearly and with conviction America's commitment to seek the peace and security of a world without nuclear weapons. I'm not naïve. This goal will not be reached quickly—perhaps not in my lifetime. It will take patience and persistence. But now we, too, must ignore the voices who tell us that the world cannot change. We have to insist, 'Yes, we can.'

Now, let me describe to you the trajectory we need to be on. First, the United States will take concrete steps towards a world without nuclear weapons. To put an end to Cold War thinking, we will reduce the role of nuclear weapons in our national security strategy, and urge others to do the same. Make no mistake: As long as these weapons exist, the United States will maintain a safe, secure and effective arsenal to deter any

adversary, and guarantee that defense to our allies—including the Czech Republic. But we will begin the work of reducing our arsenal.

To reduce our warheads and stockpiles, we will negotiate a new Strategic Arms Reduction Treaty with the Russians this year. President Medvedev and I began this process in London, and will seek a new agreement by the end of this year that is legally binding and sufficiently bold. And this will set the stage for further cuts, and we will seek to include all nuclear weapons states in the endeavor.¹⁴

A key ingredient in the formulation that New START could help bring about a world without nuclear weapons was the notion that the United States could maintain credibility in calling for Iranian and North Korean cessation of nuclear activities only if the United States demonstrated willingness to downgrade its own nuclear deterrence capabilities. Senator John Kerry (D-Massachusetts), Chairman of the Senate Foreign Relations Committee, framed it this way:

The cuts in New START thus help prevent the spread of nuclear weapons by demonstrating America's commitment to our [Nuclear Non-Proliferation Treaty] obligations and encouraging the cooperation of non-nuclear states... If we reject [New START], however, the United States would lose credibility, Iran would be better able to cast the United States as a source of international instability, and other nations would question our intentions. After all, what, they would ask, do we really need all these nuclear weapons for?¹⁵

Some supporters of the New START treaty voiced skepticism, however, as to the tactical wisdom of explicitly tying New START to a vision of a nuclear-free world. Sen. Richard Lugar (R-Indiana), Ranking Member of the Senate Foreign Relations Committee and an early supporter of ratification, commented:

I don't fault... President Obama for talking about a world without nuclear weapons, but neither do I think it is a particularly good idea to express the process in that way... talk of 'no nukes' also invites opposition from those who see it as a sign of weakness in those who lack the backbone to face the world as it is. I don't think that criticism is fair, but it's out there.¹⁶

Clearly, the Russian "reset" and the President's decision to actualize the Global Zero vision of a "world without nuclear weapons" were driving forces in the administration's insistence on New START ratification. But they only take us part of the way in understanding how the ratification process unfolded and why proponents of New START were ultimately successful. For a fuller understanding, an analysis both of the substantive arguments

advanced in favor of the treaty, and how those arguments both informed and were enabled by the ratification process, is necessary.

THE QUESTIONABLE CORE PREMISE OF NEW START

In its essentials, the New START treaty commits the United States and Russia to a limit of 1,550 deployed strategic nuclear warheads each, and to a limit of 700 deployed ICBMs, deployed SLBMs, and deployed heavy bombers equipped to carry nuclear armaments.¹⁷ New START was designed to replace the original 1991 Strategic Arms Reduction Treaty (START), which expired on 5 December, 2009, and to supersede the 2002 Strategic Offensive Reductions Treaty, or SORT (also referred to as the Moscow Treaty), which was due to remain in force until the end of 2012.¹⁸ New START is to remain in force for ten years, and, like its START predecessor, provides for a monitoring and verification regime.¹⁹

During the course of debate over ratifying New START, several defenses and critiques of the merits of the treaty were articulated. One area that was the subject of considerable attention by treaty skeptics had direct bearing on the premise of the treaty—the extent to which New START was actually effectuating a meaningful reduction in deployed Russian nuclear weapons.

First, though proponents of the treaty claimed that New START would result in a 30% reduction in deployed nuclear warheads from the 2002 Moscow Treaty, the “counting rules” designed to determine whether either nation’s nuclear weapons counted towards the numerical limit were fundamentally flawed. Specifically, Article III Section 2(b) of New START stated that each deployed heavy bomber would count as one deployed nuclear warhead—meaning that irrespective of how many warheads a heavy bomber was actually capable of carrying (six to sixteen nuclear weapons each, by some estimates),²⁰ New START would count only the *bomber* as a single deployed nuclear weapon. Such a formulation would allow Russia to substantially move past the 1,550 deployed warhead ceiling. Indeed, Russia clearly interpreted the rules this way—Russian news outlets reported that New START would enable Russia to keep 2,100 strategic nuclear warheads.²¹ Though

some argued that the United States could theoretically avail itself of this counting rules loophole, Russia's ongoing drive to modernize its nuclear forces made this counting rule particularly worrisome. President Medvedev announced a new military doctrine early in 2010, with one of its cornerstones being the modernization of its nuclear triad.²² And as discussed in the *Journal of International Security Affairs* in 2009, specifically with respect to bombers:

While it has never been the cornerstone of the Russian triad, Moscow's modernization of its strategic bomber fleet nevertheless continues steadily. Two strategic bombers will be commissioned into the Russian Air Force every three years, according to General Vladimir Mikhailov, the commander of the Russian Air Force.² Russia has three types of bombers in its fleet, the Tu-160 'Blackjack,' Tu-22 'Blinder,' and Tu-95 'Bear.' The new bombers will be Tu-160s.²³

Other major loopholes in the New START counting rules included the treaty's failure to prohibit MIRVed ICBMs (missiles armed with "multiple independently targetable reentry vehicles," or multiple warheads) and its complete omission of rail-mobile ICBMs as counting towards the treaty's launcher limits. Some analysts have described the omission of rail-mobile ICBMs as "quite significant", given Russia's history of having deployed these weapons and apparent interest in continuing to do so.²⁴

Second, the New START treaty did not address tactical nuclear weapons whatsoever, leaving Russia with a considerable advantage over the United States with respect to these types of weapons. Thomas P. D'Agostino, Administrator of the National Nuclear Security Administration, testified before Congress in 2009 that the Russians were thought to hold an advantage over the United States in tactical nuclear weapons by a ratio of ten-to-one.²⁵ The bipartisan Strategic Posture Commission, in its final report, conveyed its deep concerns with respect to Russian tactical nuclear weapons:

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 (NSNF, particularly weapons intended for tactical use on the battlefield).²⁶

...[Russia] stores thousands of [tactical nuclear] weapons in apparent support of possible military operations west of the Urals. The United States deploys a small fraction of that number in support of nuclear sharing agreements in NATO.²⁷

...How should non-strategic nuclear weapons be accounted for? The imbalance favoring Russia is worrisome, including for allies, and it will become more worrisome as the number of strategic weapons is decreased. Dealing with this imbalance is urgent

and, indeed, some commissioners would give priority to this over taking further steps to reduce the number of operationally deployed strategic nuclear weapons.²⁸

Third, New START did not actually require Russia to reduce its number of deployed strategic nuclear weapons, despite the Obama administration's repeated insistence to the contrary. While the Russians are no doubt still committed to modernizing their nuclear capabilities, the Russians were already below the New START ceilings for deployed launchers and warheads when the treaty came into force—so much so that the Russian defense minister has stated that Russia will endeavor until 2028 to *build up* to New START's strategic launcher limits.²⁹ Former U.S. Ambassador to the United Nations, John Bolton, described the dynamic this way:

Low and equal warhead limits also ignore the two sides' disparate, evolving technological and operational capabilities. Since the 2002 Treaty of Moscow, Russia has skillfully used global oil-price increases to upgrade and modernize its warhead stockpiles and delivery systems. In light of its limited financial resources, then, Russia has out-negotiated the Obama administration, by contriving to set treaty ceilings that it can reach, barely, and that actually allow it to increase its total number of delivery systems, substituting newer, more sophisticated platforms for many relics now in service. In stark contrast, the United States has done precious little for decades to modernize its warheads and delivery systems.³⁰

Yet when confronted with these assertions, the Obama administration flatly denied that New START required only the United States to reduce its forces. When the issue of whether the treaty actually required Russia to draw down was raised during a hearing before the Senate Armed Services Committee, Secretary of State Clinton responded:

You will find there are, unfortunately, a number of commentators or analysts who just don't believe in arms control treaties at all and from my perspective are very unfortunately slanting a lot of what they say. This is a perfect example of that, because, as Secretary Gates just pointed out, there would be reductions on the Russian side.³¹

Similarly, when then-Vice Chairman of the Senate Intelligence Committee Sen. Christopher "Kit" Bond stated on the Senate floor that New START would require the United States to draw down its deployed nuclear forces while allowing Moscow to *increase* its own, the Department of State responded the New START does not require the United States to reduce unilaterally.³²

Despite these concerns, most Senators were apparently nonetheless persuaded of New START's stated premise: that the treaty would reduce Russian nuclear weapons and

launchers. Had more Senators applied more scrutiny to this premise, the ratification process perhaps would have been halted much sooner, or at least slowed down to a pace necessary for fully informed advice and consent.

Other significant substantive drawbacks of the New START treaty would become more closely intertwined with the ratification process itself, a summary of which follows.

NEW START RATIFICATION PROCESS: AN OVERVIEW

- April 2009 President Obama and Russian President Medvedev agree to have their representatives commence negotiations on a comprehensive arms control agreement to replace the START treaty between the two nations, scheduled to expire in December, 2009.³³
- 6 July 2009 Presidents Obama and Medvedev agree to framework for negotiations to reduce respective nuclear arsenals.³⁴
- 18 September 2009 President Obama announces he will dispense with plans for missile defense installations in Poland and the Czech Republic, instead favoring a reconfigured system for shooting down short and medium-range Iranian missiles.³⁵
- 28 October 2009 President Obama signs 2010 National Defense Authorization Act into law, Section 1251 of which links ratification of a U.S.-Russia arms reduction agreement to a plan, with funding, for U.S. nuclear modernization.³⁶
- 5 December 2009 Original START treaty expires.
- 18 December 2009 All forty Republican U.S. Senators, plus Senator Joseph Lieberman (I-CT), inform President Obama reminding him of the defense authorization law linking U.S.-Russia arms reductions to U.S. nuclear modernization: "...we don't believe further reductions can be in the national security interest of the U.S. in the absence of a significant program to modernize our nuclear deterrent." The letter also stated that a new treaty "must not limit U.S. missile defenses, space capabilities, or advanced

conventional modernization, such as non-nuclear global strike capability.”³⁷

- February 2010 Department of Defense releases February 2010 Ballistic Missile Defense Review Report which, according to the Heritage Foundation, limits ballistic missile defense “so that it does not affect the strategic balance with Russia or even China.”³⁸
- 17 February 2010 Senators Jon Kyl (R-Arizona), John McCain (R-Arizona), and Joseph Lieberman (I-Connecticut) send a letter to then-National Security Advisor Gen. James Jones, asking for Jones’ assurance that the Obama administration will not agree to any New START treaty text or any unilateral Russian declarations that would limit U.S. missile defense in any way.³⁹
- 6 April, 2010 Russian Foreign Minister Sergei Lavrov states that the linkage in the New START treaty’s preamble between strategic offensive and strategic defensive arms (i.e. missile defense) is legally binding.⁴⁰
- 8 April 2010 Presidents Obama and Medvedev sign the New START treaty; Russia releases a unilateral declaration stating that New START will only remain viable if the United States “refrains from developing its missile defence capabilities quantitatively or qualitatively”, and reserves the right to withdraw from the treaty if the United States develops missile defense “in such a way that threatens the potential of the strategic nuclear forces of the Russian Federation.”⁴¹ The United States issues a statement on the same day, stating that U.S. missile defense systems are “not intended to affect the strategic balance with Russia”, and that “The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack ad as part of our collaborative approach to strengthening stability in key regions.”⁴²
- 21 April 2010 State Department releases fact sheet stating that New START’s preamble language on missile defense is *not* legally binding.⁴³
- 6 May 2010 Six members of the Senate Foreign Relations Committee send a letter to President Obama asking for access to the complete negotiating record for the New START

treaty.⁴⁴

- 13 May 2010 Obama administration submits New START to Senate for ratification, along with Section 1251 Report laying out administration's plan for modernizing US nuclear enterprise.⁴⁵
- 18 May 2010 Senate Foreign Relations Committee hearing—Secretary of State Hillary Clinton; Secretary of Defense Robert Gates; Chairman of the Joint Chiefs of Staff Adm. Michael Mullen, USN, testifying on “The New START Treaty.”
- 19 May 2010 Senate Foreign Relations Committee hearing—Hon. James Baker, former Secretary of State, testifying on “The History and Lessons of START.”
- 25 May 2010 Senate Foreign Relations Committee hearing—Hon. Henry Kissinger, former Secretary of State, testifying on “The Role of Strategic Arms Control in a post-Cold War World.”
- 8 June 2010 Senate Foreign Relations Committee closed hearing - Hon. Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance; Hon. Edward L. Warner III, Secretary of Defense Representative to post-START negotiations, testifying on “The New START treaty—the negotiations.”
- 15 June 2010 Senate Foreign Relations Committee hearing—Hon. Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance; Hon. Edward L. Warner III, Secretary of Defense Representative to post-START negotiations, testifying on “The New START treaty—the negotiations.”
- 16 June 2010 Senate Foreign Relations Committee hearing—Hon. James N. Miller, Jr., Deputy Undersecretary of Defense for Policy; Gen. Kevin. P. Chilton USAF, Commander, United States Strategic Command; Lt. Gen. Patrick J. O'Reilly, USA, Director, Missile Defense Agency, testifying on “The New START Treaty—Views from the Pentagon.”
- 16 June 2010 *The Washington Times* reports that the Obama administration has undertaken secret negotiations with the Russians that may limit U.S. missile defense.⁴⁶

- 17 June 2010 Senate Armed Services Committee hearing—Secretary of State Hillary Clinton; Secretary of Defense Robert Gates; Secretary of Energy Steven Chu; Chairman of the Joint Chiefs of Staff Adm. Michael Mullen, USN, testifying on New START and implications for national security programs.
- 24 June 2010 Senate Foreign Relations Committee hearing—Hon. Robert Joseph, National Institute for Public Policy; Hon. Eric Edelman, Center for Strategic and Budgetary Assessments; Dr. Morton H. Halperin, Open Society Institute testify on “The New Start Treaty: Benefits and Risks”; Senate Foreign Relations Committee hearing—Hon. James N. Miller, Jr., Deputy Undersecretary of Defense for Policy; Kenneth A. Myers III, Director, Defense Threat Reduction Agency testify on “New START treaty implementation—inspections and assistance.”
- 14 July 2010 Senate Foreign Relations Committee closed hearing—undisclosed intelligence community officials; Hon. Rose Gottemoeller, Assistant Secretary of State for Verification and Compliance testify on “The New START Treaty: Monitoring and Verification of Treaty Compliance.”; Senate Armed Services Committee closed hearing—Andrew M. Gibb of National Intelligence Council on National Intelligence Estimate on Verifiability of New START.
- 14 July, 2010 Several former commanders of Strategic Air Command and U.S. Strategic Command send a letter in support of New START to the Chairmen and Ranking Members of the Senate Foreign Relations Committee and Senate Armed Services Committee.⁴⁷
- 15 July 2010 Senate Foreign Relations Committee hearing—Lab Directors of Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Sandia National Laboratory testify on “maintaining a safe, secure and effective nuclear arsenal.”; Senate Armed Services Committee hearing—Lab Directors, and Dr. Roy Schwitters, Chairman, JASON Defense Advisory Group testify on “sustaining nuclear weapons under New START.”
- 20 July 2010 Senate Armed Services Committee hearing—Hon. James Miller, Deputy Undersecretary of Defense for Policy; Hon. Thomas D’Agostino, Director, National Nu-

clear Security Administration; Gen. Kevin Chilton, Commander, U.S. Strategic Command, testify on “implementation of the New START.”

- 27 July 2010 Senate Armed Services Committee hearing—Amb. Steven Pifer, Brookings Institute; Franklin Miller, independent consultant; Dr. John Foster, independent consultant; Dr. Keith Payne, Missouri State University, provide “independent analyses of the New START.”
- 29 July 2010 Senate Armed Services Committee hearing—Dr. Edward Warner, Secretary of Defense Representative to post-START Negotiations, Department of Defense; Michael Elliott, Deputy Director, Plans and Policy, U.S. Strategic Command; testify on “strategic force structure options under the New START; Hon. Rose Gottemoeller, Assistant Secretary of State for Verification, Compliance and Implementation; Dr. Edward Warner, testify on the New START.
- 5 August 2010 Senate Armed Services Committee closed hearing—Robert Walpole, National Counterproliferation Center; Charles Monson, National Intelligence Council, testify on “Russian force structure in support of the New START treaty.”
- 24 September 2010 Senate Foreign Relations Committee passes New START resolution of ratification.
- 29 October 2010 Interfax reports that the head of the Russian State Duma international affairs committee plans to recommend to committee members that ratification of New START be reconsidered in view of the Senate Foreign Relations Committee’s resolution.⁴⁸
- 10 November 2010 A bipartisan group of fifteen former Senators write a letter to Senate leadership urging them not to hold a ratification vote in a lame-duck session of the Senate.⁴⁹
- 16 November 2010 Sen. Kyl announces he does not believe that New START can be ratified in a lame-duck session of the Senate.⁵⁰
- 17 November 2010 Senate Armed Services Committee closed hearing—Hon. James Miller, Department of Defense; Gen. Kevin Chilton, Commander, U.S. Strategic Command, testify on “net assessment of Russian and U.S. strategic forces

in support of the New START.

- 18 November 2010 Several newly elected Senators write a letter to Senate Majority Leader Harry Reid requesting that a ratification vote on New START not be held in a lame-duck session of the Senate.⁵¹
- 22 November 2010 *The Washington Times* reports that Sen. Kit Bond, then-Vice Chairman, Senate Intelligence Committee, has announced opposition to New START based on classified intelligence.⁵²
- 24 November, 2010 Senators Kyl and Corker circulate memorandum to Senate Republican colleagues explaining status of, and concerns about, nuclear modernization.⁵³
- 30 November 2010 *The Washington Times* reports that, despite previous denials by Secretary Gates and Secretary Clinton, the Obama administration had held secret talks with Russia on a possible ballistic missile defense agreement.⁵⁴
- 1 December 2010 National Laboratory directors sign letter to Chairman Kerry and Ranking Member Lugar expressing support for President's 1251 Modernization Plan.⁵⁵
- 1 December 2010 Department of State releases Fact Sheet on "Missile Defense Cooperation with the Russian Federation".⁵⁶
- 1 December 2010 *The Cable* reports that Senators Kyl, Risch and Kirk have sent a letter to President Obama seeking more information on the administration's interactions with Russia on missile defense.⁵⁷
- 20 December 2010 President Obama sends a letter to the Senate, detailing the U.S. position on missile defense as it is affected by the New START treaty.⁵⁸
- 22 December 2010 The full Senate votes to ratify New START, 71-26.
- 24 December 2010 Russia's State Duma postpones ratification of New START in response to concerns about text of Senate's resolution of ratification.⁵⁹
- 14 January 2011 Russia's State Duma approves amendments to New START concerning Russia's own understandings on U.S. missile defense.⁶⁰

- 28 January 2011 Russian President Medvedev gives Russia's final approval to New START.⁶¹
- 5 February 2011 The United States and Russia exchange signed and ratified documents, bringing New START into force.⁶²
- 24 May 2011 White House issues veto threat over FY 2012 National Defense Authorization Act's inclusion of modernization commitment provisions.⁶³

Throughout the long and complex New START ratification process, three strands of the debate emerged as intertwining elements of the process itself with substantive matters raised by the treaty and its critics:

1. The Obama administration's decision to seek swift ratification during a lame-duck session of the Senate, which the administration sought to defend in part by arguing that New START was urgently necessary to monitor and verify the Russian nuclear posture;
2. The insistence by some Senators that the Obama administration provide the full negotiating record in order to resolve severe discrepancies in American and Russian positions with respect to the treaty's implications for U.S. missile defense systems, which the administration refused to provide; and
3. The effort by some Senators to link ratification with modernization of the U.S. nuclear arsenal and infrastructure (the administration's commitment to which would be called into question both during and after ratification) in part to offset the proposed reductions in deployed weapons and launchers.

As we will see, several key Senators cast votes in favor of ratification in no small measure because they were persuaded—in part by military leadership—that these specific issues had been satisfactorily resolved.

RAPID RATIFICATION

Several arguments were advanced to support the notion that New START needed to be ratified sooner rather than later. Principle among them was the assertion that New START had to be ratified quickly in order to restore the ability to monitor and verify the disposition of Russia's nuclear weapons. As 2010 progressed and President Obama faced the possibility of having to start the ratification process over with a new Senate, consisting of more conservative Republican Senators inclined to view New START unfavorably, the verification argument would be ratcheted up to help push the treaty through a lame-duck session of the 2010, where it stood a better chance.

The original START, or "START I" treaty, between the United States and Russia expired on 5 December, 2009. START I had stipulated that the United States and Russia would be limited to a total of 6,000 deployed strategic nuclear warheads each, and 1,600 delivery vehicles each.⁶⁴ The START I verification and monitoring regime was comparatively much stronger than that produced by the New START treaty. Specifically, START I verification measures included:⁶⁵

- The use of, and non-interference with "national technical means" of verification (satellites);
- A prohibition on any practices that deny access by either party to telemetric information, coupled with an obligation to exchange specific forms of data for every missile flight-test;
- A requirement that prior to signature, each nation would exchange data on the locations, numbers and technical characteristics of weapons accountable under the treaty, with regular notifications and updates to follow;
- An option that seven times a year, either nation could request that heavy bombers, as well as road-mobile and rail-mobile launchers, be displayed in the open at specific bases for inspection;

- The right to continuously inspect each nation’s mobile ICBM assembly facilities;
- Twelve types of on-site inspections;
- The opportunity to raise compliance concerns with the Joint Compliance and Inspection Commission or another appropriate venue.

Not long after New START was signed, Obama administration officials, including high-level military leadership, began to assert that New START should be ratified in order to ensure that the United States can continue to verify Russia’s nuclear capabilities. Then-Secretary Gates, in his op-ed for *The Wall Street Journal*, stated that one of the principle ways in which New START “promotes strategic stability between the world’s two major nuclear powers” is through “an extensive verification regime to ensure that Russia is complying with its treaty obligations” to limit the number of weapons in its arsenal.⁶⁶ Gates went on to state:

Since the expiration of the old START Treaty in December 2009, the U.S. has had none of these safeguards. The new treaty will put them back in place, strengthen many of them, and create a verification regime that will provide for greater transparency and predictability between our two countries...⁶⁷

Chairman of the Joint Chiefs of Staff Adm. Michael Mullen would soon follow, stating before the Senate Armed Services Committee in June, 2010: “In my view, a key contribution of this treaty is its provision for a strong verification regime. I would like to emphasize some of the key elements of this regime, which will monitor Russia’s compliance with the treaty, while also providing important insights into the size and composition of Russian strategic forces.”⁶⁸ This testimony would be followed shortly by a joint letter to senior Senators, signed by several former commanders of Strategic Air Command and U.S. Strategic Command:

... 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.⁶⁹

President Obama, Vice President Biden, and Chairman Kerry began pushing in earnest in the late fall of 2010 for a lame-duck vote on ratification, using the need to close

the “verification gap” as a key argument for asserting not only that New START should be ratified, but ratified in a lame-duck session.

Vice President Biden, in commenting on the need to ratify New START before the end of 2010, led his 16 November 2010 statement with the following:

Failure to pass the New START Treaty this year would endanger our national security. Without ratification of this Treaty, we will have no Americans on the ground to inspect Russia’s nuclear activities, no verification regime to track Russia’s strategic nuclear arsenal, less cooperation between the two nations that account for 90 percent of the world’s nuclear weapons, and no verified nuclear reductions.⁷⁰

On 18 November, 2010, President Obama convened a meeting on the New START treaty—flanked by Secretary of State Clinton, Chairman Kerry, Senate Foreign Relations Committee Ranking Member Richard Lugar, former Secretaries of State Madeline Albright, James Baker, and Henry Kissinger; former Secretaries of Defense William Cohen and William Perry; former National Security Advisor Gen. Brent Scowcroft; then-Vice Chairman of the Joint Chiefs of Staff Gen. James Cartwright; and former Senator Sam Nunn—turning quickly to the verification gap:

If we ratify this treaty, we’re going to have a verification regime in place to track Russia’s strategic nuclear weapons, including U.S. inspectors on the ground. If we don’t then we don’t have a verification regime—no inspectors, no insights into Russia’s strategic arsenal, no framework for cooperation between the world’s two nuclear superpowers. As Ronald Reagan said, we have to trust, but we also have to verify. In order for us to verify, we’ve got to have a treaty.⁷¹

Notably, the next day, *The Washington Post*—the editorial board of which was otherwise supportive of New START—ran an editorial commenting on the administration’s push to ratify the treaty:

President Obama’s claim that it is ‘a national security imperative’ that the U.S. Senate ratify a nuclear arms treaty with Russia before the end of the year seems more than a little overstated...

... the treaty ought to be approved. But no calamity will befall the United States if the Senate does not act this year ...

... In reality, Mr. Obama's urgency probably has less to do with national security than with the upcoming shift of Senate seats, which will increase the number of Republican votes needed for ratification ...⁷²

Nonetheless, in subsequent remarks on the Senate floor, Chairman Kerry—after arguing that the 2009-2010 Senate was better-positioned than the next Senate to cast an informed ratification vote because of the extensive amount of hearings, briefings, and document reviews supposedly undergone by the former—cited the verification issue as his first treaty-substance-related justification for seeking a vote in the lame-duck session:

Besides, there are important national security reasons not to wait. Next Sunday—December 5—it will have been one year since the original START Treaty expired. A full year without on-the-ground inspections. Some say it doesn't make a difference whether we wait a few more months. Well, when it comes to uncertainty about nuclear arsenals, I think a few months does matter. Without this treaty, we know too little about the only arsenal in the world with the potential to destroy the United States. As James Clapper, the director of national intelligence, said of ratifying New START, 'I think the earlier, the sooner, the better.'⁷³

Claims like this were significantly buttressed by former Secretaries of State Kissinger, Shultz, Baker, Lawrence Eagleburger and Colin Powell in December, 2010, in the pages of the *Washington Post*. Though they declined to comment directly on the timing of a Senate vote, their view that time was of the essence was unmistakable:

We believe there are compelling reasons Republicans should support ratification. First, the agreement emphasizes verification, providing a valuable window into Russia's nuclear arsenal. Since the original START expired last December, Russia has not been required to provide notifications about changes in its strategic nuclear arsenal, and the United States has been unable to conduct on-site inspections. Each day, America's understanding of Russia's arsenal has been degraded, and resources have been diverted from national security tasks to try to fill the gaps. Our military planners increasingly lack the best possible insight into Russia's activity with its strategic nuclear arsenal, making it more difficult to carry out their nuclear deterrent mission.⁷⁴

Two questions arose from New START skeptics in response to these kinds of statements on verification: 1) did New START actually provide an effective verification regime?; and 2) was ratification of New START really the only means for closing the "verification gap"?

In arms control, the leverage to be gained from cheating increases with the reduction in weapons that either side is allowed to retain. Verification therefore becomes critical to ensuring that such cheating is not taking place.⁷⁵ This is all the more so in the context of arms control between the United States and Russia, given Russia's history of cheating on such agreements.⁷⁶

Yet, in the view of several analysts, New START's verification regime was *inferior* to that of START I. As the New START Working Group pointed out:

Of the [START I verification provisions], only two survived relatively intact in New START: 1) the reliance on national technical means of verifications; and 2) the requirement for a compliance commission. Continuous monitoring of mobile ICBM production has been eliminated. Data exchanges and notifications have been substantially reduced. Cooperative measures required by START are completely gone.

Which changes matter most? If the New START verification regime is compared with that of START I, the most significant of the changes are the elimination of verification measures for mobile ICBMs and the weakening of telemetry exchange provisions. Under New START, telemetry exchanges amount to nothing more than a symbolic gesture.⁷⁷

Notably, Senator Christopher “Kit” Bond (R-Missouri), then Vice-Chairman of the Senate Intelligence Committee, took to the Senate floor on 22 November 2010 to echo similar concerns: “[There is] no doubt in my mind that the United States cannot reliably verify the treaty’s 1,550 limit on deployed warheads.”⁷⁸

The premise that the “verification gap” caused by START I’s expiration could only be remedied by ratification of New START was also called into question by arms control experts. Robert Joseph, former Under Secretary of State for Arms Control and International Security, and Eric Edelman, for Under Secretary of Defense for Policy—two of only three New START skeptics to testify publicly before the Senate during the course of deliberations, out of a total of twenty-six witnesses (some of whom testified multiple times)—noted that President Obama could simply have sought an extension of START I in order to maintain verification mechanisms, rather than setting an “arbitrary deadline” for New START.⁷⁹

Former U.N. Ambassador John Bolton and Paula DeSutter, former Assistant Secretary of State for Verification, Compliance, and Implementation (and Rose Gottoemoeller’s immediate predecessor at the State Department) later expanded on this, writing that the verification gap was a “red herring, a problem of Mr. Obama’s own making.”⁸⁰ Bolton and DeSutter continued:

Initially, the Obama administration’s negotiators confidently predicted they would have START I’s successor negotiated in ample time to avoid a verification gap. When it became clear they would fail, their line changed. Within days of Mr. Lugar’s proposed legislation [which would have allowed START I inspections to continue as a follow-on agreement was negotiated], The Washington Post reported that ‘senior

U.S. officials' would create a 'bridge mechanism' between the expiring and prospective treaties 'to allow for the continuation of inspections, exchanges of data and notification about the testing and movement of weapons and other changes.' A week later, a White House spokesman said 'we have a bridging agreement that we also are working with the Russians. I fully suspect we'll be able to get that in place by Dec. 5 [2009].' On Dec. 5, however, START I expired without any provision for ongoing verification. New START was not submitted to the Senate until May 13 [2010].

Thus, it was the Obama administration that failed to meet its own deadline for achieving a new arms-control treaty with Russia, the Obama administration that decided not to extend START I and the Obama administration that did not obtain a verification bridging agreement.⁸¹

The arguments against using the "verification gap" as justification for pushing the New START treaty through a lame-duck session of the Senate would ultimately fail to persuade Senate leadership to take up the process anew in 2011. The treaty was brought up for a final vote in December 2010, despite significant flaws in the verification argument, and despite appeals from several then-serving Senators, a bipartisan group of fifteen former Senators⁸² and most of the newly-elected Senators from the November 2010 elections, the latter of which asserted: "Out of respect for our states' voters, we believe it would be improper for the Senate to consider the New START treaty or any other treaty in a lame duck session prior to January 3, 2011."⁸³ As the group of fifteen former Senators noted in their letter to Majority Leader Reid and Minority Leader McConnell, denying the newly-elected Senators the opportunity to lend their advice and consent to New START was especially problematic, given that the treaty would be implemented—and the impacts of it incurred—on *their* watch.⁸⁴

MISSILE DEFENSE

Perhaps no other New START issue generated more controversy than that of the treaty's implications for U.S. missile defense. Though the text of the treaty itself did in fact articulate limits on missile defense, those limits received comparatively little attention in the broader New START discourse. It was the Obama administration's decision not to provide badly needed clarification to the Senate on the question of missile defense—by refusing to share with it the full New START negotiating record, despite repeated requests—that would become a major point of contention throughout the debate, significantly shaping the course of ratification in Washington and Moscow.

Even before the text of New START was ever agreed upon or released, there were high-level rumblings in both the United States and Russia as to the treaty's linkage to missile defense. Russian Prime Minister Vladimir Putin stated in December, 2009 that the primary obstacle to the successful conclusion of a follow-on agreement to START I was U.S. missile defense plans:

If we don't develop a missile defense system, a danger arises for us that with an umbrella protecting our partners from offensive weapons, they will feel completely safe... The balance will be disrupted, and then they will do whatever they want, and aggressiveness will immediately arise both in real politics and economics.⁸⁵

According to reporting by *The New York Times*, though Presidents Obama and Medvedev had apparently reached an initial consensus on the terms of the treaty, the Russian delegation reintroduced the issue of missile defense later in the negotiations, insisting that New START contain a commitment not to change U.S. missile defense plans further.⁸⁶ President Medvedev would follow up with a demand that a joint statement limiting missile defense in this way be issued, with President Obama refusing to issue a joint statement but agreeing to separate unilateral, non-binding statements outlining the respective American and Russian positions on missile defense.⁸⁷

By then, still before the release of New START's text, some Senators were already sending a signal of concern to the administration regarding New START and missile defense. On 17 February 2010, Senators Kyl, McCain and Lieberman sent a letter to then-National Security Advisor Gen. James Jones, stating:

As you know section 1251 of the National Defense Authorization Act of FY 2010 (P.L. 111-84) expresses the sense of the Congress that 'the follow-on to the START Treaty not include any limitations on the ballistic missile defense systems' of the United States. We are concerned that at this late stage of negotiations the Russians continue to hold out for such limitations ...

... We ask for your assurance that the Administration will not agree to any such provisions, even a unilateral Russian declaration, in the treaty text or otherwise that could limit U.S. missile defenses in any way. This obviously includes any side agreements or understandings with the Russian Federation as to U.S. missile defenses.⁸⁸

For its part, the Obama administration insisted throughout the course of the ratification process that New START did not restrict U.S. missile defense. In March 2010, the White House released a fact sheet on New START containing the statement: "The Treaty does not contain any constraints on testing, development or deployment of current or planned U.S. missile defense programs or current or planned United States long-range conventional strike capabilities."⁸⁹

However, despite the administration's arguments to the contrary, the text of New START and the statements that followed would validate the missile defense concerns cited by Senators Kyl, McCain and Lieberman their February, 2010 letter.

Article V of the treaty text contains the following specific prohibition with respect to missile defense:

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.⁹⁰

The Obama administration's contention that New START did not restrict missile defense is plainly contested by the prohibitions outlined in Article V. As the New START Working Group points out, the Obama administration eventually revised previous claims that New START did not restrict missile defense, and instead modified their position in

April 2010 to state that New START's restrictions on missile defense were not *burdensome*, since the administration had no plans to use ICBM or SLBM launchers for the placement of missile defense interceptors—a position that ignored the possibility that future administrations might have different views on whether such options should be pursued.⁹¹

The treaty's second textual prohibition on missile defense can be found in Article XV, which states that the parties are to use a mechanism known as the Bilateral Consultative Commission to reach agreement on any changes to the treaty's Protocol "that do not affect substantive rights or obligations under this Treaty."⁹² Such procedures, the treaty notes, can be made without going through a formal treaty amendment process, which would involve separate ratification by both parties.⁹³

New START skeptics argued that the Commission could in fact function as a significant constraint on missile defense, in ways that undermine the role of the Senate in the formulation of U.S. foreign policy. The Commission's authority to change New START's Protocol brings within its purview the Protocol's "Definitions" and "Agreed Statements" sections, changes to which could have considerable implications for missile defense.⁹⁴ Professors Jack Goldsmith and Jeremy Rabkin asserted that despite the State Department's assertion that the Commission would have no authority to affect missile defense because such questions would, in fact, "affect substantive rights or obligations" under New START, the treaty itself does not explain what constitutes a "substantive right"—a matter that the Commission itself would ultimately decide.⁹⁵ While, as Goldsmith and Rabkin point out, this kind of amendment process has been embedded in previous arms control agreements such as START I, New START constitutes a further expansion of international agreement-making authority to the executive branch, away from the Senate, and therefore a threat to the Senate's advice-and-consent prerogatives.⁹⁶

Despite the presence of these limitations within New START's primary texts—which should have placed more skeptical Senators on firmer ground to support their concerns on missile defense—most of the missile defense debate that would ensue between the Obama administration and the Senate centered on the text of the New START's preamble and the incompatible meanings that the United States and Russia were assigning to it. The portion addressing missile defense reads:

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.⁹⁷

Subsequent Russian and American statements on New START's effects on missile defense would illustrate a considerable gap. The Russians released the following statement commenting on the Preamble, in which they highlighted future development of U.S. missile defense as grounds for withdrawing from the treaty:

The Treaty between the Russian Federation and the United States of America on the Reduction and Limitation of Strategic Offensive Arms signed in Prague on April 8, 2010, can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively.

Consequently, the exceptional circumstances referred to in Article 14 of the Treaty include increasing the capabilities of the United States of America's missile defense system in such a way that threatens the potential of the strategic nuclear forces of the Russian Federation.⁹⁸

The United States would respond with the following statement:

The United States of America takes note of the Statement on Missile Defense by the Russian Federation. The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed 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.⁹⁹

Russian and U.S. officials continued to insist that their respective interpretation was the correct one. Secretary of State Clinton, one day after New START's signature, stated:

Now, one aspect of our deterrent that we specifically did not limit in this treaty is missile defense. The agreement has no restrictions on our ability to develop and deploy our planned missile defense systems or long-range conventional strike weapons now or in the future.¹⁰⁰

Contrast with an earlier statement by Russian Foreign Minister Sergei Lavrov: "Linkage to missile defense is clearly spelled out in the accord and is legally binding."¹⁰¹

Following such diverging statements from the United States and Russia on the treaty's relationship to missile defense, skeptics began to raise the question of what could be informing Russia's stated understanding that U.S. missile defense development *was* restricted by the provisions of New START. The question led some to posit that there was an understanding reached on missile defense that went beyond the American and Russian public

statements on the matter—one that led the Russians to believe that New START had in fact given them an effective veto over U.S. missile defense. As veteran Russia analyst Dimitri Simes reported:

According to Leonid Ivashov, a retired three-star general and well-known hard-liner, the treaty was a ‘real diplomatic success,’ because the Russian delegation ‘did not yield.’ Another well-known hardliner, Sergey Kurginyan, stated bluntly that ‘Russia could not have an easier partner on the topic of nuclear arms than Obama.’”

Russian experts and officials have this view because they believe that America made a tacit commitment not to develop an extended strategic missile defense. As a senior Russian official said to me, ‘I can't quote you unequivocal language from President Obama or Secretary Clinton in conversations with us that there would be no strategic missile defenses in Europe, but everything that was said to us amounts to this.’ In this official's account, the full spectrum of U.S. officials from the President to working-level negotiators clearly conveyed that the reason they rejected more explicit restrictions on missile defense was not because of U.S. plans, *but because of fear that such a deal could not win Senate ratification.*¹⁰² (Emphasis added)

The ambiguity surrounding what exactly the Russians understood themselves to be obtaining on missile defense restrictions by ratifying New START would prompt several members of the Senate Foreign Relations Committee to request on 6 May 2010 that the Obama administration provide the full New START negotiating record, which would be followed by repeated requests.¹⁰³

The administration denied all such requests, eventually agreeing to provide only a summary.¹⁰⁴ The initial response from Secretary Clinton was that there was no precedent for the provision of treaty negotiating records to the Senate, going all the way back to President Washington—a notion thoroughly contradicted by history (as demonstrated by, among other things, the Senate being granted access to the negotiating records of the 1972 Anti-Ballistic Missile (ABM Treaty and the 1987 Intermediate Range Nuclear Forces (INF) Treaty.)¹⁰⁵

Rose Gottemoeller would later revise the administration's argument for not sharing the entire negotiating record with the Senate. After insisting that she and her colleagues had already answered “a thousand questions for the record” regarding New START, she later sent a letter to the Senate on 7 December 2010, stating that full disclosure of the negotiating record “would have a chilling effect on future negotiations and overall have a deleterious effect on U.S. diplomacy.”¹⁰⁶

Both within and outside the context of the negotiating record battle, the Obama administration and its supporters had continued to insist throughout 2010, to the Senate and the American public, that New START did not limit U.S. missile defense capabilities.

Undersecretary of State for Arms Control and International Security, Ellen Tauscher, asserted this on several occasions:

I can definitively tell you that I'm kind of an expert, too. I was chairman of Strategic Forces in the House. I know a little bit about missile defense and was certainly there when most of this was discussed and negotiated. As we've talked before, the presidents met in July and they made it very clear that there is an interrelationship between strategic offensive and strategic defensive weapons. But there is no limit or constraint on what the United States can do with its missile defense systems.¹⁰⁷

The New START Treaty does not constrain U.S. missile defense programs. The United States will continue to improve our missile defenses, as needed, to defend ourselves, our deployed forces, and our allies and partners. ... As the administration's Ballistic Missile Defense Review and our budget plans make clear, we will deploy the most effective missile defenses possible, and the New START Treaty does not impose any additional cost or inconvenience to those efforts.¹⁰⁸

Undersecretary Tauscher went on to assert similarly before the Senate Armed Services Committee: "The Treaty does not constrain U.S. missile defense programs or long-range conventional strike capabilities."¹⁰⁹

In testimony before the Senate Armed Services Committee on 16 June 2010, Lt. Gen. Patrick O'Reilly, director of the Missile Defense Agency, stated:

Throughout the treaty negotiations, I frequently consulted the New START team on all potential impacts to missile defense. The New START Treaty does not constrain our plans to execute the U.S. Missile Defense program."¹¹⁰

Additionally, several former commanders of Strategic Air Command and U.S. Strategic Command sent a joint letter to the Chairmen and Ranking Members of the Senate Armed Services Committee and Senate Foreign Relations Committee on 14 July 2010, which stated in part:

We understand that one major concern about the treaty is whether or not it will affect U.S. missile defense plans ... 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.¹¹¹

Such claims, however, were seemingly further undermined by revelations suggesting that the Obama administration had in fact presented a draft missile defense agreement to Russia. On 16 June 2010, *The Washington Times* broke the story that the Obama administration was seeking to conclude a missile defense agreement with Russia in secret, lending some credibility to Dimitri Simes' hypothesis that the United States had declined to insert into New START any explicit constraints on U.S. missile defense for fear of alienating missile defense proponents in the Senate, opting instead for an implicit arrangement with Russia in this area.¹¹² This development would be reinforced six months later, when *The Washington Times* would disclose that an internal State Department memo had made its way to Capitol Hill, in which it was stated that the Obama administration—despite previous denials by Secretaries Clinton and Gates—had held secret talks with Russia for the purpose of attempting to reach a ballistic missile defense agreement.¹¹³

By the time *The Washington Times* had broken this news, enough concern had built up around the relationship between New START and missile defense to shape the Senate Foreign Relations Committee's resolution of ratification. The Committee's Resolution of Advice and Consent to Ratification, which passed through the Committee on 24 September 2010, included three "understandings" to which, according to the resolution, the advice and consent of the Senate to the ratification of New START was subject.¹¹⁴ The first of the three understandings—the other two related to rail-mobile ICBMs and so-called "strategic-range, non-nuclear weapons systems"—addressed the Committee's views on missile defense with respect to New START:

(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.¹¹⁵

The following month, Konstantin Kosachyov, the chairman of the Russian State Duma's International Affairs Committee, issued a statement that he was considering recommending to fellow committee members that they reconsider their initial recommendation to ratify New START, in light of the Senate's language in its resolution of ratification:

First, it is specially emphasized that [it is the U.S. senators' understanding that] strategic-range non-nuclear weapon systems do not fall under the treaty, but it is virtually impossible to tell whether a missile that has already been launched is carrying a nuclear or non-nuclear warhead or not... [the second understanding presumes that] the Americans are trying to apply the New START Treaty to rail-mobile ICBMs in case they are built... And third, they say at the same time that the New START Treaty will on no account limit the Pentagon's efforts toward deploying missile defenses... Thus, through such unilateral understandings, the Americans are trying to dispel their concerns about the possible emergence of rail-mobile ICBMs while at the same time ignore the Russian concerns about missile defenses and strategic-range non-nuclear weapons.¹¹⁶

These developments in the Duma led some analysts to surmise that the Russians believed that the Senate was back-tracking on commitments made to Russia in the course of New START negotiations.¹¹⁷

Meanwhile, key Senators continued to express concerns about the Obama administration's interactions with Russia on missile defense. On 1 December 2010, Senators Jon Kyl (R-AZ), James Risch (R-ID), and Mark Kirk (R-IL) sent a joint letter to President Obama seeking more information about the administration's dealings with Russia in this area.¹¹⁸ Though the Senators did not explicitly mention New START, each of them were known skeptics of the treaty, and their request was interpreted as a signal that their reservations about New START were tied in part to concerns about possible missile defense constraints arranged with the Russians. For its part, the State Department insisted that there were no "secret deals" between the United States and Russia on missile defense.¹¹⁹

Just two days before the full Senate's ratification vote on New START, President Obama himself felt it necessary to send a letter to Senate Majority Leader Harry Reid (D-NV), specifically discussing the concerns about missile defense raised during the course of Senate consideration. After stating "The New START Treaty places no limitations on the development or deployment of our missile defense programs", President Obama elaborated:

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a 'build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation.' Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty."

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners."¹²⁰

On 22 December 2010, the full Senate voted to ratify New START. Out of fifteen total proposed amendments to the resolution of ratification, four were accepted, either by "voice vote" or by "unanimous consent," neither of which require a formal recorded vote.¹²¹ Notably, among the rejected amendments—defeated largely along party lines—was one offered by Sen. McCain which would have removed the section of the treaty's preamble that referred to the "interrelationship between strategic offensive and strategic defensive arms."¹²²

On the subject of missile defense, the resolution did include the following "condition" (one of several that, according to the terms of the resolution, "shall be binding upon the President"):¹²³

(14) Effectiveness and viability of new start treaty and united states missile defenses.- Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation, that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including

qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense system, and the continued development of the two-stage Ground-Based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.”¹²⁴

The same amendment added to the “understandings” section of the Resolution of Ratification the following:

... The preamble of the New START Treaty does not impose a legal obligation [to curtail missile defense] on the parties.¹²⁵

As was the case with the Senate Foreign Relations Committee’s Resolution of Ratification on New START, the Russian Duma also objected to the full Senate’s missile defense-related amendments to the resolution. Chairman Kosachev responded not long after the vote:

During the ratification of START in the US Congress the American lawmakers noted that the link between strategic offensive armed forces and antimissile defense systems is not juridically [sic] binding for the parties. They referred to the fact that this link was fixed only in the preamble of the document. Such an approach can be regarded as the US’ attempt to find an option to build up its strategic potential and the Russian lawmakers cannot agree with this.”¹²⁶

Indications at the time were that such objections had prompted a delay in the Duma’s own ratification of New START, postponing conclusion of the Russian ratification process until January, 2011.¹²⁷ By the time the process had finished, the Russian ratification law had imposed restrictions on U.S. missile defense, and had noted the “indisputable significance” of the treaty’s preamble, which in turn had established a linkage between strategic offensive arms and strategic defensive arms—linkage that Russia believed was legally binding, and would therefore justify its withdrawal from the treaty if the United States sought to expand missile defense capabilities.¹²⁸

Several observers would go on to point out that this interpretation was wholly at odds with the Senate's view of the New START's preamble with respect to missile defense. As Senator Jon Kyl (R-AZ), the lead Senate Republican negotiator on New START ratification stated on the Senate floor after Russian ratification: "I am not aware of an example when the U.S. has ratified a bilateral treaty in the face of clear evidence that there is no meeting of the minds on key treaty terms."¹²⁹

NUCLEAR MODERNIZATION

During the President’s April 2009 address in Prague, in which he committed the United States to a leadership role in seeking a “world without nuclear weapons”, the President also stated: “Make no mistake: As long as these weapons exist, the United States will maintain a safe, secure and effective arsenal to deter any adversary, and guarantee that defense to our allies...but we will begin the work of reducing our arsenal.”¹³⁰ The attempt to ensure that President Obama followed through on his stated commitment to “maintain a safe, secure and effective arsenal” would become a core element of the New START ratification process, and a critical factor in securing support for ratification from ambivalent Senators.

The effort to ensure that President Obama would commit to maintaining an effective arsenal began not long after the Prague address. On 28 October 2009, the President signed into law the FY 2010 National Defense Authorization Act—Section 1251 of which required that the President articulate specific plans on funding and modernizing the U.S. nuclear arsenal and supporting infrastructure, in conjunction with his submission of any follow-on treaty to START I for the Senate’s consideration.¹³¹

Specifically, the Section 1251 report was required to include:

- (A) A description of the plan to enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States;
- (B) A description of the plan to modernize the nuclear weapons complex, including improving the safety of facilities, modernizing the infrastructure, and maintaining the key capabilities and competencies of the nuclear weapons workforce, including designers and technicians;
- (C) A description of the plan to maintain delivery platforms for nuclear weapons;
- (D) An estimate of budget requirements, including the costs associated with the plans outlined under subparagraphs (A) through (C), over a 10-year period.¹³²

Two months later, forty-one Senators—all 40 Republicans, plus Sen. Joseph Lieberman (I-CT)—sent a letter to President Obama essentially indicating that modernization of the nuclear enterprise, pursuant to the requirements of Section 1251, would be integral to the New START ratification process.¹³³ It was not lost on observers that 41 Senators was beyond the number needed to block ratification of a treaty, for which 67 votes is required.

In what would prove to be a significant data point for skeptics of the President's intentions in this area, the Department of Defense in April 2010 released its Nuclear Posture Review Report. Although the report did articulate several objectives for modernization of the U.S. nuclear enterprise, the report stated in part that the safety, security and effectiveness of the U.S. nuclear deterrent could be ensured through the pursuit of a "sound Stockpile Management Program for extending the life of U.S. nuclear weapons... without the development of new nuclear warheads or further nuclear testing."¹³⁴

Pursuant to the FY 2010 Defense Authorization Act, President Obama did submit the 1251 Plan to Congress in May of 2010, though the document itself was classified.¹³⁵ The 1251 plan outlined the administration's plan to spend \$80 billion on nuclear infrastructure and weapons modernization over a ten-year period.¹³⁶ The plan also included \$100 billion for the modernization of strategic delivery systems including heavy bombers and both land and sea-based intercontinental ballistic missiles.¹³⁷ Several analysts—notably including Sen. Jon Kyl (R-AZ), the Senate Republicans' lead negotiator on New START—would go on to assert, however, that this initial 1251 Plan submission had fallen short.

As Sen. Kyl wrote in *The Wall Street Journal*:

The nuclear weapons plan Mr. Obama submitted to Congress in May raises as many questions as it answers. Despite pledging over \$100 billion to maintain and modernize nuclear delivery systems, the plan make a commitment only to a next-generation submarine—not to a next-generation bomber, ballistic missile, or air-launched cruise missile. The administration has also made no decision about whether or how it will replace the B-52 bomber, which first flew in 1952, and under current plans will continue to fly until possibly 2037. Nor does the White House intend to decide what the new U.S. nuclear force structure will look like until as many as seven years after the treaty is ratified.

The administration's plan for modernizing U.S. nuclear warheads and infrastructure is similarly sketchy. It claims funding of \$80 billion over 10 years, but that amount reflects double-counting of money that was going to be spent anyway merely to keep seriously aging weapons and equipment operational. What little new funds may be

available under the president's plan will not cover even pressing needs like replacing two decrepit and dangerous facilities that produce plutonium and uranium. What's more, the administration's working budget documents for the next several years suggest that the modernization plan is underfunded by as much as \$2.4 billion.¹³⁸

Robert Monroe, the former Director of the Defense Nuclear Agency, pointed out other shortcomings:

Our nuclear weapons modernization program - which is required by law to be considered with treaty ratification - is totally inadequate. It omits modernization of the nuclear weapons themselves; it omits testing of nuclear weapons to prove their viability; it omits construction of a pit (trigger) production facility of adequate capacity to rapidly replace our overaged stockpile; and it omits replacement of SDVs for two legs of our strategic triad.¹³⁹

The Senate Foreign Relations Committee was sufficiently concerned about the need for modernization of the nuclear arsenal to include provisions on the 1251 Plan in its resolution of ratification. These provisions—which would be retained later in the full Senate's resolution of ratification—reiterated the Senate's commitment to modernization, and placed requirements on the President with respect to modernization:

(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.¹⁴⁰

Subsequently, in response to a request from Senators Kyl and Bob Corker (R-Tennessee), the Obama administration would submit an updated 1251 Plan on 17 Novem-

ber, 2010, raising the total to be spent on nuclear weapons/infrastructure modernization over a ten year period to roughly \$85 billion.¹⁴¹

The unclassified November 2010 updated 1251 report did propose several funding increases on life extension programs for the nuclear weapons stockpile and physical infrastructure refurbishment.¹⁴² However, with respect to strategic delivery systems, two of the three legs of the nuclear “triad”—the Intercontinental Ballistic Missile (ICBM) and heavy bomber—received commitments to their modernization broadly speaking, but did not receive specific funding commitments beyond FY 2015, with the report focusing instead on the need to complete various studies to determine the way forward on these two legs of the triad.

The updated modernization plan received high-level support from inside the U.S. nuclear enterprise. As the directors of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, and Sandia National Laboratories wrote to Chairman Kerry and Ranking Member Lugar of the Senate Foreign Relations Committee:

We are very pleased by the update to the Section 1251 Report, as it would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable and effective stockpile ... In summary, we believe that the proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America’s nuclear deterrent within the limit of 1550 deployed strategic warheads established by the New START Treaty with adequate confidence and acceptable risk.¹⁴³

Thomas P. D’Agostino, Director of the National Nuclear Security Administration, would later add:

Over the next decade, the Obama administration has proposed investing more than \$85 billion to modernize the nuclear stockpile, recapitalize the infrastructure that supports it and reinvigorate the science and technology at the core of our stockpile stewardship efforts.

Having worked on NNSA budget issues through the administrations of three presidents representing both parties, I can say with confidence that this is the most robust, sustained commitment to modernizing our nuclear deterrent since the end of the Cold War.¹⁴⁴

Significantly, Senators Kyl and Corker later circulated a memorandum to their Senate colleagues, taking a different view of the Obama administration’s modernization plans, both the original and updated versions.

In commenting on the original 1251 Plan, Kyl and Corker noted:

..most of that \$80 billion is not directed at modernization activities called for in the [Nuclear Posture Review]—it is mostly consumed in ‘keeping the lights on’ at the laboratories and plants, including safety, security, facility upkeep (which is difficult on very old facilities that would have been replaced long ago in the private sector), and routine warhead maintenance.¹⁴⁵

Kyl and Corker would go on to assert that although the updated 1251 Plan had addressed some of their concerns, others remained, including lingering questions about funding for two key nuclear production facilities, as well as the administration’s intentions with respect to nuclear stockpile production:

... the 1251 update made clear that NNSA will not restore a production capability adequate to maintain our current stockpile levels (declassified as 5,113 weapons total), and instead allow up to 1,500 warheads to be retired or held with no maintenance unless funding increases are sought and obtained. Failing to maintain hedge weapons will increase the risk that the U.S. cannot respond to a problem in our aging stockpile. **The Administration should not engage in further cuts to our deployed or non-deployed stockpile without first determining if such cuts are in our national security interest and then obtaining corresponding reductions in other nations’ nuclear weapons stockpiles, such as Russia’s large stockpile of weapons not limited by New START (e.g., its tactical nuclear weapons).**¹⁴⁶ (Emphasis in original)

Kyl and Corker also added, on the modernization of strategic delivery systems:

The 1251 update deals not only with our nuclear weapons, but the delivery systems that are part of our TRIAD. The update indicates somewhat clearer intent by the Administration to pursue a follow-on heavy bomber (though not specifically nuclear) and air-launched cruise missile (ALCM), though development costs beyond FY 2015 are yet to be determined. While the update notes that estimated costs for a follow-on bomber for FY 2011 through FY 2015 are \$1.7 billion, there are still no costs or funding commitments beyond FY 2015. It is the same for the ALCM: \$800 million is programmed over the FYDP, but no cost estimates are included beyond FY 2015. **We should have a better idea of these estimated costs over the full ten-years of the 1251 plan, and know whether the Administration intends to make this new heavy bomber and ALCM nuclear capable.**¹⁴⁷ (Emphasis in original)

Decision-making for an ICBM follow-on is unlikely before FY 2015, at the completion of an ongoing analysis of alternatives. The update notes: —While a decision on an ICBM follow-on is not needed for several years, preparatory analysis is needed and is in fact now underway. This work will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM follow-on *that sup-*

ports continued reductions in U.S. nuclear weapons while promoting stable deterrence.|| (emphasis added) We think it important to understand what the Administration intends when it suggests that a decision regarding a follow-on ICBM must be guided, in part, by whether it —*supports continued reductions*” in U.S. nuclear weapons— especially since we seriously doubt it’s in our interests to pursue reductions beyond the New START treaty. One logical inference from this criterion is that a follow-on ICBM is no longer needed because the U.S. is moving to drastically lower numbers of nuclear weapons. **We continue to press for a letter from the DOD confirming its commitment to follow-on nuclear-capable delivery systems.**¹⁴⁸ (Emphasis in original)

Despite Senator Corker’s co-authorship of this memo, he would ultimately cast a vote in the full Senate in favor of ratifying New START, as he did in the Senate Foreign Relations Committee several months prior. In explaining his reasons for doing so, Sen. Corker in part referenced promises obtained by key Senate appropriators and by President Obama to actually secure the funding for nuclear modernization per the 1251 Plan:

So one might say well, that’s great, but how are we going to be sure? How are we going to be sure that the appropriators actually ask for the money? Mr. President, I’d also like to enter into the record a letter that was signed on December 16 by Chairman Inouye, Dianne Feinstein, Thad Cochran and Lamar Alexander. Mr. President, that letter says to the president [Obama] that they will ask for the moneys necessary to modernize our nuclear arsenal, and that they agree to ask for that money as part of their appropriations bill.

So then you might say well, what about the president? Will the president actually in his budget ask Congress to ask for that money? I’d like to ask unanimous consent to have a letter from the president of the United States on December 20 to the appropriators saying that he, in fact, would ask for those funds in the budget that he puts forth in the next few months. I would like unanimous consent for this to be entered into the record.¹⁴⁹

Sen. Corker would not be the only Senator to be convinced that 1) the administration’s updated 1251 Plan was substantively sufficient to increase confidence in what would be a reduced arsenal under New START; and 2) the plan would actually be carried out—a view that the Obama administration initially sought to reinforce after New START’s ratification, when the Department of Defense testified that the administration’s FY 2012 budget reflected a 10-year commitment of \$125 billion to sustain strategic delivery systems, and \$88 billion to sustain the nuclear stockpile and modernize its infrastructure over the next ten years.¹⁵⁰

Early signs from Congress on the fulfillment of the administration's New START modernization pledges have not been encouraging. At the time of this writing, the House and Senate appropriations subcommittees of jurisdiction have cut \$500 million and \$440 million from the President's FY 2012 nuclear activities budget request, respectively—cuts which the White House has not actively attempted to prevent.¹⁵¹

Indeed, while there have been some mixed signals sent by Congress on funding for nuclear modernization, the Obama administration itself has taken positions that necessarily call into question its own commitment to the nuclear modernization framework that was put on the table in the course of New START ratification, and since.

The National Defense Authorization Act of FY 2012 as passed by the House of Representatives contained several sections on nuclear forces, including: 1) the requirement that certain officials annually assess the safety, security, reliability, sustainability, performance, and military effectiveness of the delivery platforms under their command, as well as the nuclear command and control system; 2) the requirement that the Secretary of Defense submit to Congress a plan to implement the nuclear force reductions and verification measures contained in New START; 3) the requirement that the President submit an annual report to Congress detailing the plan to modernize the weapons complex and delivery platforms for nuclear weapons; and 4) the requirement that the Comptroller General of the United States conduct a study on the strategic nuclear weapons capabilities, force structure, employment policy, and targeting requirements of the Department of Defense.¹⁵²

Significantly, the NDAA also contained provisions originally authored by Rep. Mike Turner (R-Ohio), Chairman of Subcommittee on Strategic Forces of the House Armed Services Committee, which sought to codify President Obama's previously stated commitments to nuclear modernization.

Specifically, Section 1055 asserted: 1) that the Departments of Defense and Energy could not spend any FY 2011-2017 funds to retire any nuclear system that came within the purview of New START *unless* the Departments submitted to Congress a report on the status of nuclear weapons and platform modernization; 2) that the Departments of Defense and Energy could not use appropriated funds to retire any non-deployed strategic or non-strategic nuclear weapon *until* 90 days after the Departments submit a report to Congress certifying that two facilities—the Chemistry and Metallurgy Research Replacement facility, and the Uranium Processing Facility—are fully operational and performing up to certain standards; 3) that the President could not unilaterally retire any nuclear weapon if doing so would reduce the total number of U.S. weapons to a number below that outlined in New

START; and 4) the President is prohibited from making changes to U.S. nuclear employment strategy unless certain conditions are met.¹⁵³

In a notable development, these particular sections of the House-passed FY 2012 NDAA drew a veto threat from the White House, released 24 May 2011:

Limitations on Nuclear Force Reductions and Nuclear Employment Strategy:

The Administration strongly objects to sections 1055 and 1056, which impinge on the President's authority to implement the New START Treaty and to set U.S. nuclear weapons policy. In particular, section 1055 would set onerous conditions on the Administration's ability to implement the Treaty, as well as to retire, dismantle, or eliminate non-deployed nuclear weapons. Among these conditions is the completion and operation of the next generation of nuclear facilities, which is not expected until the mid-2020s. The effect of this section would be to preclude dismantlement of weapons in excess of military needs. Additionally, it would significantly increase stewardship and management costs and divert key resources from our critical stockpile sustainment efforts and delay completion of programs necessary to support the long-term safety, security, and reliability of our nuclear deterrent. Further, section 1056 raises constitutional concerns as it appears to encroach on the President's authority as Commander in Chief to set nuclear employment policy—a right exercised by every president in the nuclear age from both parties. **If the final bill presented to the President includes these provisions, the President's senior advisors would recommend a veto.**¹⁵⁴ (Emphasis in original)

The administration's threat to veto comprehensive defense legislation on the basis of provisions intended to facilitate the modernization to which President Obama committed during the course of the New START debate could reasonably raise questions about the administration's commitment to modernize in the future. As Rep. Turner put it:

It was surprising to learn that the President had issued a veto threat even though the provisions of this bill are consistent with his own Administration's stated policies. Will he not modernize our nuclear forces as he had stated? Will he unilaterally withdraw nuclear forces from Europe? If the answers to these questions are no, then he should have no issue with this legislation.¹⁵⁵

The trajectory on nuclear modernization aside from the President's threat to veto the FY 2012 NDAA over the Turner provisions has continued to cast doubt on the commitments the President made in this area during the course of New START ratification. As former Department of Defense official Mark Schneider has observed with respect to strategic delivery systems:

The administration's pledges to sustain and modernize U.S. nuclear forces now look short on substance and long on rhetoric. There has been minimal progress on the commitments to a new bomber, a replacement air-launched nuclear cruise missile, and possibly a new ICBM. Instead, budgetary pressures and further U.S. force reductions appear to threaten one or more of these programs.

The Obama administration has funded a replacement for the Trident missile submarine in 2029. But the number of submarines will be reduced as will the number of missiles per submarine, and a replacement for the Trident II missile is not scheduled until 2042. And judging by recent administration statements, the capabilities of the replacement submarine may be downgraded to reduce costs.¹⁵⁶

Some statements from senior administration officials have gone so far as to call into question whether U.S. nuclear forces will continue to consist of a triad altogether, let alone one receiving the requisite modernization. The *Washington Times* reported in September, 2011 that the Obama administration in recent months has quietly undertaken a so-called "mini-NPR" (Nuclear Posture Review), the apparent purpose of which is to seek even lower levels of deployed nuclear weapons than what New START outlines, including perhaps through unilateral U.S. cuts.¹⁵⁷ As White House arms control coordinator Gary Samore explained in May, 2011, according to *The Washington Times*:

We'll need to do a strategic review of what our force requirements are, and then, based on that, the president will have options available for additional reductions... we've reached the level in our forces where further reductions will raise questions about whether we retain the triad, or whether we go to a system that only is a dyad.¹⁵⁸

This sentiment was echoed by Adm. Mike Mullen, Chairman of the Joint Chiefs of Staff, in September, 2011: "I think a decision will have to be made in terms of whether we keep the triad or drop it down to a dyad."¹⁵⁹

The future of the nuclear modernization agenda will likely be further placed in jeopardy by ongoing efforts to reduce the federal deficit at the expense of national security programs. Under the debt ceiling compromise agreed to by the House and Senate and signed by President Obama in early August 2011, \$400 billion out of \$1 trillion in immediate spending cuts would come out of the Department of Defense budget.¹⁶⁰ However, the debt ceiling agreement also provided for a congressional "super-committee" to find an additional \$1.5 trillion in spending cuts or tax increases—if the super-committee is unable to reach an agreement by late November, 2011, the debt ceiling agreement triggers a "sequestration" mechanism that would result in automatic defense cuts of \$500 billion.¹⁶¹ Sources

on Capitol Hill have confirmed that such cuts, if brought about, could conceivably have a negative effect on the modernization of the nuclear stockpile, infrastructure, and triad of strategic delivery vehicles agreed to during the New START ratification process.

RATIONALIZING RATIFICATION

There was never any real doubt that all of the Democratic members of the Senate would vote in favor of ratification, both in order to support President Obama’s substantive agenda on nuclear weapons and U.S.-Russia relations, and to give him a key foreign policy victory. Most of the political analysis of the New START ratification process therefore centered on whether enough Republican Senators could be persuaded to vote in favor of the treaty.

Despite the fact that three key arguments advanced in favor of ratification—the need to have verifications mechanisms in place with Russia, the assertion that the treaty did not adversely affect U.S. missile defense, and the view that a sufficiently strong commitment to nuclear modernization had been achieved—turned out to be highly questionable, a survey of public statements made by most Republican Senators who voted “yes” on ratification shows that those arguments played a substantial role in propelling New START over the top.

The Republican Senators who voted in favor of New START—some of whom are no longer serving in the Senate—included: Alexander (R-Tennessee); Bennett (R-Utah); Brown (R-Massachusetts); Cochran (R-Mississippi); Collins (R-Maine); Corker (R-Tennessee); Gregg (R-New Hampshire); Isakson (R-Georgia); Johanns (R-Nebraska); Lugar (R-Indiana); Murkowski (R-Alaska); Snowe (R-Maine); and Voinovich (R-Ohio).¹⁶² Statements from these Senators’ offices are excerpted on the following pages.

SEN. LAMAR ALEXANDER (R-TENNESSEE):

I have reviewed the plan that calls for spending \$85 billion over the next ten years on nuclear modernization. I have visited our outdated nuclear weapons facilities. I am convinced that the plan's implementation will make giant steps toward modernization of those facilities so that we—and our allies and adversaries—can be assured that the weapons will work if needed. The president's statement that he will ask for these funds and the support of senior members of the Senate Appropriations Committee means that the plan is more likely to become a reality. This will make sure the United States is not left with a collection of wet matches...

"Alexander said that under the terms of the Treaty, the United States:

-- will have up to 1,550 deployed strategic nuclear weapons, "each one up to 30 times more powerful than the one used at Hiroshima to end World War II"; and

--will gain valuable data, including through inspection operations "that should provide a treasure trove of intelligence about Russian activities that we would not have without the treaty—and that we have not had since the START treaty expired on December 9, 2009.

Over the weekend the president sent a letter to the Senate reaffirming 'the continued development and deployment of U.S. missile defense systems ...' There is nothing within the Treaty itself that would hamper the development or deployment of our missile defense. Our military and intelligence leaders all have said that...¹⁶³

SEN. SCOTT BROWN (R-MASSACHUSETTS): "

Over the course of many months, I have had the opportunity to meet with active and former military, missile defense and non-proliferation experts to discuss the New START Treaty. Ensuring adequate funding for nuclear modernization and protecting our missile defense capabilities have always been my greatest concerns. In the course of the debate, these concerns have been addressed by the White House and the Pentagon. This treaty is critical to our national security. While I am sup-

porting the New START Treaty, there is more work to be done with regard to tactical nuclear weapons in Russia and nuclear proliferation in Iran and North Korea.¹⁶⁴

SEN. THAD COCHRAN (R-MISSISSIPPI):

After listening carefully to national security experts and debate on the Senate floor, I have been convinced that failure to ratify this treaty would diminish cooperation between our two countries on several fronts, including nuclear proliferation, and would limit our understanding of Russian capabilities. Also, failure to ratify this treaty would cause further delays in getting our inspectors back to Russia after a one year absence.”

I am cognizant of the fact that the New START has received unanimous endorsement by our country’s diplomatic and military leadership, and it would be an extraordinary position for the Senate not to support their views on how best to advance our national security interests...¹⁶⁵

SEN. SUSAN COLLINS (R-MAINE)

...In her letter, Senator Collins also expressed her support for the Administration’s recent commitment to increase investment for nuclear modernization efforts.

In announcing her support for ratification, Senator Collins said, ‘The New START represents a continued effort to achieve mutual and verifiable reductions in nuclear weapons. As the Ranking Member of the Senate Homeland Security and Governmental Affairs Committee, I support the President’s commitment to reduce not only the number of strategic nuclear weapons through the New START treaty, but also to reduce, in the future, those weapons that are most vulnerable to theft and misuse—and those are tactical nuclear weapons.’¹⁶⁶

SEN. BOB CORKER (R-TENNESSEE)

Chairman of the Joint Chiefs of Staff Admiral Mike Mullen says the treaty is vital to U.S. national security; I agree and am proud that as a result of ratification we have been successful in securing commitments from

the administration on modernization of our nuclear arsenal and support of our missile defense programs, two things that would not have happened otherwise. In fact, thanks in part to the contributions my staff and I have been able to make, the New START treaty could easily be called the 'Nuclear Modernization and Missile Defense Act of 2010...

With New START's ratification we will once again have well-trained inspection teams—'boots on the ground'—as a check on Russia, an exercise President Reagan called, 'Trust, but verify'...

...I saw this entire process as an opportunity to push for long overdue investments in modernization of our existing nuclear arsenal and made clear I could not support the treaty's ratification without it...

...the president sent a letter to Congress stating his commitment to the development and deployment of a robust U.S. missile defense system. I introduced an amendment codifying the key components of the letter and requiring that the president, prior to ratification of the treaty, certify to the Senate that our missile defense systems will continue to be developed, improved and deployed...¹⁶⁷

SEN. JOHNNY ISAKSON (R-GEORGIA)

Isakson supports the New START treaty, because it in no way hinders the ability of the United States to move forward with a robust missile defense system. Furthermore, the Russian unilateral statement made on April 7, 2010, does not impose a legal obligation on the United States. The resolution of ratification also ensures modernization and maintenance of the U.S. nuclear arsenal as well as the unfettered ability of the United States to deploy missile defense.¹⁶⁸

SEN. MIKE JOHANNIS (R-NEBRASKA)

Sen. Mike Johannis (R-Neb.) today voted to ratify the New Strategic Arms Reduction Treaty (START) in the Senate after several amendments were approved that addressed his concerns.

After yesterday's cloture vote, two amendments passed that addressed important concerns. An amendment (S. AMDT. 4864) offered by Sen. Jon Kyl (R-Ariz.) requires the U.S. President to certify that strategic nu-

clear weapon delivery systems (bombers, intercontinental ballistic missiles and submarine-launched ballistic missiles) will be modernized and an amendment (S. AMDT. 4908) offered by Sen. George LeMieux (R-Fl.) addressed the disparity between Russian and U.S. tactical nuclear weapons and requires negotiations between Russia and the U.S. to occur within one year of ratification of the Treaty.

Johanns co-sponsored two additional amendments that were adopted today. The first amendment (S. AMDT. 4892) was offered by Senator Kyl to require an annual report be compiled regarding the modernization of the United States' nuclear weapons stockpile and clarify that the United States can withdraw from the Treaty if the modernization plan is not adequately funded.

Johanns also co-sponsored an amendment (S. AMDT. 4904) offered by Sens. John McCain (R-Ariz.), Joseph Lieberman (I-Conn.) and Bob Corker (R-Tenn.) that added a condition to the Resolution of Ratification requiring the U.S. President to certify to the Senate and to Russia that the continued development and deployment of U.S. missile defense systems will not be threatened by the Treaty. It also ensures that the continued improvement of U.S. missile defense systems does not constitute a basis for questioning the effectiveness and viability of the Treaty or for Russia to withdraw from the Treaty. Additionally, the amendment states that the preamble linkage between offensive and defensive weapons imposes no legal obligations on the United States; therefore not restricting the continued development of our missile defense systems.¹⁶⁹

SEN. RICHARD LUGAR (R-INDIANA)

The New START agreement came about because the United States and Russia, despite differences on many geopolitical issues, do have coincident interests on specific matters of nuclear security. We share an interest in limiting competition on expensive weapons systems that do little to enhance the productivity of our respective societies. We share an interest in achieving predictability with regard to each other's nuclear forces, so we are not left guessing about potential vulnerabilities. We share an interest in cooperating broadly on keeping weapons of mass destruction out of the hands of terrorists. And we share an interest in

maintaining lines of communication between our political and military establishments that are based on the original START agreement.

Over the last seven months the Senate has performed due diligence on the New START treaty. Most importantly, we have gathered and probed military opinion about what the treaty would mean for our national defense. We have heard from the top military leadership, as well as the commanders who oversee our nuclear weapons and our missile defense. We have heard from former Secretaries of Defense and STRATCOM commanders who have confirmed the judgment of current military leaders. Their answers have demonstrated a carefully-reasoned military consensus in favor of ratifying the treaty. Rejection of such a consensus on a treaty that affects fundamental questions of nuclear deterrence would be an extraordinary action for the Senate to take.

Moreover, the treaty review process has produced a much stronger American political consensus in favor of modernization of our nuclear forces and implementation of our missile defense plans. This includes explicit commitments by the President and Congressional appropriators. In the absence of the New START Treaty, I believe this consensus would be more difficult to maintain. We have the chance today not only to approve the New START Treaty, but also to solidify our domestic determination to achieve these national security goals.¹⁷⁰

SEN. LISA MURKOWSKI (R-ALASKA)

After much study and discussion, I have decided to support ratification of the New START treaty, viewing it as a modest step forward in our efforts to reduce the risk of nuclear war. For the United States, it maintains our strategic or long range nuclear weapons capability, while also allowing the U.S. to return to on-the-ground verification of Russia's nuclear stockpile.

As Alaska's senior senator, it was important to know that ratification will have no effect on missile defense—specifically, whether ratification would preclude the United States from expanding either the number of missile interceptors at Fort Greely or the number of missile fields. This is

an issue I raised in recent days in discussions with Secretary of State Hillary Clinton, Missile Defense Agency Director LTG Patrick O'Reilly and other senior administration officials. The answers I've received to both questions is 'NO.'¹⁷¹

SEN. OLYMPIA SNOWE (R-MAINE)

...Much has changed since the original START was first negotiated in 1991, and as a result I have supported efforts to make certain that questions regarding our ability to verify Russian compliance with the Treaty's limits, to develop and deploy effective missile defenses, and to modernize our nuclear weapons complex, have been satisfactorily resolved.¹⁷²

C O N C L U S I O N

Finally, though New START was ratified in large part because a sufficient number of Republican Senators were convinced that a vote for ratification was in the national security interests of the United States, a separate dynamic arguably contributed to the outcome. Senate Republican leadership, including those in leadership who opposed New START, chose not to pressure the rest of the caucus to vote against ratification, instead leaving them to vote as they saw fit.¹⁷³ While it cannot be asserted with any certainty that a concerted effort to unify Senate Republican opposition against New START would have successfully blocked ratification, it is plausible that some Senators might have voted differently, or perhaps argued more strenuously for postponing a vote until the next session of the Senate, had such an effort been made.

NOTE FROM THE AUTHOR

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Of course, as ever, responsibility for any inaccuracies in this paper lies with the author alone.

ENDNOTES

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