PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Wahington, DC, December 19, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. BENNET thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, I am meeting and having a conversation with the Republican leader to see if we can come to an agreement on the CR. There are a few issues but nothing we shouldn't be able to work through.

Following any leader remarks, the Senate will resume executive session to resume consideration of the New START treaty. There will be 3 hours of debate with respect to the Risch amendment. The time will be divided as follows: 1 hour under the control of Senator KERRY or his designee, and 2 hours under the control of Senator RISCH or his designee. There will be no amendments in order to this amendment.

At approximately 3 p.m. today the Senate will proceed to a series of up to three rollcall votes. The Risch amendment will be voted on, that is amendment No. 4839; the confirmation of a circuit court judge for the Second District, Raymond J. Lohier, Jr.; and confirmation of a district court judge in Mississippi, Carlton Reeves.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

Mr. REID. Mr. President, I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KERRY. Mr. President, I ask unanimous consent that we divide the time appropriately among the 3 hours. I would use perhaps 10 minutes at this moment in time.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The legislative clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive arms.

Pending:

Risch amendment No. 4839, to amend the preamble to the treaty to acknowledge the interrelationship between nonstrategic and strategic offensive arms.

Mr. KERRY. Mr. President, I ask that the time be divided as follows: I ask unanimous consent that I be permitted to proceed for 10 minutes and then reserve the remainder of our time; the Senator from Idaho will control the time of the Republicans. They will proceed to use up all but 10 minutes of their time. I will come back and respond, at which point they would have 10 minutes held at the back end.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. RISCH. That is agreeable, Mr. President.

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

Mr. KERRY. Mr. President, let me begin very quickly. First of all, I wish to thank the Senator from Idaho for his amendment. I appreciate the thought he has put into the consideration of this treaty and his role on the Foreign Relations Committee and the work he has done over the 4 days, and now the fifth day of consideration of this treaty on the floor of the Senate.

The amendment the Senator proposes to put into the treaty is an amendment to the preamble. So we have the same problem we had yesterday. I would just say that up front. But that said, we have great agreement with the substance of what he is trying to put forward in terms of the need to deal with tactical nuclear weapons. We will say more about that afterwards.

If the Senator would be willing, I think we can find a way to incorporate into the resolution of ratification a genuine, meaningful, adequate statement with respect to this linkage between tactical nuclear weapons and overall strategic understanding. I would like to do that, but I know the Senator wants to proceed with this amendment first. I just want him to have that understanding, that we are prepared to say something important, and I think substantive, about tactical nuclear weapons.

I wish to use a couple of minutes, if I may, to respond to a couple of comments made this morning by the minority leader on one of the morning television shows.

First of all, obviously, I regret he will not support the treaty itself. We had an understanding that was probably going to be the case. It is not a surprise. But I find it disappointing, given the entire Republican foreign policy, national security, experienced statesmen group who are sort of emeritus for our Nation today—including former Secretary of State Larry Eagleburger, former Secretary of State Colin Powell, and former Secretary of State Jim Baker, as well as the list of all of the former Secretaries of State from the Republican side, including former Secretary of State Condoleezza Rice—all support this treaty.

The military supports this treaty. The leader of the Strategic Command, current, and the past former seven, support this treaty. The national intelligence community supports this treaty.

So I hope that in these waning days of this session, as we approach this holiday season which is so focused on the concept of renewal and hope and peace, that we could find the ability in the Senate to embrace in a bipartisan way the security interests of our country.

Particularly with regard to the notion about more time on this treaty, we are now on the fifth day of debate on this treaty. Let's debate today. Even if we had the cloture filing tonight or something, we would still have 2 days more of debate before that ripens and a vote on it, after which we then have 30 hours of debate providing it will pass.

So we are looking at the prospect of having more days of debate on this treaty, a simple building block on top of the START I treaty. We are looking at having more days of debate on this treaty than the START I, START II, and Moscow Treaty all put together.

So I think the Senate, which is appropriate, has time to focus on this treaty. I thought we had a good debate yesterday. The President said:

Regardless of Russia's actions, 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.

So I hope our colleagues will give credence to the Secretary of Defense, the Secretary of State, the military, the President of the United States, and to the budget. The chairman of the Appropriations Committee informed me yesterday they have fully funded the

modernization, once again, in the CR, just as we did in the previous CR—a sign of good faith of the direction in which we are going.

So all I can say is we have bent over backwards to meet the concerns of our colleagues in a completely nonpolitical, apolitical, totally bipartisan, substantive way that meets the security concerns of the country. I hope we can find reciprocity with respect to that kind of action in the Senate.

So I reserve the remainder of my time. We will respond appropriately on the substance of this amendment at the appropriate time.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. RISCH. Mr. President, first of all, I wish to thank the chairman of the committee and the ranking member of the committee for the cooperation we have had throughout this matter. As I said when I started my debate on this amendment, I believe everyone is working in good faith, in the best interests of the United States, to attempt to develop and ratify a treaty that will be in the best interests of the United States.

I was particularly encouraged this morning to hear the chairman of the committee indicate he believes the substance of what we are talking about is an important issue, and I know he believes that. I know the intelligence community believes it. I know a lot of other parties that are involved believe this is a very important issue. We are going to talk about why this is an important issue as we go forward. After all, when we are dealing with a subject such as this, we are talking about the security of the people of the United States of America. It is not a partisan issue. It is not a win or a loss for anyone. It is developing the best we can possibly do to protect the American people.

I am nonetheless disappointed by yesterday's vote regarding missile defense. I am going to talk about that a little bit when I get into the substance of tactical weapons, but the issue of missile defense, just like the issue of strategic versus tactical weapons, is one that has been around for a long time.

It is not new. It is one of a couple of issues that were around 40 years ago when the people who originally brought us to the table with the Russians to do the work that they did. As I said before, those people were real heroes. They were patriots and did a great job of getting us to the table with the Russians, at a time when nuclear weapons was probably the most important issue facing the world.

A lot of us grew up in an era when we remember having air raid drills. I remember going to friends' houses who actually had shelters in their homes, so if indeed there was a nuclear war, they could take shelter. It is hard to believe that was the situation 40 years ago, but it was. Most people today don't have a recollection of what a serious issue that was. Those people who brought us to the table were real patriots. That was 40 years ago.

As I said before, the world has changed greatly in 40 years. Unfortunately, the dialog regarding strategic missiles has not dramatically changed in the last 40 years. We have been focused almost exclusively on numbers and to the great credit of those originally involved and to the credit of the ranking member, Senator LUGAR, who is here with me today, those numbers have been dramatically reduced. We started out with each side having over 6,000 weapons that could be launched on the other side. We have continuously ratchetted that back under this treaty to 1,550. I don't want to, in any way, denigrate the fact that we have greatly reduced the number of those strategic weapons on each side.

Having said that, one has to wonder what is the difference between 6,000 and 1,550? If either party pushes the button at 6,000 or at 1,550, the world is over as we know it. So although it is important to talk about numbers, I think that in today's world, because of changing conditions, we should be as much focused on a couple of other—well, at least two other issues, one being the missile defense issue, which we talked about at great length yesterday, and the other is the relationship between strategic and tactical weapons.

Frankly, we have been pacifying the Russians regarding missile defense and regarding strategic versus tactical weapons in order to get these treaties. I understand that when you are doing treaty work, when you are negotiating, it has to be a give-and-take proposition. Having said that, these two issues have moved to the forefront and have moved to importance, compared to simply the bare number of weapons and the verification process. Again, I don't want to denigrate the verification process itself; that is important.

Today, Russia is not the threat to us when it comes to nuclear issues, as it was 40 years ago. Indeed, there was no truly great threat to us other than Russia 40 years ago. However, today, most everybody agrees the likelihood of Russia pushing the button or us pushing the button and destroying each other is very unlikely. We have a 40-year history, where we have been through good times and bad times. Neither party—with the exception of the Cuban missile crisis—has come close to or remotely close to or even threatened to push the button and start a nuclear war.

In my judgment, and I think in the judgment of people who deal with this regularly, Russia is not the nuclear threat it was 40 years ago. But there are threats out there that indeed are as bad and worse than what the Russian threat was 40 years ago. How many people believe the rogue countries, North Korea and Iran, would not threaten us—at the very least threaten us—to push the button if they indeed had the ability to immediately do so. We all know it has been reported in the press that both those countries are working feverishly to get themselves in the position where they can have a nuclear weapon mounted, poised, and ready to go, so that when they sit down at the table with us, they can look us in the eye and say: Look, we will push the button if you don't—fill in the blank.

Our media today mocks and jokes about Ahmadinejad and Kim Jong Il as being dysfunctional people—I think that is the kindest way of putting it. But they will not be joking about it if they get themselves in the position where they are able to legitimately threaten us with pushing the button or pulling the trigger on us with a nuclear attack.

We need to be focusing on the other aspects, starting with missile defense, because if we sit across the table from Kim Jong Il or his representatives or Ahmadinejad and the best we have to offer is a retaliatory strike, that isn't nearly as effective as having an umbrella over the top of us that can knock an errant missile out of the sky. We need a robust missile defense system.

I believe, as we said earlier, that this treaty chills that, because no matter what you say, if you read the unilateral statements made by the parties, the Russians have said that if we go forward with improving, either quantitatively or qualitatively, our missile defense system, this is grounds for withdrawing from this treaty. I don't think we should have a treaty in place that in any way chills the thinking about what we do to protect the American people with a robust missile defense system that could knock out of the sky an attack by either North Korea or Iran or even an accidental launch by the Russians, which, although remote, is a possibility.

Well, today, let's talk about something we can agree on; that is, the importance of tactical weapons in this discussion. As the distinguished chairman mentioned in his opening statement, the importance of the tactical weapons issue is a matter we should be concerned about and we should talk about. I am delighted to hear his offer that, assuming this goes by the bye, we can talk about getting something into the resolution of ratification as opposed to into the treaty.

First, for those who aren't daily speaking on this issue, the difference between strategic and tactical weapons is important. The difference is distance. A strategic weapon can reach your enemy on the other side of the ocean. A tactical weapon is a theater or short-range weapon that can be used on the battlefield. That is the difference between the two. It is a huge difference in a lot of different ways.

Although we all agree it is an important issue, and we all talk about it, nothing is done about it. Indeed, according to the statements that have

been made, before we ever sat down at the table with the Russians on this issue, it was agreed we would do nothing about this issue. I hope and I urge that the President, the State Department, and all the others involved will pursue this issue aggressively and quickly once we have this treaty behind us, one way or the other.

What I want to do is to amend the preamble to the treaty, once and for all, that lays this issue on the table and tells the Russians this is an important issue and that we are no longer going to look the other way and ignore this issue. They have an advantage on us on this issue. Everyone agrees with that. But this is what I want to put into the preamble, and it is not extensive. I have heard the chairman say over and over again that the preamble doesn't mean anything or very little. With all due respect, I disagree with that. I compare it to the preamble of the Constitution of the United States, which means a lot and is frequently quoted in court cases on constitutional issues.

This is what I want to put in:

Acknowledging there is an interrelationship between nonstrategic and strategic offensive arms, that as the number of strategic offensive arms is reduced [as this treaty does] this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and the disparity between the parties' arsenals could undermine predictability and stability.

That is a factual statement that, on our side, virtually everybody agrees to. Obviously, the Russians, I suspect, probably agree to that but don't want to talk about it.

Well, the problem, in its simplest terms, is that we are greatly outgunned by the Russians at this time on the tactical front. Right now, on the strategic front, according to media sources we have approximately 2,100 strategic weapons. The Russians have approximately 1,100 strategic weapons. From an intelligence standpoint, I am not confirming those numbers, but that is what is reported in the press—assuming those numbers are accurate or modestly accurate. We, obviously, are not in parity. We are in a little better shape than the Russians from a strategic standpoint.

When you consider that neither of us believe we will reach for use of our strategic weapons, it doesn't make a lot of difference that we have 1,000 more than they do and probably not that much of a difference if either one pulls the trigger. On the tactical side, however, that is a very different ball game. As we all know, we have defense treaties. The biggest one is NATO, but we have defense partnerships with many countries around the world. Under our nuclear defense umbrella, many countries take refuge. It is here that the tactical weapons become important.

On these tactical weapons, as I said, the Russians have a 10-to-1 advantage over us. Just as important, without getting into intelligence details, they have a vast array of weapons, not only a delivery system but the weapons themselves, which again outgun us and is a serious problem.

Thirdly, just as important, they continue cranking out every day new designs, new technology, new development, and new production of these tactical weapons—continuing to add to the disparity between us and the Russians.

Well, this disparity in our nuclear posture is very well demonstrated by the report Congress commissioned, entitled ''America's Strategic Posture.'' It is published in a book and known as the Perry-Schlesinger Commission. I am going to refer to that briefly because I think probably this, as much as anything, is what people use as a guide to describe where we are as far as our posture on nuclear weapons and especially on tactical weapons, which is what I am focusing on with this particular amendment.

First, let me say the Russians are relying on more tactical nuclear weapons. The Commission report, at page 12, explained that:

As part of its effort to compensate for weaknesses in its conventional forces, Russia's military leaders are putting more emphasis on nonstrategic nuclear forces [what they call NSNF] particularly weapons intended for tactical use on the battlefield. Russia no longer sees itself as capable of defending its vast territory and its nearby interests with conventional forces.

So in very short order, they have explained why the Russians are doing this, why they have us 10-to-1 on this part of the issue, and why they continue to develop it. Well, they do not have the money or the resources or the ability, because of the large territory they have, to defend with conventional forces, and so they reach for these tactical weapons that are smaller and more easily deployed.

There is a description of the tactical nuclear threat in this document at page 13, which, again, I want to quote because I think it says it as concisely as it can be said:

As the Cold War ended, and as noted above, these NSNF—

That is, nonstrategic nuclear forces, short-range weapons—

were reduced under the auspices of the PNIs—

That is, Presidential Nuclear Initiatives—

and also the Treaty on Intermediate Range Nuclear Forces of 1987. Nonetheless, Russia reportedly retains a very large number of such weapons. Senior Russian experts have reported that Russia has 3,800 operational tactical nuclear warheads with a large additional number in reserve. Some Russian military experts have written about use of very low-yield nuclear ''scalpels'' to defeat NATO forces. The combination of new warhead designs, the estimated production capacity for new nuclear warheads, and precision delivery systems, such as the Iskander short-range tactical ballistic missile (known as the SS–26 in the West), open up new possibilities for Russian efforts to threaten to use nuclear weapons to influence regional conflicts.

That is at page 13.

There is a lack of Russian transparency on this particular issue. One of the things this treaty does that we are talking about today—and I think everyone concedes that this is one of the important aspects of this treaty—is it gives us transparency with the Russians, at least to some degree. One could argue the degree, but at least there is some transparency. Not so with tactical weapons.

This is what the Commission said:

Like China, Russia has not shown the transparency that its neighbors and the United States desire on such matters. It has repeatedly rebuffed U.S. proposals for nonstrategic nuclear forces transparency measures and NATO's request for information. And it is no longer in compliance with its PNI commitments.

So that describes the transparency problem, page 13 of this particular report.

There is a need to have effective deterrence against Russian tactical weapons, and again the report points this out.

Even as it works to engage Russia and assure Russia that it need not fear encirclement and containment, the United States needs to assure that deterrence will be effective whenever it is needed. It must also continue to concern itself with stability in its strategic military relationship with Russia. It must continue to safeguard the interest of its allies as it does so. Their assurance that extended deterrence remains credible and effective may require that the United States retain numbers of types of nuclear capabilities that it might not deem necessary if it were concerned only with its own defense.

Again, this provides a description of the serious issue tactical weapons puts on the table.

Well, there is a very substantial concern about the imbalance between strategic and tactical weapons. As I said, on tactical weapons we are not only balanced, but we probably have an advantage of 1,000, but who cares if neither party really believes it is going to be used. So then you turn to the tactical weapons, which are obviously very different.

This is what the Commission says:

But that balance does not exist in nonstrategic nuclear forces, where Russia enjoys a sizable numerical advantage. As noted above, it stores thousands of these 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.

Let me say that again: The United States deploys a small fraction of that number in support of nuclear sharing agreements in NATO.

Precise numbers for the U.S. deployments are classified, but their total is only about 5 percent of the total at the height of the Cold War. Strict U.S.-Russian equivalents in NSNF numbers is unnecessary, but the current imbalance is stark and worrisome to some U.S. allies in Central Europe.

And to this Senator personally.

If and as reductions continue in the number of operationally deployed strategic nuclear weapons, this imbalance will become more apparent and allies less assured.

Further in this report, they say:

The imbalance favoring Russia is worrisome, including for allies, and it will become more worrisome as the number of strategic weapons is decreased.

Which, of course, is what we are trying to do with this treaty.

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.

Obviously for the reasons I said because nobody believes we will ever reach to the strategic nuclear weapons to use them.

U.S. policy should seek reductions in Russian tactical weapons. I think everyone agrees on that, and that is precisely what I am attempting to do with this amendment to the preamble.

The Strategic Posture Commission says:

U.S. policy should be guided by two principles. First, the United States should seek substantial reductions in the large force of Russian nonstrategic nuclear forces (Non-Strategic Nuclear Forces). Second, no changes to the U.S. force posture should be made without comprehensive consultation with all its U.S. allies (and within NATO as such). All allies depending on the U.S. nuclear umbrella should be assured that any changes in its forces do not imply a weakening of the U.S. extended nuclear deterrence guarantees. They could perceive a weakening if the United States (and NATO) does not maintain other features of the current extended nuclear deterrence arrangements than the day-to-day presence of U.S. nuclear bombs. Some allies have made it clear to the commission that such consultations would play a positive role in renewing confidence in U.S. security assurances.

Finally, the Perry-Schlesinger Commission endorsed tactical weapons reductions talks.

The Commission said:

The commission is prepared strongly to endorse negotiations with Russia in order to proceed jointly to further reductions in our nuclear forces as part of a cooperative effort to stabilize relations, stop proliferation, and promote predictability and transparency. The large Russian arsenal of tactical nuclear weapons must be considered in this regard.

Well, obviously everyone is concerned. I am not the only one concerned. Obviously, the Commission isn't the only one concerned about this. Members of this body are and have been for a long time concerned about this.

My distinguished colleague from Maine, Senator COLLINS, wrote to the Secretary of State on December 3, 2010, and she stated:

The characteristics of tactical nuclear weapons, particularly their vulnerability for theft and misuse for nuclear terrorism, make reducing their numbers important now.

Senator COLLINS focused on another aspect of this that we haven't really talked about that much, but certainly strategic weapons have very little opportunity—in fact, in the United States, no opportunity—for access by terrorists. Not so much on the other side. But clearly there is a great difference between tactical and strategic weapons, primarily because of the way they are deployed.

Senator COLLINS also said:

President Obama's 2010 Nuclear Posture Review echoes the concern of nuclear terrorism. ''The threat of nuclear war has become remote, but risk of nuclear attack has increased. Today's most immediate and extreme danger is nuclear terrorism. Al-Qaida and their extremist allies are seeking nuclear weapons.''

That probably summarizes as clearly as anything the discussion I had at the outset about the difference of 40 years ago versus today and underscores what, in my judgment, is so important about moving this dialog forward instead of staying in the rut of where we were 40 years ago and focusing just on numbers.

Again, it is not just the Republican side of the aisle. Almost a decade ago, the SORT treaty, or Moscow treaty—another nuclear arms reduction treaty—was discussed here on the floor of the Senate, and a number of my colleagues from the other side of the aisle raised this exact question regarding tactical weapons and also underscored how important it was to take on this issue. Again, even though we have advanced 40 years, nothing has happened, and nothing has happened in the last decade. About 10 years ago, the distinguished Members of this body underscored how important it was to take this issue on, and nothing has happened.

Then-Senator BIDEN said on July 9, 2002, in this Chamber:

My question is, if the impetus for this treaty was going down to 1,700 to 2,200, related to the bottom line of what our consensus in our government said we are going to need for our security, and the rationale for the treaty was in part to avoid this kind of debate that took place over tactical nuclear weapons, then it sort of reflects that this is what the President thinks are the most important things to proceed on relative to nuclear weapons. Does he think that dealing with the tactical nuclear weapons are not that relevant or that important now, or that things as they are relative to tactical nuclear stockpiles are OK? Talk to me about that? You understand where I am going?

Well, I do, Mr. Vice President, because that is where I am going today, but nothing has happened over the last decade.

My distinguished colleague, Senator DORGAN, said in this Chamber, when we were talking about that treaty:

And this treaty deals with only strategic nuclear weapons, not theater nuclear weapons. There are thousands and thousands of theater nuclear weapons, such as the nuclear weapons that go on the tips of artillery shells. That is not part of the agreement. It has nothing to do with this agreement.

He was right then, and he is right now as to this agreement.

Senator REED, the Senator from Rhode Island, stated:

The treaty does not specifically address the problem of tactical weapons or MIRV'd ICBMs. The number of Russian tactical nuclear weapons is believed to be between 8,000 and 15,000, while the United States has approximately 2,000. Russian tactical nuclear weapons are subject to fewer safeguards and more prone to theft and proliferation. These are the proverbial suitcase weapons, often discussed in the press, which are the ones that are most mobile, most difficult to trace and detect. And the treaty does not deal with these weapons at all.

Senator REED was right then on that treaty, and he is right on this treaty.

Regarding that treaty, Senator CONRAD stated:

I was therefore disappointed that a requirement for Russian tactical warhead dismantlement and United States inspection rights were not part of the treaty of Moscow.

Well, he was right, and I share his disappointment today on this, and I think everyone shares that disappointment. That is what I am trying to move forward with this particular amendment.

Senator CONRAD went on to say:

The disconnect between the ability of the United States to maintain current strategic force levels almost indefinitely, and Russia's inevitable strategic nuclear decline due do economic realities, gave our side enormous leverage that I believe we should have used to win Russian concessions on tactical nuclear arms. While I am encouraged that the resolution of ratification before us includes a declaration on accurate accounting and security, it does not mention Russian tactical nuclear reductions. I have prepared a corrective amendment and would welcome the support of the chairman and ranking member of the Foreign Relations Committee.

Thank you, Senator CONRAD. I expect him to come through the door any moment and join me as a cosponsor on this amendment. He had an amendment to the last treaty and that is exactly what I am trying to do on this treaty.

Finally, Senator FEINSTEIN, in talking about that treaty, said:

[T]he treaty does not address tactical nuclear weapons. As my colleagues know, there is a great deal of uncertainty about the number, location, and secure storage of Russian tactical nuclear weapons. Smaller and more portable than strategic weapons, they are vulnerable to theft or sale to terrorist groups. Yet the treaty does not even mention them. This is a glaring oversight and the dangers posed by tactical nuclear weapons—especially now in the post-September 11 world of global terrorism—warrants the immediate attention and action by both Russia and the United States.

She also said:

This treaty marks an important step forward in the relationship between the United States and Russia and reduces the dangers posed by strategic nuclear weapons. Nevertheless, I am concerned that the treaty does not go far enough and I believe its flaws must be addressed if we truly want to make the threat of nuclear war a thing of the past.

What has changed in the last 8 years, indeed in the last 40 years, when it comes to tactical weapons? Not much. As my colleague said 8 years ago, we should have had, in these negotiations, tremendous leverage over the Russians on this particular issue. We have a 1,000-warhead advantage on them. They are already under the numbers, and I am still not clear what we got when we agreed that the number would be 1,550, when they were already below it and we had to get down to 1,550. I am not

sure what we got for that. But it would seem to me at least we should have gotten something in that regard and that something should have had to do with tactical weapons.

As I am winding down, let me correct one thing that is out there in the public domain and that is the State Department's Web site. The State Department has a Web site up that addresses this treaty and deals with many questions surrounding this treaty and has answers for the public, for the media, and for anyone who wants to go there and learn about this particular issue.

I wish to focus on one particular aspect of that; that is, the part that deals with tactical weapons that I am dealing with. The State Department Web site posts—I suppose it is under ''frequently asked questions,'' the question: ''Why doesn't the New START Treaty cover tactical weapons?''

That is a good question: ''Why doesn't the new START treaty cover tactical weapons?''

It goes on and states that:

> From the outset, as agreed by Presidents Obama and [the President of Russia] . . . the issue of tactical weapons was not raised.

I guess that begs the question: Why wasn't it? But nonetheless, the question is still out there: Why doesn't it address that? This is what they state:

> Deferring negotiations on tactical nuclear weapons until after a START successor agreement had been concluded was also the recommendation of the Perry-Schlesinger Strategic Posture Commission.

That is an inaccurate statement. You recall, as I read from the Perry-Schlesinger Report, that is an inaccurate statement. Some members of the Perry-Schlesinger Commission were disturbed by the fact that the Web site said they had recommended they put this off.

On December 17, 2010, half a dozen members of that Commission wrote to Senator KERRY and ranking member Senator LUGAR and were protesting that particular statement on the Web site. I am going to quote from this letter. I am going to put the letter in the RECORD, but I am going to quote some small parts. The letter said:

> As Members of the Strategic Posture Commission, we write to provide our own reality check that this does not resemble the recommendation the commission made on Russian tactical nuclear weapons.

It goes on to say:

> The Commission specifically said on page 67 of its report that, ''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.

I ask unanimous consent to have printed in the RECORD the letter of December 17 I referred to, to Senator KERRY and Senator LUGAR, from members of the Strategic Posture Commission.

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

DECEMBER 17, 2010.

Senator JOHN KERRY,
Russell Senate Office Bldg.,
Washington, DC.
Senator RICHARD LUGAR,
Hart Senate Office Bldg.,
Washington, DC.

DEAR SENATORS KERRY AND LUGAR: During Senate consideration of New START, Members of the Senate have rightly raised their concern that New START leaves untouched Russia's ten-to-one advantage in tactical nuclear weapons. The official State Department response to this concern is provided by a document on its web site purporting to be a ''reality check,'' which states that ''Deferring negotiations on tactical nuclear weapons until after a START successor agreement bad been concluded was also the recommendation of the Perry-Schlesinger Congressional Strategic Posture Commission.'' As Members of the Strategic Posture Commission we write to provide our own reality check that this does not resemble the recommendation the Commission made on Russian tactical nuclear weapons.

The Commission was in fact very concerned about Russian tactical nuclear weapons. At page 21 of its report, the Commission noted that the current imbalance in tactical nuclear weapons between the United States and Russia ''is stark and worrisome to some U.S. allies in Central Europe.'' We took note of the ''evidently rising value in Russian military doctrine and national security strategy'' of tactical nuclear weapons, and found that ''there is a clear allied concern about this development.''

The Commission specifically said on page 67 of its report that ''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.*'' (Emphasis added). In addition, page 68 says, ''The United States will need to consider additional initiatives on those NSNF [non-strategic nuclear forces] not constrained by the INF Treaty—i.e., tactical nuclear weapons. U.S. policy should be guided by two principles. First, the United States should seek substantial reductions in the large force of Russian NSNF.'' Second, ''no changes to the U.S. force posture should be made without comprehensive consultations with all U.S. allies.''

These quotes from the Commission's report demonstrate the error of the State Department's assertion that the administration's approach to New START and tactical nuclear weapons is consistent with the Commission's recommendations.

As members of the Strategic Posture Commission, we have brought this matter to your attention because we believe that the Commission's recommendations regarding negotiations with Russia remain pertinent and that any reference to the Commission's report should be accurate.

Sincerely,

HARRY CARTLAND.
JOHN S. FOSTER, Jr.
FRED C. IKLÉ.
KEITH B. PAYNE.
JAMES R. SCHLESINGER,
Vice-Chairman.
R. JAMES WOOLSEY, Jr.
Commissioner.

Mr. RISCH. Let me conclude. Here we are, 40 years later and, indeed, a decade later than our most recent foray into this. Other than the raw reduction of numbers of strategic weapons, not a whole lot has changed. But the world has changed dramatically and I urge and I suggest our approach with Russia on these very important issues needs to, likewise, change—and it has not.

Once again, in this Senator's humble opinion and that of a number of other Senators also, we have been bested by the Russians on the missile defense issue. They have convinced us that if we even think about improving, either quantitative or qualitatively, missile defense issues, they will withdraw.

Once again, they convinced us before we ever sat down at table that they would not talk about nuclear weapons.

That is wrong. That is wrongheaded thinking. It was wrong to approach this treaty with that type of thing on the table. So when we are all done and the high-fiving starts and the champagne bottles are opened and the fancy documents are signed, before everybody gets all worked up about what a great and glorious thing this treaty is, I would say it is missing some important things. No. 1 is missile defense, and I guess we already crossed that bridge yesterday; but the other is the oh-so-important issue of tactical weapons.

Fellow Senators, this is your opportunity. If you want to press the reset button with Russia, this gives you your opportunity to press the reset button with Russia and take up this issue that is so important and, indeed, in the minds of many, more important than the issue of strategic weapons.

I yield the floor to Senator KYL.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. First, let me thank Senator RISCH on a fine statement about a very important aspect of this START treaty. He covered the waterfront very well. I only wish there were more than two other colleagues on the Senate floor to hear this debate. Part of the reason I suggested, a long time ago, it was not a good idea to bring up the START treaty just before Christmas is Members would be preoccupied, especially if we tried to go through Saturday and Sunday. Here we are on a Sunday afternoon and there are four Senators, in addition to the Presiding Officer, on the Senate floor. This is a shame because it is an important issue.

Yesterday, the Senate rejected an amendment by Senators MCCAIN and BARRASSO. What they said was that there is some language in the preamble of this treaty that states the interrelationship between strategic defensive and offensive weapons and that is not a good idea based upon how the Russians intend to use that language. The argument against it was that it is just a statement of fact, nothing more than that. There is an interrelationship between defense and offense. In effect, what is the big deal?

The Risch amendment is also merely just a statement of fact. In fact, the language of the Risch amendment is virtually identical to the preamble language dealing with missile defenses except it, in effect, substitutes tactical or

nonstrategic nuclear weapons for missile defense. It states the interrelationship. I cannot imagine anyone would deny that interrelationship. The Perry-Schlesinger Commission cited by Senator RISCH confirms that interrelationship.

As I said, I can't imagine anyone denying it, and I can't imagine anyone denying the fact that as we reduce our strategic offensive weapons, then the numbers of tactical nuclear weapons becomes all the more important, especially because of the large difference between the Russians and everyone else in the world. It is said to be about 10 to 1—Russia vis-a-vis the United States in tactical nuclear weapons—and all the more discouraging because there is no transparency in what the Russians have and their military doctrine is to actually use those weapons. Our strategic offensive tactical weapons are a deterrent to attack. To the Russians, tactical nuclear weapons are a battlefield weapon just like artillery. There is clearly an interrelationship between the two. It clearly would be to our detriment if we reduce our strategic offensive weapons down to the point that these tactical nuclear weapons could create an imbalance in power. Because the United States has commitments to 31 other countries, it is very important to them, especially the European countries that are in the backdoor of where the Russian tactical missiles could be most effective.

Yesterday, we were told we had to defeat the McCain amendment because it was simply trying to remove from the preamble this statement of fact of this interrelationship. Today, we have the Risch amendment, which is simply to insert a statement of fact about an interrelationship between the strategic and the tactical. There is no principled argument against the Risch amendment. The only argument is the Russians wouldn't like it and they would require that we renegotiate the preamble. I can't think of a better argument for the Risch amendment. We should renegotiate the preamble. All the statements Senator RISCH quoted from Democratic Senators then—one of the most eloquent by the Vice President, who was then a Senator, who said we have to negotiate further any reductions of these tactical nuclear weapons of the Russians. We should have done it in the 2002 treaty. This was a missed opportunity by the Bush administration. That should be our first order of business.

So the Obama administration, with Vice President—the Obama administration, with Vice President JOE BIDEN, comes into office and was that their first priority? No. Was it any priority? No. Did it get included in the treaty? No. Why? Because the Russians said nyet. All the Risch amendment would do is simply insert the words into the preamble. Remember, this is the document that is meaningless, just a throwaway piece of paper, so what harm could it be of making this statement of fact of the interrelationship?

As I said, there is no principled argument against this. The only argument can be the Russians would require some renegotiation. I say, fine, let's bring it on. That should have been negotiated when the treaty was negotiated, not now after the fact.

I appreciated the fact that Senator RISCH put into the CONGRESSIONAL RECORD the statement of the six Commissioners of the Perry-Schlesinger Commission, who had to correct the State Department Web site, which wrongly asserted that they did not believe we should attack this problem of the disparity in tactical nuclear weapons. Senator RISCH quoted from the Commission report that noted the urgency of dealing with this problem.

But did the Obama administration negotiators deal with the problem? No. Why? Because Russia didn't want to.

OK. Sorry. We are sorry about that. But when they asked us to deal with missile defense, and we said: No, not in this treaty, they insisted we put language about missile defense, and if the interrelationship between that and the strategic weapons in the preamble and more important, not just language about the interrelationship but the fact that as strategic numbers come down, then that relationship becomes even more important because defense becomes more important—precisely the same point about tactical nuclear weapons.

People should understand one other thing. There is not a huge difference between strategic and tactical weapons. The actual explosive power of some tactical weapons exceeds that of some strategic weapons. The difference is in the delivery mechanism. One is intended more as a shorter range kind of weapon and the other is a much longer range, ordinarily an intercontinental range. That is the strategic definition.

I cannot think of a principled argument against this. It is not as if we are saying the treaty has to be renegotiated. It is not as if we are saying we have to deal with tactical nuclear weapons. Then-Senator BIDEN said:

> After entry into force of the Moscow Treaty [that was done in 2002] getting a handle on Russian tactical nuclear weapons must be a top arms control and nonproliferation objective of the United States government.

So why wasn't it a top objective of the Obama and Biden administration?

Let me make some other points and I think there are some other colleagues who would like to speak to this and then there are some quotations from other people who supported this treaty who said this is a problem that needs to be dealt with.

One of the things that came up during the course of the negotiations involved a particular kind of Russian tactical nuclear weapon. These are the weapons that could be deployed on submarines. They are basically cruise missile weapons, nonstrategic nuclear weapons.

These could actually reach the United States when deployed on submarines, so, insofar as the United States is concerned, it is a distinction without a difference as to whether they are tactical or they are strategic.

They could be used against the United States with submarines because they are delivered by cruise missiles. These are exactly the kinds of systems that were limited in a binding side agreement reached between the United States and the Soviet Union during negotiation of the first START treaty. Why did the administration forgo a similar agreement in New START?

In other words, you have a precedent, a particular kind of then Soviet nonstrategic nuclear weapon was dealt within a side agreement to the START I treaty, because we understood its importance. This treaty does not inhibit in the least the Russians' ability to deploy a cruise missile, submarine-based, nonstrategic weapon, nuclear weapon.

They did not want us to have the ability to deploy conventional Prompt Global Strike, at least not without counting it against the vehicles that deliver nuclear weapons. So that got into the treaty. The Russians did not want it, so we acceded to their request. When we wanted to put something in about the cruise missiles that would be delivered by submarine, no, we cannot do that, the Russians said.

I presume the administration made this argument. I do not know that they did in the negotiations. You see, we, the Senate, being asked to give our consent to this treaty, have been denied the negotiating records. The Russians know what our negotiators said, but we do not know. The State Department knows, the Russians know, but we do not know.

I do not even know if the United States tried to get that same agreement that was in the START I treaty in this New START treaty. I do not know. But it is not in there. So either we did not try—negligence—or the Russians said no. This is why it is important to recognize the relationship somewhere—maybe we will get a letter from the President. Maybe he will send another letter to Senator MCCONNELL and say something about this, which, of course, does not mean anything vis-a-vis the Russians.

Why do we not do this in the preamble? Well, we have a chance to do it now, to correct the problem, by adopting the Risch amendment. A final point. The resolution of ratification actually recognizes this little problem, not very effectively, but it recognizes the problem by calling on the President to pursue an agreement with the Russians that would address this disparity in tactical nuclear weapons in the future.

Well, that is what then-Senator BIDEN asked to be done in 2002, when the last treaty was debated in the Senate. We did not do it. So now the resolution of ratification says, well, this is a pretty good idea, actually. We ought to do that in the future sometime. Well, our bargaining power in the future is gone. This is the treaty to do it

in. What is the quid pro quo going to be when we go to the Russians next and say, now we want to talk about tactical nuclear weapons. They are going to say, now we want to talk about U.S. missile defenses. How do you like them apples? What is the Obama administration going to say?

One theory I heard was—and this was from a knowledgeable source—that the Russians actually would like to move the bulk of their tactical nuclear weapons from the European theater to their southern border and their eastern border, where they fear some day they may have to use these weapons against a potential invasion from China or from Muslim states to their south, and that they might agree to a concession—if the United States insisted that they move those weapons back from the European theater, they might be willing to do that. That is exactly the kind of concern we have. The Russians want to do that. They are prepared to move their missiles. They know they are going to have to do so for their own self-interests. They are waiting, however, until we say we wish to bring up this question of tactical nukes. They will say: I tell you what, if you will give us something on missile defense, we will be happy to move them back from the European theatre. That is the kind of thing we are looking at. The Russians are great chess players, the best in the world. And they are great negotiators. With all due respect to our negotiators—I cannot blame our negotiators. I do not know whether it was because of a lack of direction from the Commander in Chief or poor negotiation. But one way or the other, we got snookered. We got snookered on missile defense, we got snookered on conventional Prompt Global Strike, we got snookered on tactical nuclear weapons, we got snookered on verification. All of these are issues that we want to try to deal with in the Senate now during this ratification process.

But Senator KERRY, the chairman of the Foreign Relations Committee, has said, we are not going to amend the treaty. So what are we doing here on a Sunday afternoon? If we are not going to do it, and he has got the votes to see that we do not do it, about all we can do is to make the case to the American people that this was a flawed process and a flawed treaty.

I hope our colleagues will consider the prospect of making some changes here, so that if, in fact, there does have to be some renegotiation, we welcome that. I do not know why the other side believes the Senate is only here as a rubberstamp. You cannot change the treaty, so vote for it. I think that explains this matter of time. Why do you need any time to debate this treaty? Let's get it over with. We have got to ratify the treaty here. Why are you raising all of those objections and questions? We are not going to let you amend it. So why do you think we need to take all of this time?

I think that explains their rationale. I heard one of my colleagues on the other side this morning on national TV say, we have been on this treaty for 2 weeks. No, we have not. We have been on it for 3½ days. That is interspersed with all of the other stuff we have been doing on the Senate floor, which I will not bother to repeat. We are all well aware of it.

But here we are on a Sunday afternoon. We should be debating a very serious proposal by Senator RISCH to simply put wording in the preamble that tracks almost identically the wording that is already in there relative to missile defense, and this would relate to tactical nuclear weapons. Why would we not do that, unless we do not want to change the treaty in any way?

I do not think we should be wasting our time here. The advice and consent clause of the Constitution meant something. The administration did not follow our advice that we gave them when we passed the defense bill last year on missile defense, on Prompt Global Strike. So we do not have to give them our consent, or at least we can say let's make a few changes—a change such as this, that I cannot see any principled argument against. There will be an argument, and the argument will be: Well, the Russians will not like it, we will have to renegotiate. I will be interested to see if there is any other argument.

I hope my colleagues will gradually filter in here on a Sunday afternoon, turn off the football game, come in for a few hours of edification about some very important matters to American security, and, at the end of this afternoon when we vote, support the amendment of my colleague Senator RISCH.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me state at the outset that the amendment offend by the distinguished Senator, Mr. RISCH, would, in essence, terminate the treaty. We have been down this trail yesterday with a long debate about missile defense.

But, in fact, the net result of amending the preamble, and thus the text of the treaty, is to kill it. That is the issue before the Senate. There may be Members in our body who do not like the treaty. There have been some, apparently, who from time to time have not been prepared to support any treaty with Russia.

I have recited, at least from my recollection of previous debates, that many Senators simply said, you can never trust the Russians. You cannot deal with the Russians. Simply what we ought to be doing is to build up defenses of our own so that quite regardless of what the Russians have, what the Russians intend to do, we are prepared for that.

Indeed, that was some of the argumentation at the time President Ronald Reagan first seriously got into these issues. There were persons at that point, and there may still be persons, who believe that somehow or other a complex system of missile defense can be set up that would protect our country against intercontinental ballistic missiles flying in from Russia, from North Korea, from Iran, from whomever might obtain them.

That argument has gone on for decades. To this point, there has not been scientific backup that such a comprehensive missile system could be created, quite apart from what its expense might be, and quite apart from the lack of attention to the recognition of what else is going on in the world.

Indeed it is a curious fact that in this debate some Senators have argued that the Russians are one thing, but a rather diminishing focus, as far as they are concerned; that the real problem is not how ever many intercontinental ballistic missiles the Russians may have, how many warheads that are aimed at our military installations and our cities but, rather, that development of a few nuclear weapons in North Korea, or the possibility of development of some in Iran ought to be the focus for those who are moderate as opposed to those who are still talking ancient history.

Let me be very clear. We are talking this afternoon about an amendment that terminates the treaty and that means we have no New START. Some Senators would say, well, that is fine. Now let's go back to work. Let's send our negotiators into the fray, as if, for some reason or other, we anticipate the Russians, after this rejection, are eager to engage.

In the meanwhile, let me say that for what I would call an indefinite period, while these negotiations might come about, although it is dubious given at least the rejection not only to the Russians, but the impression of the rest of the world, that we will have an inability, once again, to inspect what is proceeding in Russia.

In other parts of the debate, we may talk about the verification procedures and their adequacy. Some Senators have already suggested that in their judgment those verification procedures may lack the adequacy that would give us confidence, even though the number of bases on which Russia has weapons has decreased by at least a half, and it is a very different situation with regard to inspection.

But, at the same time, many of us have lamented since a year ago December 5 that we have not had so-called boots on the ground; that is, Americans inspecting what is proceeding. I think that is very important. If we reject the treaty today by passing this amendment, that problem will continue. I believe that has to be faced squarely, regardless of what Senators might feel ought to be in the treaty or left out of it. I would say each day that goes by, I do not predict that the Russians are going to construct something especially new and different, but we have come into a mode of feeling, that although that may be important, it has not been important enough for us to take up this treaty, even though it has

been clearly signed by the two Presidents of the United States and Russia for some months.

Thank goodness we finally have the treaty before us. I would say that the costs associated with requiring renegotiation of the treaty, I believe, far outweigh the benefits the Senate might gain by demanding a new treaty, new changes in due course. I would say, from my perspective, a rejection of the treaty today will make further limitations on Russian tactical nuclear arms far less likely, not more likely.

The United States has made clear that any future nuclear arms reduction agreement with Russia should include tactical nuclear weapons, and I share that objective. Some critics have overvalued the utility, however, of Russian tactical nuclear weapons, and undervalued our deterrent to them.

Only a fraction of those weapons; that is, the Russian tactical weapons, could be delivered significantly beyond Russia's borders. Pursuant to the INF treaty, the United States and the Soviet Union long ago destroyed intermediate range and shorter range nuclear-armed ballistic missiles and ground-launched cruise missiles, which have a range of between 500 and 5,500 kilometers.

In fact, most of Russia's tactical nuclear weapons have very short ranges. They are used for homeland air defense. Most, as has been suggested, are devoted to the Chinese border or are in storage now. A Russian nuclear attack on NATO countries is effectively deterred by NATO conventional superiority, our own tactical nuclear forces, French and British nuclear arsenals, and U.S. strategic forces. In short, Russian tactical nuclear weapons do not threaten our strategic deterrent. Our NATO allies that flank Russia in eastern and northern Europe understand this. I think we need to underline that because we have NATO allies. We have discussed this subject very frequently.

Our NATO allies would seemingly be the most in harm's way of a short-range tactical nuclear weapon. It could be a very short range into the Baltics, for example, or into Poland, but the NATO allies have all strongly endorsed the New START treaty for the reasons I have suggested. They understand the deterrents that are already present to the Russian use of these particular weapons.

It is important to recognize that the science differential between Russian and American tactical nuclear arsenals did not come to pass because of American inattention to this point. During the first Bush administration, our national command authority, with full participation by the military, deliberately made a decision to reduce the number of tactical nuclear weapons we deployed. So it goes back to the first Bush administration, a deliberate decision to reduce the number. They did this irrespective of Russian actions because the threat of a massive ground invasion in Europe had largely evaporated due to the breakup of the former Soviet Union.

In addition, our conventional capabilities had improved to the extent that battlefield nuclear weapons were no longer needed to defend western Europe. That was a military judgment. In this atmosphere, maintaining large arsenals of nuclear artillery shells, land mines, and short-range missile warheads was a bad bargain for us in terms of cost, safety, alliance cohesion, and proliferation risk. In my judgment, Russia should make a similar decision. The risks to Russia of maintaining their tactical nuclear arsenal in its current form are greater than the potential security benefits those weapons might provide. They have not done this in part because of their threat perceptions about their border, particularly their border with China—which, apparently, they want to give an impression to the Chinese who are along a large border and territory largely unoccupied or sparsely occupied by Russians, that these weapons might be utilized against the Chinese.

An agreement with Russia that reduced, accounted for, and improved security around tactical nuclear arsenals is in the interest of Russia and the United States. Rejection of New START, however, makes it unlikely that a subsequent agreement concerning tactical nuclear weapons will ever be reached. One of the basic points of the exercise we are now proceeding on, the passage and ratification of a New START treaty, means we have another opportunity to move ahead with the Russians around the negotiating table.

Logically, rejection of the treaty does not offer a promising benefit for at least the short run, and maybe the intermediate run to either country to proceed.

The resolution of ratification encourages the President to engage the Russian Federation on establishing measures to improve mutual confidence regarding the accounting and security of Russian nonstrategic weapons. That has been deliberately put into the text we are discussing today. For this reason, I oppose the amendment because, in fact, it would require renegotiation of the treaty. I have suggested that is unlikely to come about very rapidly and very readily.

One of the amazing things about the current situation was that with the expiration of the START treaty a year ago December, we were able to get together with the Russians, admittedly on a limited agenda. Those who are proponents of the treaty have said from the start that it is a limited agenda, small reductions in strategic arms, an ideal, once again, of verification and the possibilities that having at least reached limited agreements, we might in fact meet again around the negotiating table to think through the tactical weapons situation and other aspects and the very important objective we do have with the Russians of limiting the building of nuclear weapons or an industry that could field those in other countries.

We believe it will be in the interest of the Russians, as well as our own, to have that cooperation on the basis of our knowledge of how the systems work and how that deterrence might be effected.

I appreciate very much the importance of the issue. But for the reasons I have suggested, I believe it would be unwise to adopt the motion of the distinguished Senator. Furthermore, I would not like to see the treaty completely obliterated today by the adoption of this amendment because that, in fact, would be the effect.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes, to be followed by Senator CORNYN.

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

Mr. CASEY. Mr. President, we are grateful to be here on a weekend talking about a critically important treaty for the country. This treaty has been the subject for many months now of review by the Foreign Relations Committee, as well as other committees. There have been between 900 and 1,000 questions asked of the administration and answered. I think we should start with some basic fundamentals about the context within which this treaty is being debated and, I hope, ratified in the next couple of days.

First, this treaty is entirely consistent with our concern in making sure our nuclear arsenal is safe, secure, effective, and reliable. There is no question about that in terms of our goal. That underpins our national security and is no way reduced or compromised because of this treaty.

I wish to speak to the amendment offered by Senator RISCH. Any amendment to the treaty would require renegotiation with the Russian Federation. That would lead to a prolonged delay for the U.S. nuclear weapons inspectors to return to Russia to get on the ground to inspect and to verify.

As we sit here today on this Sunday, we can say, unfortunately, on this date, Sunday, December 19, we mark day 379 since we have had inspectors on the ground. That is a problem for our security. That is a problem, obviously, for verification. That is one of the reasons—only one, but one—we must ratify this treaty.

Let me get to the amendment offered by Senator RISCH. Senator RISCH and I serve on the Foreign Relations Committee. I am the chairman of the Subcommittee on Near Eastern and South and Central Asian Affairs. Senator RISCH is our ranking member. We work well together. I think we have a basic disagreement about this amendment. This amendment involves what are known as tactical nuclear weapons. I

recognize the importance of addressing the basic imbalance that exists with respect to the Russians and the scores of tactical nuclear weapons at their disposal. It is important that upon ratification of the New START accord, we proceed quickly to negotiations with the Russians on tactical nuclear weapons. But as we engage in this debate, it is also important to clearly define what we are talking about for the American people.

The Congressional Research Service says the United States and the Soviet Union—what we used to call the Soviet Union—both deployed thousands of ''nonstrategic'' nuclear weapons during the Cold War that were intended to be used in support of troops in the field during a conflict. These included nuclear mines, artillery, short, medium, and long-range ballistic missiles, cruise missiles, and gravity bombs.

So we are talking about tactical weapons—in this case, tactical nuclear weapons—which were not included in the New START treaty because this is a strategic weapons treaty. We can all agree future negotiations must take place on tactical nuclear weapons. But the only way to get there, the only path forward, is by finalizing New START and ratifying this important treaty.

Our allies in Europe are perhaps the most vulnerable to the threat posed by tactical nuclear weapons. Our allies in eastern Europe are especially so. Yet here is what Polish Foreign Minister Radoslaw Sikorski wrote on November 20:

> Without a [New START] treaty in place, holes will soon appear in the nuclear umbrella that the US provides to Poland and other allies under article 5 of the Washington Treaty, the collective security guarantee for NATO members. Moreover, New START is a necessary stepping-stone to future negotiations with Russia about reductions in tactical nuclear arsenals and a prerequisite for a successful survival of the Treaty on Conventional Forces in Europe (CFE).
>
> In effect, New START is a sine qua non for effective US leadership on arms-control and non-proliferation issues that matter to Europe—from reviving the CFE treaty to preventing Iran from obtaining nuclear weapons.

The Polish Foreign Minister said this. He represents the very people under direct threat from the Russians and from their tactical nuclear weapons. He believes New START should be done first, followed by negotiations on tactical nuclear weapons.

Secretary General of NATO Rasmussen has said:

> The New START treaty would also pave the way for arms control and disarmament initiatives in other areas that are vital to the Euro-Atlantic security. Most important would be transparency and reductions of short-range, tactical nuclear weapons in Europe which allies have called for in our new ''Strategic Concept.'' This is a key concern for allies—not only those closest to Russia's borders—in light of the great disparity between levels of Russian tactical nuclear weapons and those of NATO. But we cannot address this disparity until the New START treaty is ratified. Which is another reason why ratification would set the stage for further improvements in European security.

Franklin Miller, the Senior Director for Defense Policy and Arms Control under President George W. Bush said:

> If we don't ratify New START, we're back to the drawing boards on some sort of approach to strategic arms and the tactical that are still going to get left behind. I do not see a treaty in the future that will lump the large Russian tactical stockpile in with the smaller strategic stockpiles on both sides.

End of quotation from President George W. Bush's Senior Director for Defense Policy and Arms Control.

Finally, I would note that in April 2009, both President Obama and President Medvedev indicated that arms control would be a step-by-step process, with a replacement for the 1991 START treaty coming first but a more comprehensive treaty that might include deeper cuts in all types of warheads, including nonstrategic weapons, following in the future.

Russian tactical weapons must be decreased, there is no question about that, and experts across the political and international spectrum agree that completing New START is the essential first step in reducing Russian tactical nuclear weapons.

Even if this amendment to the treaty were to be passed, the treaty itself would still be about strategic arms. Nothing in the amendment would actually change that fact. But it would unnecessarily continue to delay U.S. inspectors returning to Russia to verify nuclear weapons. So if this amendment were to pass, we not only make no progress—no progress—on tactical nuclear arms, but efforts to decrease the weapons actually pointed at the American people—the Russian ICBMs would grind to an immediate halt. This is not acceptable to the American people, I would argue, but certainly not to many of us supporting the ratification of the treaty. As a result, I will be voting no on the Risch amendment.

I would also like to reiterate that the resolution of ratification that came out of the Foreign Relations Committee covers this issue by calling on the President to ''pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.'' So says the resolution of ratification. This bipartisan resolution passed out of the Senate Foreign Relations Committee by a vote of 14 to 4.

So we have spent lots of time on this treaty. We have spent a good deal of time as well on this basic question. But I think we have to do more than talk tough when it comes to this treaty and when it comes to making sure our arsenal is safe, secure, effective, and reliable. Tough talk is not enough. We need tough actions. The ratification of this treaty is one of those tough actions to make sure the American people are more secure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I rise in support of the Risch amendment and would refer all of us to the constitutional provision under which we are discharging our responsibility. Of course, it is article II, section 2 of the Constitution that says:

> [The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties. . . .

The problem here is that even though Congress has told the administration about our concerns about constraining our missile defense capability and has told the administration about our concerns with regard to the exclusion of tactical weapons that are covered by the Risch amendment, in reality, the administration really does not want our advice but merely seeks our consent.

I believe this matter is being treated with the kind of gravity and seriousness on a bipartisan basis that it deserves. But there are some very real differences between those of us who think this treaty is as good as we can get and that Congress's role is really to consent to something negotiated without our advice having been taken, and those who believe the Senate should play more than a rubberstamp role when it comes to matters as serious as these. Indeed, in section 1251 of the national defense authorization bill for fiscal year 2010, the Senate did provide advice on these matters. But, as I indicated earlier, most of that advice was ignored in favor of a strategy of seeking our consent after this treaty was basically a fait accompli.

It concerns me that—and I admire our distinguished floor leader, Senator LUGAR, who has a wealth of experience in this area, and I think we all acknowledge that—it worries me that any attempts by the Senate to offer amendments are called treaty killers. I do not really understand what our role is here if it is not to offer amendments to conform the treaty to what we believe is the best national security interests of the American people.

But one of the treaty's problems that I think the Risch amendment reveals is, that by excluding tactical nuclear weapons, we are giving the Russians a huge advantage and increasing rather than decreasing instability. The Congressional Research Service has written a document that illustrates this, a research document dated January 14, 2010, entitled ''Nonstrategic Nuclear Weapons,'' otherwise called tactical nuclear weapons. On pages 4, 5, and 6, they go through a factual distinction between strategic and nonstrategic nuclear weapons.

Mr. President, I ask unanimous consent that those pages be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. CORNYN. I thank the Chair.

Mr. President, the Congressional Research Service points out that the distinction between strategic nuclear weapons that are covered by this treaty and nonstrategic or tactical nuclear weapons that are not covered by this treaty is, frankly, a muddled topic. We do know that some types of weapons, by exclusion, are left out and not included under the treaty. In other words, intercontinental ballistic missiles, sea-launched ballistic missiles, and heavy bombers are included as strategic weapons, and, by definition, everything that is not included would be a nonstrategic or tactical weapon. They also point out in those pages that are being made part of the RECORD that part of the definition has traditionally been determined by the range of delivery vehicles and the yield of the warheads. But I think it is important to try, as well as we can, to paint a clearer picture of what we are talking about when we say nonstrategic or tactical nuclear weapons.

I have in my hand an unclassified report taken from Jane's Information Group publications called ''Strategic Weapon Systems, Fighting Ships, Naval Weapon Systems, and All the World's Aircraft'' that covers a so-called nonstrategic Russian weapon known as the SH–11 Gorgon ABM, otherwise called the UR–96.

The reason I raise this example of a type of weapon that the Russians reportedly have, which is not covered by this treaty, is that the yield of this weapon is 1 megaton—1 megaton. If you look at the size of the nuclear weapon that was used on Hiroshima on August 6, 1945, that killed anywhere from 80,000 to 140,000 people—actually, no one knows the exact number because of radiation-induced injuries and the like, but suffice it to say it caused enormous devastation and brought Imperial Japan to its knees in World War II—that was, by contrast, a 10-kiloton nuclear warhead. In other words, this so-called nonstrategic nuclear warhead not covered by this treaty is 100 times more powerful than the nuclear warhead that killed perhaps 100,000 people or more in Hiroshima in 1945.

So I mention this example—and this is, by the way, an unclassified document. We cannot go into, here on the floor, more detail about the distinction or, frankly, really, what we should call a continuum between tactical and strategic nuclear weapons. But we are not talking about firecrackers. We are not talking about bottle rockets. We are talking about weapons that can wreak death and destruction that really, I think, most of us hesitate to even contemplate.

So this is not an inconsequential amendment. This is a very important amendment that the Senator has brought. I listened to him a little earlier. I was in my office in the Hart Office Building, but I listened to Senator RISCH cite some very distinguished authorities on the other side of the aisle, and this comes from the CONGRESSIONAL RECORD in March of 2003, talking about the Moscow Treaty. Senator after Senator—Senator DORGAN, the distinguished Senator from North Dakota; Senator BIDEN, now Vice President BIDEN but then a Senator from Delaware; Senator REED from Rhode Island, a distinguished expert on the Armed Services Committee on national security matters; Senator CONRAD, the other Senator from North Dakota—to a man, they noted and expressed concern about the failure to deal with tactical nuclear weapons in the Moscow Treaty of 2003. The Senator from California, Mrs. FEINSTEIN, also noted the absence of any dealing with tactical nuclear weapons. I mention this to say, again, no one is talking about divisions among us. We are talking about a unified concern with the threat tactical nuclear weapons poses.

So I think it is simply a mistake—but it is a correctable mistake—that the negotiators of this treaty and the administration have excluded tactical nuclear weapons. As others have stated, the United States has an advantage at this time on strategic nuclear weapons. So basically we are going to have to cut our stockpile, while the Russian Federation, which does not currently have as many weapons as this treaty would allow, would be allowed to build up to that cap. But in the area of tactical nuclear weapons, the Russian Federation has—one classified estimate was around 10 times what the United States has in terms of tactical nuclear weapons.

I was talking in my office with Tom D'Agostino, the head of the National Nuclear Security Administration, someone who has long served in this area and who has confirmed that this tactical nuclear asymmetry is very real. According to him—he said—''the actual numbers are classified''—as I alluded to earlier—but he confirmed that ''there's a ten to one ratio, roughly, give or take. You know, it's a big difference between the two.''

It seems to me that from a bargaining standpoint, it would have made all of the sense in the world for the Obama administration to have insisted on reductions in the Russian tactical nuclear weapons as part of the New START. If not now, I would say, when. If not in 2003—if all of our colleagues whose names I have mentioned earlier thought it was a good idea to deal with tactical nuclear weapons back in 2003, it strikes me as even more important to do it now rather than kick the can down the road and not take advantage of the leverage we would have due to the Russians' desire to maintain their current arsenal of tactical nuclear weapons.

But Vice President BIDEN recognized, in 2003, that this omission was potentially dangerous. I will quote him. He said:

> Getting a handle on Russian tactical nuclear weapons must be a top arms control and nonproliferation objective of the United States Government.

So one has to question why that top objective remains unmet under New START.

James Schlesinger, former Secretary of Defense and Chairman of the now-defunct U.S. Atomic Energy Commission, has testified that ''the significance of tactical nuclear weapons rises steadily as strategic nuclear arms are reduced.'' This is a sobering conclusion, and it helps illustrate the importance of this glaring omission in the New START treaty.

Simply put, this treaty in its current form represents a lost opportunity to compel the Russian Federation to downsize their tactical nuclear arsenal. This amendment provides an opportunity to lay the groundwork for that goal to be accomplished in the future.

Following Senate ratification of the START I treaty, President George Herbert Walker Bush committed the United States to unilaterally reducing our tactical nuclear weapons. Not surprisingly, while the Russians made a similar commitment, they failed to follow through and never completed their promised reductions.

Today, Russia's widespread deployment of tactical nuclear weapons raises concerns with their safety and security. These weapons are often located at remote bases close to potential battlefields, sometimes far from central command authority. Questions have been raised regarding the stability and reliability of those Russian troops charged with monitoring and securing those weapons. In 2008, Secretary Gates said he was worried that the Russians themselves didn't even know the numbers and locations of old land mines, nuclear artillery shells, and so on, that would be of interest to rogue states and terrorists.

In addition, unlike strategic nuclear weapons, tactical weapons have very little transparency and very little accounting. The treaty should at least take a step in the direction to provide more transparency and an accounting requirement.

Achieving reductions in Russian tactical nuclear weapons would also reduce the supply of those weapons that could be acquired by groups such as al-Qaida. Tactical nuclear weapons are among those that are the most susceptible to theft or illicit transfer because they are relatively small and compact, including so-called suitcase nukes. They are the most susceptible to theft and illicit transfer to terrorists and also rogue states.

During the Cold War, the Soviet Union was known to have produced and deployed smaller tactical weapons, sometimes called suitcase nukes, as I mentioned a moment ago. These nuclear weapons—unlike large strategic weapons that New START would limit—are the terrorist's dream. They are easily concealed and highly transportable. They could all too easily be

moved across our border and positioned in almost any building in the United States.

Additionally, the Strategic Posture Commission, in its 2009 report to Congress, found that Russia's tactical nuclear weapons advantage opens up new possibilities for Russian efforts to threaten the use of nuclear weapons to influence regional conflicts and threaten our allies. The Commission observed that there is an ''evidently rising value in Russian military doctrine and national security strategy'' of tactical nuclear weapons.

These fears are coming to fruition, as U.S. officials say that Russia has moved tactical nuclear weapons to facilities near NATO allies several times in recent years, most recently this past spring. These actions, again, would run counter to pledges made by Moscow that they would pull back tactical nuclear weapons and reduce their numbers.

By ratifying the New START treaty without addressing this asymmetry, the United States would squander valuable leverage to negotiate a future reduction in Russian tactical nuclear weapons. The administration says no matter, we must ratify the New START treaty and we can deal with the tactical nuclear weapons sometime in the future. Well, again, we didn't do it in 2003 when Vice President BIDEN and others pointed out the omission and the potential danger, and here we are in 2010 being asked in a lameduck session to ratify this treaty and leave tactical nuclear weapons excluded once again. It leads me to wonder whether instead of the doctrine of ''trust, but verify,'' we are embracing a doctrine of ''ignore it and it will simply go away.'' We all know it won't. Russia would have little reason to agree to reduce its arsenal of tactical nuclear weapons in a future treaty without extracting major concessions from the United States. We can fix this issue now if we would simply adopt the Risch amendment.

I join my colleagues in urging the adoption of the Risch amendment.

Mr. DORGAN. Mr. President, would the Senator from Texas yield for a question?

Mr. CORNYN. I am happy to yield for a question.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. The Senator from Texas has mentioned a statement I and some others have made with respect to the Moscow Treaty. I simply wanted to observe that then and now, I wish we had included tactical nuclear weapons, but I then voted for the Moscow Treaty and I will vote for this treaty. The reason for that is making progress on strategic nuclear weapons, reducing the stock of nuclear weapons, and reducing delivery vehicles, it seems to me, is major progress. This administration has indicated it intends to move forward on tactical weapons negotiations with the Russians. I didn't want it to stand that somehow my concern—back in the discussion about the Moscow Treaty, the concern about not including tactical weapons had me voting against the treaty. I did not. I voted for that, and I will vote for this treaty because I think it advances the ball in a very significant way with respect to arms control.

Mr. CORNYN. Mr. President, I appreciate the Senator from North Dakota coming out and making that statement. I didn't mean to suggest that he voted against the Moscow Treaty, but I do believe I accurately quoted his concerns, which he has reconfirmed here, in the failure to deal with tactical nuclear weapons.

I would say in response to my colleague that we are making a unilateral reduction in strategic nuclear weapons and the Russians are not going to have to reduce any in their current stockpile because we are presently over the cap set by the treaty and they are under the cap. So it seems to me there is even further evidence we got out-negotiated on this, and particularly when it omits this important part of the nuclear arsenal and a threat to the stability of not only the region but also of the world.

EXHIBIT 1

THE DISTINCTION BETWEEN STRATEGIC AND NONSTRATEGIC NUCLEAR WEAPONS

The distinction between strategic and nonstrategic (also known as tactical) nuclear weapons reflects the military definitions of, on the one hand, a strategic mission and, on the other hand, the tactical use of nuclear weapons. According to the Department of Defense Dictionary of Military Terms, a strategic mission is:

''Directed against one or more of a selected series of enemy targets with the purpose of progressive destruction and disintegration of the enemy's warmaking capacity and will to make war. Targets include key manufacturing systems, sources of raw material, critical material, stockpiles, power systems, transportation systems, communication facilities, and other such target systems. As opposed to tactical operations, strategic operations are designed have a long-range rather than immediate effect on the enemy and its military forces.''

In contrast, the tactical use of nuclear weapons is defined as ''the use of nuclear weapons by land, sea, or air forces against opposing forces, supporting installations or facilities, in support of operations that contribute to the accomplishment of a military mission of limited scope, or in support of the military commander's scheme of maneuver, usually limited to the area of military operations.''

DEFINITION BY OBSERVABLE CAPABILITIES

During the Cold War, it was relatively easy to distinguish between strategic and nonstrategic nuclear weapons because each type had different capabilities that were better suited to the different missions.

DEFINITION BY RANGE OF DELIVERY VEHICLES

The long-range missiles and heavy bombers deployed on U.S. territory and missiles deployed in ballistic missile submarines had the range and destructive power to attack and destroy military, industrial, and leadership targets central to the Soviet Union's ability to prosecute the war. At the same time, with their large warheads and relatively limited accuracies (at least during the earlier years of the Cold War), these weapons were not suited for attacks associated with tactical or battlefield operations. Nonstrategic nuclear weapons, in contrast, were not suited for strategic missions because they lacked the range to reach targets inside the Soviet Union (or, for Soviet weapons, targets inside the United States). But, because they were often small enough to be deployed with troops in the field or at forward bases, the United States and Soviet Union could have used them to attack targets in the theater of the conflict, or on the battlefield itself, to support more limited military missions.

Even during the Cold War, however, the United States and Russia deployed nuclear weapons that defied the standard understanding of the difference between strategic and nonstrategic nuclear weapons. For example, both nations considered weapons based on their own territories that could deliver warheads to the territory of the other nation to be ''strategic'' because they had the range needed to reach targets inside the other nation's territory. But some early Soviet submarine-launched ballistic missiles had relatively short (i.e., 500 mile) ranges, and the submarines patrolled close to U.S. shores to ensure that the weapons could reach their strategic targets. Conversely, in the 1980s the United States considered sea-launched cruise missiles (SLCMs) deployed on submarines or surface ships to be nonstrategic nuclear weapons. But, if these vessels were deployed close to Soviet borders, these weapons could have destroyed many of the same targets as U.S. strategic nuclear weapons. Similarly, U.S. intermediate-range missiles that were deployed in Europe, which were considered nonstrategic by the United States, could reach central, strategic targets in the Soviet Union.

Furthermore, some weapons that had the range to reach ''strategic'' targets on the territory of the other nations could also deliver tactical nuclear weapons in support of battlefield or tactical operations. Soviet bombers could be equipped with nuclear-armed anti-ship missiles; U.S. bombers could also carry anti-ship weapons and nuclear mines. Hence, the range of the delivery vehicle does not always correlate with the types of targets or objectives associated with the warhead carried on that system. This relationship between range and mission has become even more clouded since the end of the Cold War because the United States and Russia have retired many of the shorter and medium-range delivery systems considered to be nonstrategic nuclear weapons. Further, both nations may develop the capability to use their longer-range ''strategic'' systems to deliver warheads to a full range of strategic and tactical targets, even if long-standing traditions and arms control definitions weigh against this change.

DEFINITION BY YIELD OF WARHEADS

During the Cold War, the longer-range strategic delivery vehicles also tended to carry warheads with greater yields, or destructive power, than nonstrategic nuclear weapons. Smaller warheads were better suited to nonstrategic weapons because they sought to achieve more limited, discrete objectives on the battlefield than did the larger, strategic nuclear weapons. But this distinction has also dissolved in more modern systems. Many U.S. and Russian heavy bombers can carry weapons of lower yields, and, as accuracies improved for bombs and missiles, warheads with lower yields could achieve the same expected level of destruction that had required larger warheads in early generations of strategic weapons systems.

DEFINITION BY EXCLUSION

The observable capabilities that allowed analysts to distinguish between strategic and nonstrategic nuclear weapons during the Cold War have not always been precise, and may not prove to be relevant or appropriate in the future. On the other hand, the ''strategic'' weapons identified by these capabilities—ICBMs, SLBMs, and heavy bombers—are the only systems covered by the limits in strategic offensive arms control agreements—the SALT agreements signed in the 1970s, the START agreements signed in the 1990s, and the Moscow Treaty signed in 2002. Consequently, an ''easy'' dividing line is one that would consider all weapons not covered by strategic arms control treaties as nonstrategic nuclear weapons. This report takes this approach when reviewing the history of U.S. and Soviet/Russian nonstrategic nuclear weapons, and in some cases when discussing remaining stocks of nonstrategic nuclear weapons.

This definition will not, however, prove sufficient when discussing current and future issues associated with these weapons. Since the early 1990s, the United States and Russia have withdrawn from deployment most of their nonstrategic nuclear weapons and eliminated many of the shorter and medium-range launchers for these weapons (these changes are discussed in more detail below). Nevertheless, both nations maintain roles for these weapons in their national security strategies. Russia has enunciated a national security strategy that allows for the possible use of nuclear weapons in regional contingencies and conflicts near the periphery of Russia. The Bush Administration also stated that the United States would maintain those capabilities in its nuclear arsenal because it might need to counter the capabilities of potential adversaries. The Bush Administration did not, however, identify whether these capabilities would be resident on strategic or nonstrategic nuclear weapons. That distinction will reflect the nature of the target, not the yield or delivery vehicle of the attacking warhead.

Mr. CORNYN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Procedurally, so not to come out of either side's time, if I can ask: I understand the Senator from Oklahoma wants to propose an amendment, so I think we would both yield to him for that purpose.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

AMENDMENT NO. 4833

Mr. INHOFE. I thank the Senator from Massachusetts. Following the disposition of the Risch amendment, we will be scheduling my amendment No. 4833 having to do with verification and numbers of inspections. I will be wanting to speak on this. I don't want to take time from the Risch amendment.

I ask unanimous consent to temporarily set aside the Risch amendment for consideration of amendment No. 4833.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 4833.

Mr. INHOFE. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the number of Type One and Type Two inspections allowed under the Treaty)

In paragraph 2 of section VI of Part V of the Protocol to the New START Treaty, strike ''a total of no more than ten Type One inspections'' and insert ''a total of no more than thirty Type One inspections''.

In paragraph 2 of section VII of Part V of the Protocol to the New START Treaty, strike ''a total of no more than eight Type Two inspections'' and insert ''a total of no more than twenty-four Type Two inspections''.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Oklahoma.

I will consume such time as I use for a moment. Let me say, first of all, again, I appreciate this amendment. There is not a lot of contention about the importance of addressing a lot of short-range tactical weapons, as we call them. The administration wants to do this as much as our friends on the other side of the aisle do, and I think the Senator from Idaho knows that.

Let me correct one fact for a minute that both the Senator from Texas and the Senator from Idaho said. They said the Russians will not have to reduce their strategic warheads and that they are already below the number of 1,550. That is not accurate. I won't go into detail here. We can reinforce this tomorrow in a classified session. But the Russians do have to reduce warheads under this requirement—not as much as us. Our defense community has made the judgment that because of our triad, which will remain robust, and for other reasons, we have a very significant advantage. Again, I will discuss that tomorrow in the classified briefing.

What I want to say to my colleague is that, again, I am 100 percent prepared to try to embrace this concept even further in the resolution of ratification. But we cannot do it in a way that requires this treaty to go back and be renegotiated. This is not a complicated amendment. There is a very simple reason why we should oppose this amendment as it is: because of the requirement that we go back. Because if we don't pass the START treaty, if we can't reach a bilateral agreement on the reduction of strategic weapons, there will be no discussion about tactical weapons. That is as plain as day. Every negotiator, everybody who has been part of this process, understands that. If we can't show our good faith to reduce and create a mutual verification system for strategic weapons, how are we going to sit in front of them and say, Oh, by the way, let's get you to reduce what is your advantage—it is an advantage, I acknowledge that—you go ahead and reduce it. They are going to laugh at us and we will have lost all of the verification we have today.

It is not just me who says that. The fact is Secretary Gates has been very clear about this, and Secretary Clinton likewise. Secretary Gates said this. I know my colleagues all respect him enormously.

We will never get to that step of reductions with the Russians on tactical nukes if this treaty on strategic nuclear weapons is not ratified.

It is a pretty simple equation, folks. This isn't a one-way street where we can stand here and say, You have to do this and you have to do that and, by the way, we don't care what you think about what we are doing, we are going to do what we want. That is not the way it works. There has to be some reciprocity in the process of reduction and verification and inspection, and so forth. They have things they don't want us to see and we have stuff we don't want them to see. There is plenty in this agreement where we protect our facilities from them being able to intrude on them excessively, because our folks don't want them to. That is the nature of a contentious relationship which is the reason you have to argue out, negotiate out a treaty in the first place.

If the Secretary of Defense is telling us—a Secretary of Defense, by the way, whom we all mutually respect enormously, but who was appointed to the job by President Bush—if he is telling us you have to pass this in order to get to the tactical nukes, I think we have to listen to that a little bit.

Let me point out—I want the RECORD to reflect I agree with the Senator from Idaho. They have many more tactical nukes. They have had for a long time. The reason is they have different strategic needs. They are in a different part of the world. For a long time, the Warsaw Pact and NATO were head to head and squared off, and so they saw a world in which they saw the potential of a land invasion. So for a long time they had tanks and mines and other things that were nuclear capable. What happened is we unilaterally, I might add, decided under President Bush, I think it was, President George Herbert Walker Bush, we decided this is dangerous. It doesn't make sense. It doesn't make sense for us. So we unilaterally announced—after the fall of the Soviet Union, President Bush announced we were going to ratchet down our tactical nuclear forces, and everybody agreed with that. It made sense.

So we did that and what happened is after that, President Boris Yeltsin in 1992 pledged that the production of warheads for ground-launched tactical missiles, artillery shells, and mines had stopped. They stopped it because we stopped it. And all of those warheads would be eliminated. He pledged that Russia would dispose of one-half of its tactical airborne and surface-to-air warheads as well as one-third of its tactical naval warheads. The Russian Defense Ministry said in 2007, the

ground force tactical nuclear warheads had been eliminated. Air defense tactical warheads were reduced by 60 percent. Air Force tactical warheads were reduced by 50 percent. Naval tactical warheads were reduced by 30 percent. Guess what. That didn't happen with the treaty. It happened because we had what we call Presidential nuclear initiatives. Our President made the decision, President Bush: We don't need them, dangerous, reduce them, and the Russians followed.

I heard an estimate earlier of 2,000 or something—this is according to the Bulletin of Atomic Scientists. We estimate they have a large inventory of operational nonstrategic warheads—5,390 is the number of tactical warheads, air defense tactical, et cetera. So they do still have more, and it still is a very legitimate concern to us.

That is why, I say to my colleagues, in the resolution of advice and consent we have the following declaration:

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

That is in the resolution. You can vote for that. In addition, we say:

(B) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of (1) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and (2) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

I am prepared—if that language doesn't satisfy folks, let's go look further. I am happy to do that. But we are not going to do it in a way that precludes us from going to the very negotiations you want to have. It doesn't make sense, not to mention the fact that it puts the entire treaty back into negotiating play. Who knows how long it would be.

The estimates I have from the negotiating team is it could take 2, 3 years. We have been a whole year now without inspections and knowing what they are doing. I will talk, tomorrow in the security briefing, about the impact that has on our intelligence, and the dissatisfaction in the intelligence community with a prolonged and continued delay in getting that.

So I simply say to my colleagues, let's do what is smart. Secretary Clinton said:

The New START Treaty was always intended to replace START. That was the decision made by the Bush administration.

I emphasize again that President Obama was not the person who made the decision not to extend START I. The Russians didn't do it unilaterally. Neither of us wanted to do it, because under this START agreement, we actually put in a better system, and one, let me say, that General Chilton emphasizes reduces the constraints on missile defense.

So here is what Secretary Clinton said: ''I would underscore the importance of ratifying the New START Treaty to have any chance of us beginning to have a serious negotiation over tactical nuclear weapons.''

Some Senators are saying: Why didn't they address them at the same time and say we have to get this and that done? Well, for a couple reasons. One, Russia's tactical weapons are primarily a threat to our allies in Europe. Knowing the differences of that equation, to have linked our own strategic interests to that negotiation at that time would have left us who knows how long without the capacity to get an agreement, No. 1. No. 2, last year when we began negotiations on New START, NATO was in the midst of working out its new strategic concept. Our allies were in the midst of assessing their security needs. It would have been impossible to have that discussion without them having made that assessment and resolved their own security needs and definitions.

But now NATO has completed that strategic concept. We have heard from a lot of European governments about New START. What do they say and what do our allies say? We are not in this ball game alone. They are united in support for this treaty, in part because they see it as the necessary first step to be able to have the negotiations that bring the reductions in tactical nuclear weapons.

Let me quote Radoslaw Sikorski, Poland's Foreign Minister:

Without a New START Treaty in place, holes will soon appear in the nuclear umbrella that the U.S. provides to Poland and other allies under Article 5 of the Washington Treaty, the collective security guarantee for NATO members. Moreover, New START is a necessary stepping stone to future negotiations with Russia about its tactical nuclear weapons.

So they believe you have to pass START to get to this discussion.

This is the Lithuanian Foreign Minister:

We see this treaty as a prologue, as an entrance to start talks about substrategic weaponry, which is much more endangerous, and it is quite difficult to detect. And we who are living in east Europe especially know this.

The Secretary General of NATO said:

We need transparency and reductions of short-range tactical weapons in Europe. This is a key concern for allies. But we cannot address this disparity until the New START Treaty is ratified.

I don't know how many times you have to make this connection. General Chilton, who is in charge of our nuclear forces, said this to the Armed Services Committee:

The most proximate threat to the United States, us, are the ICBM and SLBM weapons because they can and are able to target the U.S. homeland and deliver a devastating effect on this country. So we appropriately focused in those areas in this particular treaty for strategic reasons. Tactical nuclear weapons don't provide the proximate threat that the ICBMs and SLBMs do.

The disparity in U.S. and Russian tactical arsenals, I repeat, we want to address. I am prepared to put something in here—if the Senator from Idaho thinks we can find the language, as we did with Senator DEMINT, who has strong language in here about missile defense, let's put it in here. But it doesn't put us at a strategic disadvantage.

Secretary Gates and Admiral Mullen stated, in response to our questions, for the record:

Because of their limited range and the very different roles played by strategic nuclear forces, the vast majority of Russian tactical nuclear weapons cannot directly influence the strategic nuclear balance between the United States and Russia.

Donald Rumsfeld said this to the Foreign Relations Committee a few years ago:

. . . I don't know that we would ever want to have symmetry between the United States and Russia [in tactical nuclear weapons]. Their circumstance is different and their geography is different.

General Chilton said:

Under the assumptions of limited range and different roles, Russian tactical nuclear weapons do not directly influence the strategic balance between the U.S. and Russia. Though numerical asymmetry exists in the numbers of tactical nuclear weapons we estimate Russia possesses, when considered within the context of our total capability, and given force levels as structured in New START, this asymmetry is not assessed to substantially affect the strategic stability between the United States and Russia.

There is more here. I will reserve the balance of time because other colleagues want to say something. First, let me say this about the process as we go forward. There is some talk that we are now reaching a point—we are on day five—we had Wednesday afternoon, Thursday, Friday, Saturday, and now Sunday. That is 5 days. START I took 5 days. If we filed a cloture motion at some point in the evening, for instance, we would still have 2 days before we even vote on that. Then, presuming we were to achieve it, we have 30 hours after that, which can amount to almost 2 days in the Senate. That would mean 9 days, if we go that distance on this treaty, which is simpler than START I. We would have more days on this treaty—simpler than START I—than we had on all 3—the Moscow Treaty, START II, and START I treaties put together.

I hope my colleagues will recognize that the majority leader has given time to this effort. We are giving time to it. We want amendments. No amendment, I think, would be struck. We would have time to vote on each amendment and deliberate each amendment. But I think it is important for us to consider the road ahead.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise in support of the Risch amendment. The distinguished Senator from Massachusetts just helped make the case as to why this amendment is so important. In every hearing we have had in Armed Services and Intelligence, every conversation I have had in person, by telephone, with every administration official and everybody in support of this, I raised the issue of not what is in the treaty as being the most significant issue but what is not in there—the issue of tactical nuclear weapons.

I hear what the Senator is saying. What he has reinforced to me is, we have been talking to the Russians about tactical weapons for over two decades, and we have not yet been able to get them to sit down at the table with us. If we don't get them now, when? I understand what the President said, which is that he will make a real effort to get them to the table. You should get them to the table when you have leverage. The Russians want this treaty bad. We had the opportunity, in my opinion, to discuss tactical weapons with them, to get them to the table for this treaty, but we didn't take the opportunity to do that.

So I rise to talk about the issue of tactical nuclear weapons with respect to New START and the two amendments filed on this issue, the Risch amendment, as well as one filed by Senator LEMIEUX.

We all know tactical nuclear weapons is one of the issues the treaty doesn't address and also an area where there is a huge disparity between the United States and the Russians relative to the numbers of weapons. Perhaps, most important, the intent of arms control treaties is to control and limit arms in order to create predictability and security.

By not addressing tactical nuclear weapons in this treaty, we have left the least predictable and the least secure weapons in our nuclear inventories out of the discussion. Russia has somewhere in the neighborhood of 5,000 weapons. There have been numbers bantered around here. But the estimates of exactly how many vary widely. The point is, we don't know. That is part of the real problem with tactical weapons. Many of these nuclear weapons are near Eastern Europe and in proximity to U.S. troops as well as to our allies.

These weapons are different, not primarily in terms of how powerful they are, because the warheads are, in some cases, similar in size to strategic nuclear weapons. Instead, they are different primarily in terms of the range of the delivery systems. The Russian advantage in tactical nuclear weapons is at least 5 to 1, but could be as high as 10 to 1. Again, we don't know because they will not tell us.

It is also the case that the United States and Russia both agreed in the 1990s to reduce tactical nukes. The United States has, but we don't know that the Russians have. They said they have. But do we truly trust the Russians? We should not. In fact, they have cited the expansion of NATO as a change in the strategic landscape since the 1990's.

Tactical weapons are the least secure nuclear weapons in our nuclear inventories. They are deliverable by a variety of means, and for these reasons are more of a threat of being stolen, misplaced or mishandled than strategic nukes. It is a mistake and unfortunate that this treaty doesn't address tactical nuclear weapons because an agreement to reduce and control these weapons is exactly where we need to be focusing and, relative to the overall security of the United States and the world, it is, frankly, more important than reducing and controlling strategic nuclear weapons.

On Senator RISCH's amendment, it would add a statement to the preamble of the treaty which addresses the interrelationship between nonstrategic and strategic offensive arms; that is, the relationship between strategic and tactical nuclear weapons. Senator RISCH's amendment is correct in that ''as the number of strategic offensive arms is reduced, this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and that the disparity between the Parties' arsenals could undermine predictability and stability.''

We are reducing strategic nuclear weapons under this treaty. By doing so, we are making tactical nuclear weapons much more important and much more relevant and, therefore, we should seek to achieve greater transparency and accountability on both our side as well as on the Russian side.

That brings me to the second amendment, which is not pending but is filed and of which I am a cosponsor; that is, Senator LEMIEUX's amendment. That amendment would require the United States and the Russians to enter into negotiations within 1 year of ratification to address the disparity in tactical nuclear weapons. Both these amendments address what I believe is one of the most crucial issues and one of the issues the treaty should have addressed but didn't. I urge my colleagues to support both these amendments but particularly today the Risch amendment.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Who yields time?

Mr. RISCH. Mr. President, the proponents of the amendment have how much time remaining?

The PRESIDING OFFICER. There is 25 minutes remaining.

Mr. RISCH. Does that include my 10 minutes of closing?

The PRESIDING OFFICER. It does.

Mr. RISCH. So we have 15 minutes left to yield time.

The PRESIDING OFFICER. That is correct.

Mr. RISCH. Mr. President, Senator SESSIONS was next, so I yield the floor to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I would ask to be advised after 4 minutes have lapsed.

Mr. President, I think Senator RISCH is correct and Senator CHAMBLISS is correct to make the point that tactical nuclear weapons are more available for theft and to transship than strategic nuclear weapons, and it is a high priority of the United States to reduce the risk of terrorists obtaining weapons of this kind, and this treaty does nothing about that. It does nothing about tactical nuclear weapons, which the Russians do care about.

It is a big part, apparently, of their defense strategy, and they gave not one whit on it; whereas our President, who says he wants to move toward zero nuclear weapons in the world—a fantastical view, really, and one that endangers our country and would create instability around the world and create more national security risks—did not negotiate this in any effective way. I think that was a failure of the treaty, a failure of negotiations, and another example of the fact that we wanted the treaty too badly for what, I guess, are primarily public relations matters rather than substantive matters. That is just the way I see it.

So the Russians have been steadily reducing their strategic weapons, we are reducing ours, and this strategic relationship has been moving along. There does not have to be a treaty. We would like to have a treaty. I think the Russians would probably like to have a treaty. But it is not essential that we have one if they will not agree to some of the things that are important, such as tactical nuclear weapons. I do think this is a weakness in the treaty, and I am disappointed our negotiators didn't insist on it.

As Mr. Feith said, who negotiated with the Russians, and they made a number of demands on a previous negotiation over the SORT treaty in 2002: You just have to say no, and then you can move forward once the Russians know we are not going to give. But they will push, push, push until they are satisfied you are not going to give on it, and then they will make a rational decision at that point whether to go forward with the treaty or not go forward with the treaty.

He said no on curtailment of missile defense in 2002. The Russians insisted, insisted, insisted, and he said, finally, no treaty.

We don't have a treaty with China, we don't have one with England, we don't have one with India, and they have nuclear weapons. We don't have to have one. We would like to, but we don't have to. At that point the Russians conceded and agreed. So I don't think we negotiated this well at all. We do not need to continue with this large disparity of tactical weapons between the United States and Russia, and I appreciate Senator RISCH's raising it.

I will perhaps talk a little later about the national missile defense question in President Obama's letter, but President Obama's letter——

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. KERRY. Would the Senator be willing to yield for a question?

Mr. SESSIONS. On my time or yours?

Mr. KERRY. We can share the time. It depends on how long you answer.

Mr. SESSIONS. I am not giving up any of mine. I want to finish this 1 minute on the subject of the President's letter.

What it fails to acknowledge is that we were on the cusp of implanting a GBI in Europe by 2016, and that was completely given up in the course of these negotiations. This is the same missile we have in the ground in Alaska and California. That was given up, and we are now proceeding with a phase four theory that might be completed by 2020, if Congress appropriates the money for the next five Congresses and some President who is then in office—not President Obama 10 years from now—is still supportive and pushes it through and Congress passes it.

So this is a big mistake. We made a major concession on national missile defense and even put words in the treaty that compromise our ability to do the new treaty. The statement from Putin that we will be obliged to take action in response did not say just GBI; it also referred to the capabilities of an SM–3 Block IIB, which would be what the President said is going to be deployed in 2020.

I thank the Chair, I thank Senator RISCH, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, if you will let me know when I have used 4 of the 5 minutes I am to have.

Mr. President, I rise today to support the amendment by my friend and colleague and next-door neighbor on the Foreign Relations Committee, as well as my next-door neighbor of State, Senator RISCH.

I want to discuss the issue of nonstrategic nuclear weapons, also known as tactical nuclear weapons. While the United States and Russia have a rough equivalence in their strategic nuclear weapons, there is a significant imbalance in tactical nuclear weapons, and it favors Russia.

Russia currently has a 10-to-1 advantage in tactical nuclear weapons, and it is expected that the number of tactical nuclear weapons in Russia will continue to grow. This imbalance directly impacts our security commitments to NATO and to our other European allies.

Mr. President, I have been to the hearings in the Foreign Relations Committee. As a member of that committee, I have heard statements given by former Secretaries of State of both parties. Henry Kissinger testified before the committee and said:

> The large Russian stockpile of tactical nuclear weapons, unmatched by a comparable American deployment, could threaten the ability to undertake extended deterrence.

Former Secretary James Schlesinger called this imbalance of Russia's tactical nuclear weapons ''the dog that did not bark.'' He called it a ''frustrating, vexatious, and increasingly worrisome issue.''

In the past, many current Members of the Senate have expressed their concerns with Russia's tactical nuclear weapons. Even Vice President BIDEN, when he was a Member of this body and serving on the Foreign Relations Committee, spoke about it, and he said:

> We were hoping in START III to control tactical nuclear weapons. They are the weapons that are shorter range and are used at shorter distances, referred to as tactical nuclear weapons.

Well, Mr. President, as I look at this and work through it, it seems that, clearly, this administration did not make tactical weapons a top arms control and nonproliferation objective in the New START treaty. The negotiators of this treaty did not make this issue a priority, and they gave in to pressure from Russia to exclude the mention of tactical nuclear weapons.

I want to point out that while the administration failed to negotiate the reduction of Russian tactical nuclear weapons in the New START treaty, it did allow a legally binding limitation of U.S. missile defense, and that is, I believe, a mistake.

So I disagree with those who argue that ratifying the New START treaty is needed in order to deal with tactical nuclear weapons in the future. I believe the issue of tactical nuclear weapons should have been addressed—together with the reduction of strategic nuclear weapons—in the New START treaty. The administration lost a real opportunity by not negotiating a deal in this treaty. It is unclear what leverage will remain for us to negotiate a reduction in Russian tactical nuclear weapons.

Mr. President, the Risch amendment tries to resolve the complete failure of the administration to address Russia's advantage in tactical nuclear weapons in the New START treaty. The Risch amendment acknowledges the interrelationship between tactical nuclear weapons and strategic-range weapons, which grows as strategic warheads are reduced. The Risch amendment seeks greater transparency.

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. BARRASSO. I thank the Chair.

The Risch amendment seeks greater transparency, greater accountability of tactical nuclear weapons, and the Risch amendment recognizes that tactical nuclear weapons can undermine stability.

So with that, Mr. President, I support this amendment, and I urge my colleagues to adopt the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, I understand we have 4½ minutes remaining, plus my 10 minutes at the very end.

The PRESIDING OFFICER. That is correct.

Mr. RISCH. Mr. President, Senator CORKER has indicated he would like to take those 4½ minutes, so I yield the floor to Senator CORKER.

Mr. CORKER. I thank the Senator, and I appreciate the Chair's courtesy.

I think Senator KERRY was down here earlier today talking a little about procedures, and I want to follow up on that. I know we have a number of people back in the cloakroom wondering about how we go forward with the amendment process. So I just thought I could enter into a conversation with him through the Chair.

Unlike most procedures, this is a situation where you have a 60-vote cloture and your ability or your strength on the issue itself rises because it actually takes 67 votes, or two-thirds, of those voting to actually ratify a treaty. So it is not like on a cloture vote on the floor where you go from a 60-vote threshold to 51, where you are weakened. In this case, you are actually strengthened because it takes more votes after cloture to actually pass this piece of legislation.

So I just wanted to, if I could, verify with Senator KERRY the process of actually offering amendments, not just on the treaty—because I know we are still on the treaty—but also on the resolution of ratification, where I think numbers of amendments might actually be approved and accepted.

Mr. KERRY. Mr. President, if the Senator will yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator is absolutely correct. The key question is, Is there sufficient support to ratify the treaty? Once we get to that sort of question postcloture, when and if that is invoked, that is what the threshold would be for the passage of this treaty. It is not as if you have cloture and all of a sudden, boom, only 51 votes are necessary to pass it.

Secondly, I would say to my colleague—and I want to emphasize this—if the majority leader were to put the cloture motion in this evening, it doesn't ripen until Tuesday. So we would have the rest of today, all of tomorrow, and Tuesday to have amendments; to continue as we are now. Then, if it did pass, we would have another 30 hours, which, as we all know, takes the better part of 2 days. So we are looking at Thursday under that kind of schedule, and I know a lot of Senators are hoping not to be here on Thursday.

So I think that is quite a lot of time within the context of this. But the Senator is correct. The answer to his question is yes.

Mr. CORKER. If I could ask one other question. If a Senator comes to the floor and wants to offer an amendment, not on the treaty itself—which we realize is more difficult to pass because of what that means as relates to negotiations with Russia—but to offer an amendment on the resolution of ratification, which is something that might

likely be successful and accepted, it is my understanding all they have to do is come down and offer that amendment, to ask unanimous consent to call it up; is that correct?

Mr. KERRY. Mr. President, without the help of the Parliamentarian, obviously we are entitled to do a lot by unanimous consent, and that is one of those things. We will not object, obviously. We want to try to help our colleagues be able to put those amendments in, so it would be without objection on our side.

Mr. CORKER. So it is my understanding—to be able to talk with other Senators who have an interest on the treaty itself and would like to do some things to strengthen it, it is my understanding that what I just heard was that the chairman of the Foreign Relations Committee would be more than willing to accommodate a unanimous consent request to actually offer amendments to the resolution itself, and he knows of no one on their side, at present, who would object to that. So if people wanted to go back and forth between the actual treaty and the resolution itself, they now can do that on the floor?

Mr. KERRY. That is correct.

Mr. CORKER. Thank you, Mr. President.

Mr. KERRY. Mr. President, I thank the Senator from Tennessee.

I will yield 5 minutes to the distinguished chairman of the Armed Services Committee, Senator LEVIN, to be followed by 7 minutes to the Senator from Oregon.

I ask the Senator from Oregon, is that enough time? Is 7 minutes enough time?

Thank you.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Risch amendment states a concern which is a legitimate concern. I think probably everybody would agree to that. This concern was there in the START I treaty and it was there in the Moscow Treaty just a few years ago, that we need to address the imbalance or the—the imbalance, I guess, is a good word—between the number of strategic nuclear weapons that exist on both sides and the nonstrategic weapons. But that was true during START I in 1991 when President Bush negotiated it. There was no effort to, in effect, kill the treaty with an amendment stating that concern, although it was a concern then. During the Moscow Treaty debate here in 2002, I believe Senator BIDEN again raised the same concern about this imbalance. It is a legitimate concern. But you don't kill a treaty because there are some legitimate concerns about issues.

The Russians have a concern about our large number of warehoused warheads. We have a big inventory of warheads compared to them. They have a concern. We could state that as a fact, that the Russians have a concern about the number of warheads we have. But putting that into the treaty kills the treaty.

We could make any statement of legitimate concern. If it is in the treaty text, it will kill the treaty.

Senator BIDEN, in 2002, I believe, or it may have even been in the first START treaty, raised this issue about the imbalance. It was a legitimate issue. But there was no effort to kill that treaty which had been negotiated by President Bush by inserting a legitimate concern into the treaty.

There are a number of legitimate concerns. The Russians have legitimate concerns about our conventional capabilities, about accuracy, about our encryption capabilities. They were not addressed adequately for the Russians in this treaty. But they have a concern. Should we state in the treaty the fact of legitimate concern? Should we by amendment attempt to insert in the treaty that the factual statement of a legitimate concern just kills the treaty?

That is what concerns me as to why it is that there is such a determination to try to kill this treaty by means of an amendment which states a legitimate concern, which was true during the last two treaties negotiated by two President Bushes. That is what troubles me. That was the difference Senator CORKER pointed out between seeking to amend a resolution and seeking to amend the treaty.

To Senator RISCH, through the Chair, I happen to share the same concern the Senator has about this imbalance. As chairman of the Armed Services Committee, this imbalance existed in 2002, it existed in 1991, and we ought to address it, but we don't address it by killing this treaty, and that is what this amendment does.

Despite the absence of this language expressing a legitimate concern, we have support for this treaty by former President George H.W. Bush and Secretaries Brown, Carlucci, Cohen, Perry, and Schlesinger. They support this treaty without this language. It was true that former Secretary Schlesinger said, for instance, that he has a concern about this imbalance. I think we all do. He stated that concern. He still supports the treaty without this language, without this expression of concern.

Former Secretaries of the State Albright, Baker, Christopher, Eagleburger, Kissinger, Powell, Rice, and Shulz support the treaty without this language. They have the same concerns. As a matter of fact, I believe it was Senator SESSIONS—it may have been someone else—who said that former Secretary Kissinger has expressed this concern, in fact quoted, I believe, from former Secretary Kissinger's writing on this issue. He has that same concern which Senator RISCH and all of us have about this imbalance. But without the language, former Secretary Kissinger still supports this treaty.

All I can say is that I think there is a legitimate concern which is expressed in this amendment. It is a concern which has existed and needs to be addressed, as former Senator BIDEN said when he was debating a treaty—but not to kill a treaty by an expression of a legitimate concern.

That is what I think is the issue here—not whether the language in the Risch amendment expresses something which is legitimate but whether the absence of that concern being expressed in the treaty should be enough to vote for this amendment and to kill this treaty as a result and to force it back to an open-ended negotiation, which we have no idea where that would lead.

I hope we defeat the Risch amendment not because we disagree with what the concern is but because, understanding that concern, we do not want to do damage to the treaty and kill a treaty which does so much for the security of this Nation.

I yield the floor, and if I have any time, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I would like to add a few comments to those of the Senator from Michigan.

First, I would like to observe that this treaty encompasses fairly modest reductions in our strategic force. We are looking at ICBMs reduced from 450 to 420 and in some cases those ICBMs being reduced in terms of the number of warheads they are carrying—modest reductions.

When we look at some relaunch ballistic missiles, we are looking at a fleet of 14 Trident submarines, and we are looking at keeping all 14 of those, reducing the number of silos on each submarine from about 24 to 20—again, a modest reduction. Indeed, two of those subs will be in drydock at any one point in time, and they do not count against the numbers in this treaty.

In bombers, we are looking at 18 Stealth missiles currently—Stealth bombers, and keeping all 18—or B–2s, as they are known. We look at modest reductions in our aging, ancient, antique fleet of B–52s, modest reductions there.

In its entirety, what this represents is modest changes to the existing structure negotiated by a Republican administration and maintenance of verification regimes incredibly important to our national security. In that context, we have to look at various amendments being raised that, if they were sincere about their purpose, would be added to the resolution we are passing. But if their real purpose is to kill the treaty, then of course it comes in the form of an amendment to the treaty, which would effectively, in fact, do that.

So let's look at the structure of the issues that were put forward here.

First, the goal of this START treaty is to address strategic, not short-range tactical nuclear weapons which have never been covered by a treaty, including those negotiated by a Republican administration.

Second, tactical weapons are categorically different from strategic arms because they do not pose an immediate catastrophic threat to the U.S. homeland that strategic weapons do. With shorter range and smaller yield, they are intended for battlefield use.

I would note the quotation of General Chilton, commander of the U.S. Strategic Command, who said:

> The most proximate threat to the U.S. are the ICBM and SLBM weapons because they can and are able to target the U.S. homeland and deliver a devastating effect to this country.

So we are appropriately focused in those areas in the particular treaty for strategic reasons. Tactical weapons do not have the proximate threat that ICBMs and SLBMs do.

I also note that if you look at this from the Russian perspective, we have tactical weapons deployed in Europe. Numerous European nations have tactical weapons which can reach the Soviet—reach the Russian Federation, formerly the Soviet Union. Meanwhile, because of our superiority at sea, the Russian tactical weapons do not represent the same kind of threat to the United States.

I then note that we have already addressed this issue in the Senate ratification resolution, which states that ''the President should pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and the United States and would secure and reduce the tactical nuclear weapons in a verifiable manner.'' So it is already in the resolution of ratification.

Then I would note that Secretary Gates and Secretary Clinton said in a letter:

> We agree with the Senate Foreign Relations Committee's call in the resolution of Advice and Consent to ratification of the New START treaty to pursue an agreement with the Russians to address them.

Tactical weapons represents a thorny issue because it involves the European powers and it involves disparities of geography. That it is why it has been so hard to link them in the past to a strategic nuclear treaty and why they have not done so in this case. But it is the commitment by the Secretary of Defense, by the Secretary of State, by the President, and by this Senate through this resolution of ratification to pursue this issue that is important, and that is what is before us now.

In terms of addressing this issue, there are changes that need to be made to the language, to the ratification resolution. That would be appropriate. But this treaty, which greatly enhances the security of the United States of America while providing the appropriate verification protocols, is absolutely essential.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, how much time do we still have?

The PRESIDING OFFICER. The Senator has 16 minutes remaining.

Mr. KERRY. Sixteen? And the Senator from Idaho has—

The PRESIDING OFFICER. Ten minutes.

Mr. KERRY. Ten. So somehow we are going past the hour of 3.

MR. RISCH. Unless, of course, you want to yield.

Mr. KERRY. Do you want to yield some time back?

Mr. RISCH. No.

Mr. KERRY. Let me use a portion of it, and I will reserve a little bit at the end.

First of all, both Bill Perry, former Defense Secretary Bill Perry, and Jim Schlesinger have been mentioned, as well as the Commission on which they served. Let me make certain that the record is clear about their position with respect to this treaty.

Secretary Perry said the following:

> The focus of this treaty is on deployed warheads and it does not attempt to counter or control nondeployed warheads. This continues in the tradition of prior arms control treaties. I would hope to see nondeployed and tactical systems included in future negotiations, but the absence of these systems should not detract from the merits of this treaty and the further advance in arms control which it represents.

Jim Schlesinger, from the same Commission, said:

> The ratification of this treaty is obligatory. I wish more of my colleagues on the other side of the aisle were here to hear Jim Schlesinger's comments, but he said ratification is obligatory and the reason it is obligatory is that you really can't get to the discussion you want to have with the Russians about tactical unless you show the good faith to have the strategic and verification reduction structure in place.

Let me just say, supposing the language of the Senator from Idaho was adopted here, would it mean we are reducing tactical nuclear weapons? No. Would it get you any further down the road to be able to reduce them? The answer is, not only would it not do that, it would set back the effort to try to get those reductions because the Russians will not engage in that discussion if you can't ratify the treaty, and if they pass this amendment, this treaty, as Senator LEVIN said, is dead.

It goes back to the Russian Government with a provision that is now linking those weapons in a way that they have not been willing to talk about, even engage in the discussion at this point in time.

In fact, we would be setting ourselves backwards if that amendment were to be put into effect. What is ironic about it is, he is amending a component of the treaty that has no legal, binding impact whatsoever. So not only would they refuse to negotiate, but there is nothing legally binding in the language he would pass that would force them to negotiate. So it is a double setback, if you will. I would simply say to my friend on the other side—I talked to him privately about this, and I think he is openminded on it—we have language in the resolution right now with respect to nuclear weapons. We are not ignoring the issue. The language says: The Senate calls on the President following consultation with allies to get an agreement with the Russian Federation on tactical nuclear weapons.

I am prepared in the resolution of ratification to entertain language as a declaration that would also make the Senate's statement clear about how we see those nuclear weapons in terms of their threat. I hope that would address the concerns of many of our colleagues on the other side of the aisle.

But the bottom line here is that Senator RISCH's language not only does not make any progress on the topic he is concerned about, it actually sets back the capacity to be able to make the progress he wants to make.

If you want to limit Russia's tactical nuclear weapons, and I do, and he does, and I think all 100 Senators do, then you have to pass the New START. You have got to approve the New START. If you reject it, you are forcing a renegotiation, which never gets you not only to the tactical nuclear weapons but which leaves you completely questionable as to where you are going to go on the strategic nuclear weapons, which means the world is less safe; we have lost our leverage significantly with respect to Iran, North Korea; we have certainly muddied the relationship significantly with respect to Russia; we have ''unpushed'' the restart button; and we have opened who knows what kind of can of worms with respect to a whole lot of cooperative efforts that are important to us now, not the least of which, I might add, is the war in Afghanistan, where Russia is currently cooperating with us in providing a secondary supply route and assisting us in other ways with respect to Iran.

So I say, let's not do something that we know unravels all of these particular components. Anytime you change that resolution of ratification, it is like pulling, you know, a piece of string on a sweater or on a yarn roll and everything starts to unravel as a consequence. One piece undoes another piece undoes another piece. That is not where we want to go.

I hope, obviously, we will say no to this amendment and proceed. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RISCH. Mr. President, under the UC, I believe I have the last 10 minutes. Am I correct on that? I think that was the UC.

The PRESIDING OFFICER. The Chair believes that is correct.

Mr. RISCH. So when I finish, at the conclusion of the 10 minutes, we will vote? Is that my understanding?

The PRESIDING OFFICER. The Chair believes that is correct. Correction. The Senator from Massachusetts still has 10 minutes remaining.

Mr. RISCH. My understanding is he can use that at any time and I get the last 10.

Mr. KERRY. Unless the Senator says something completely outrageous, which he has managed not to do in the course of the last 3 hours, I have no intention of using the time. But I reserve it to preserve my rights. I would be happy to yield it back after the Senator speaks, depending on him.

Mr. RISCH. I thank the Senator. I will try not to disappoint in that regard.

Mr. President, fellow Senators, distinguished chairman and ranking member, I think certainly we have had a civil and a good airing of an issue that is of considerable concern to, I think, every Member of this body. I am a little disappointed in that we started out acknowledging it was a very deep and serious concern to every Member of this body, as it was to the commission, in their Report on America's Strategic Posture.

I felt that along the line a little bit the concern was denigrated. I want to back up on that one more time and say that, in my judgment, and in the judgment of members of this commission, the issue of tactical weapons exceeds, in severity, in concern, the issue of strategic weapons.

I understand one might argue that you are arguing about how many angels can dance on the head of a pin as opposed to which is of the most concern. But I come back to the reasons I gave as to why I think the tactical issue is important more than the strategic issue. That is, on the strategic issue, we are in about the same position we were 40 years ago, with the exception, and admittedly an important exception, that the raw numbers are down. When we started this 40 years ago, each party had about 6,000 warheads. As I said, if either party pulled the trigger and launched 6,000 or some significant part of that, obviously that is the deterrence that each party was counting on that neither would do that.

Today we are down to—and with all due respect to my good friend from Massachusetts, the numbers reported in the press are 1,100 and 2,100. I understand there is intelligence information that we cannot go into here. But, in any event, I think most people would agree that we have the advantage in numbers from a strategic standpoint.

Indeed, if the numbers are even close to that, the—whether it is 6,000 warheads or 1,000 warheads, when someone pulls the trigger, the party is over for this world. So focusing on the raw numbers, when we have got a 40-year history that we are not going to do that and they are not going to do that, and most people agree that neither side is inclined to pull the trigger, what are the real concerns?

The real concerns are an accidental launch from them, although remote, possible, but, more importantly, an intentional launch by a rogue nation. Obviously one would look at North Korea or one would look at Iran in that regard.

In my judgment, the two issues that need to be focused on are the defensive missile issue and the tactical nuclear weapons issue.

Let me say I agree with my good friend from Massachusetts and Senator LEVIN, that geography is such that the issue of tactical weapons is substantially more important on a direct basis to the Russians than it is to us. After all, we are insulated by oceans on each side of us to the east and the west, which the Russians do not enjoy, and they have a several hundred-year history of seeing invasions come by land and intermediately, which we do not have.

So in that regard I will concede certainly that the tactical issue is important for them. And the good Senator from Massachusetts makes a good point in that I think they would like to relocate, if they could, their tactical weapons to be focused more on the Chinese threat and perhaps more on the threat from the south, from other countries. We ought to help them out in that regard by entering into negotiations in that regard on the tactical weapons.

But I come back to the tactical weapons are an important issue. Senator LEVIN says they are a concern. Senator LEVIN says, we should not kill this treaty simply because of a concern, and I agree with Senator LEVIN. I have not, from day one, said we ought to kill this treaty. I have said from day one, everyone has convinced me, and I think virtually everyone else, that we are much better off with a treaty than we are without a treaty.

I think everyone has worked in good faith in that regard. But, on the other hand, having said that, I do not think we should then throw in the towel and say: Well, okay, we will agree to any treaty. That brings me to the point of where we are. We are exercising our constitutional right that every one of us—not only our right but our duty as a Senator, to advise and consent on this treaty and any other treaty that is put in front of us, and that is where I have problems.

The position we have been put in is these negotiations have gone on, the treaty has been negotiated, it has been signed by the President, and it has been put in front of us, and what we are told is, it is a take it or leave it. If you do not vote for this, you are voting to kill the treaty.

I disagree with that. I think simply because we amend the preamble to this treaty is not a killer. Indeed, my good friend from Massachusetts keeps telling us, the preamble does not mean anything, it is a throw-away, the language is a throw-away, it does not mean anything.

Well, it does mean something, particularly when it comes to the context in which you interpret and you react to the treaty. So to everyone here, I say, you have the opportunity to set the restart button with Russia, and we can do it by focusing on what is an extremely important issue, which most everyone here agrees is an extremely important issue, but nobody ever does anything about it.

So let's tell the negotiators: Go back to the table and at least agree that the interrelationship between the strategic and tactical weapons is an important issue, and we are not going to go on as we have over the last 40 years. The times have changed. We trust you are not going to pull the trigger on us, and you trust that we are not going to pull the trigger on you. But this issue of tactical weapons where we enjoy, if you would, a 10-to-1 disadvantage to the Russians, we have tactical weapons that are out there that can be much more easily gotten ahold of by terrorists than strategic weapons. We have tactical weapons that continue to be designed, continue to be manufactured, and continue to be deployed by the other side, in violation of their admittedly individual Presidential initiatives, which needs to be addressed.

It is so important that people on this commission said that it should be addressed before strategic weapons. You have the opportunity to put that in here. There is no intent to kill this. It is an intent to make it better. We have the right. We have the duty. We must advise and consent. I urge that my colleagues vote in favor of this very good amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Has the time expired?

The PRESIDING OFFICER. The Senator from Idaho has slightly less than a minute left.

Mr. KERRY. Mr. President, let me say, as I yield back——

Mr. RISCH. Mr. President, is the next vote going to be on this amendment or are the judges going to be voted on first?

The PRESIDING OFFICER. That is correct. The next vote is on the Risch amendment.

Mr. KERRY. Mr. President, I will yield back the time momentarily. I want to say one thing. The commission report that the Senator refers to and has held up, the two principal authors are former Secretary of Defense, Bill Perry, who says: The absence of the tactical nuclear should not detract from the merits of this treaty, and he is in favor of our ratifying this treaty, and Jim Schlesinger, who was his coauthor, who worked with Republican Presidents as a Secretary of Defense, Secretary of Energy, said, ''The ratification of this treaty is obligatory.''

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, I say to Senator KERRY, I respect that. I would remind everyone that I filed a letter dated December 17 to Senator KERRY and Senator LUGAR from six members of the commission, including James Schlesinger, which says that:

Dealing with this imbalance is urgent—

Referring to the tactical weapons—

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.

I agree. I thank the good chairman and ranking member for a very good dialogue on this particular issue.

I yield back my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 4839.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Georgia (Mr. ISAKSON), the Senator from Illinois (Mr. KIRK), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''yea'' and the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 60, as follows:

[Rollcall Vote No. 283 Ex.]

YEAS—32

Barrasso	Ensign	McConnell
Bond	Enzi	Murkowski
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Cornyn	LeMieux	Wicker
Crapo	McCain	

NAYS—60

Akaka	Feingold	McCaskill
Alexander	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Gregg	Murray
Bennet	Hagan	Nelson (NE)
Bennett	Harkin	Nelson (FL)
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown (OH)	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Stabenow
Conrad	Leahy	Tester
Coons	Levin	Udall (CO)
Corker	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	Lugar	Webb
Durbin	Manchin	Whitehouse

NOT VOTING—8

Bunning	Kirk	Voinovich
DeMint	Shaheen	Wyden
Isakson	Specter	

The amendment was rejected.

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. REID. Mr. President, we are going to have one more vote today on a circuit judge. It is my understanding the district judge will go by voice.

Mr. President, tomorrow, we are going—first of all, tonight, anyone who wants to work on the START treaty, the managers of the bill, Senator KERRY and Senator LUGAR, have said they are here as long as people want to work on it. We are going to come in at 10 in the morning. We will work from 10 until 2 on the START treaty, and then a number of Senators want to have a closed session. We will do that in the Old Senate Chamber. The Chamber has already been cleared by the security folks, so we will start that at 2 o'clock and go as long as necessary. Then we will come back tomorrow evening and continue working on the START treaty.

We have very few things left to do. The Republican leader and I and our staffs have worked throughout the morning trying to come up with something on the CR. We are very close to being able to get that done, but it is not done. So we have the CR to do. The short-term runs out on Tuesday, so we have to have things done by then. We have this START treaty, and then, of course, we have the 9/11 health bill and the motion to reconsider. Senator LEVIN has been working on some other things, namely defense, on an agreement to get it done.

NOMINATION OF RAYMOND JOSEPH LOHIER, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Raymond Joseph Lohier, Jr., of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to the vote, equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Connecticut.

Mr. LEAHY. Mr. President, I yield my time to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, over the last few days, the Senate has finally begun to vote on judicial nominations that have been waiting on the Executive Calendar for months. There are currently three judicial emergency vacancies on the U.S. Court of Appeals for the Second Circuit and the Judiciary Committee has reported qualified nominees to fill each one.

With the consideration of Ray Lohier's nomination, the Senate will finally fill one of those for the people of Vermont, Connecticut, and New York. For the past 13 years, Mr. Lohier has served as a Federal prosecutor in the U.S. Attorney's Office in the Southern District of New York and is currently special counsel to the U.S. attorney. He previously served as the chief and deputy chief of both the Securities and Commodities Task Force, which investigates and prosecutes offenses on Wall Street, and the narcotics unit.

He has the strong support of Senator GILLIBRAND and myself. The Judiciary Committee unanimously reported his nomination on May 13.

I urge confirmation of the nomination.

Mrs. GILLIBRAND. Mr. President, I am pleased to stand in support of Raymond J. Lohier, Jr., who is President Obama's nominee to serve on the U.S. Circuit Court of Appeals for the Second Circuit. Ray is a highly talented and accomplished New Yorker, and I applaud President Obama for this excellent choice.

Ray Lohier has dedicated his career to public service and protecting the rule of law. For nearly a decade, Ray has served with distinction as an assistant U.S. Attorney for the Southern District of New York, where he has been successfully involved in some of the Nation's most challenging and complex cases. He has led that office's efforts to prosecute securities fraud, commodities fraud, insider trading and Ponzi schemes. Notably, he served on the team that successfully prosecuted Bernard Madoff for a Ponzi scheme that defrauded billions of dollars from New Yorkers and individuals across the country. Prior to his service as an assistant U.S. attorney, Ray worked as a senior trial attorney in the Civil Rights Division of the U.S. Department of Justice.

In addition to his impressive professional career, Ray Lohier is actively involved in his community, serving on Brooklyn Community Board 6, where he is currently the first vice chairman and chairman of the Public Safety Committee. While he worked as an attorney in private practice in New York, Ray was a member of his firm's pro bono committee, while also serving the State of New York on the Gubernatorial Task Force on Judicial Diversity on the Bench and the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Court, Subcommittee on Court Appointments. He has also been a member of the National Black Prosecutors Association.

Ray is a cum laude graduate of Harvard College and an alumnus of the New York University School of law, where he earned his juris doctorate and was awarded the Vanderbilt Medal. He also has served as editor-in-chief of the Annual Survey of American law.

In addition to all of these outstanding professional and educational accomplishments, he has been married for the past 10 years to his wife Donna,