



Alabama Law Scholarly Commons

Articles

Faculty Scholarship

2011

Introductory Note to the 2010 Strategic Arms Reduction Treaty

Daniel H. Joyner

University of Alabama - School of Law, djoyner@law.ua.edu

Follow this and additional works at: https://scholarship.law.ua.edu/fac_articles

Recommended Citation

Daniel H. Joyner, *Introductory Note to the 2010 Strategic Arms Reduction Treaty*, 50 *Int'l Legal Materials* 340 (2011).

Available at: https://scholarship.law.ua.edu/fac_articles/210

This Article is brought to you for free and open access by the Faculty Scholarship at Alabama Law Scholarly Commons. It has been accepted for inclusion in Articles by an authorized administrator of Alabama Law Scholarly Commons.

INTRODUCTORY NOTE TO THE 2010 STRATEGIC ARMS REDUCTION TREATY
BY DANIEL H. JOYNER*
[April 8, 2010]
+Cite as 50 ILM 340 (2011)+

On April 8, 2010, the United States and Russia signed a new arms reduction treaty to replace the 1991 Strategic Arms Reduction Treaty (“START I”), which had expired in 2009. This new treaty has so far been colloquially referred to interchangeably as “the New START Treaty” or “the Prague Treaty.” The Prague Treaty is the latest installment in a series of bilateral nuclear strategic weapons reduction treaties concluded over the past four decades between the United States and Russia (and its predecessor the Soviet Union).

The most important provisions of the Prague Treaty are those that legally obligate both the United States and Russia to reduce the number of deployed strategic warheads in their arsenals to 1550 warheads each. As the official White House fact sheet boasts, this limit on warheads is “74% lower than the limit of the 1991 START Treaty and 30% lower than the deployed strategic warhead limit of the 2002 Moscow Treaty.”¹ The treaty further provides for a legal limit for both parties of 800 Intercontinental Ballistic Missile (“ICBM”) launchers, Submarine Launched Ballistic Missile (“SLBM”) launchers, and nuclear-equipped heavy bombers. Finally, it provides for a separate limit of 700 deployed ICBM’s, SLBM’s, and nuclear-equipped heavy bombers. Under the treaty, the parties are to achieve these limits by 2017.

While the above quoted statement by the White House regarding the warhead limits agreed to in the Prague Treaty as compared to the limits agreed to in previous treaties, is technically correct, there has been a good deal of criticism regarding the accounting terms in the treaty that allow such statements to be made. As Hans Kristensen has observed:

[W]hile the treaty reduces the *legal limit* for deployed strategic warheads, it doesn’t actually reduce the *number* of warheads. Indeed, the treaty does not require destruction of a single nuclear warhead and actually permits the United States and Russia to deploy almost the same number of strategic warheads that were permitted by the 2002 Moscow Treaty.²

Kristensen is referring here to the new counting rule in the Prague Treaty, which fictitiously attributes only one deployed nuclear weapon to each nuclear-equipped heavy bomber. Accordingly, an American B-52 bomber counts as only one deployed nuclear weapon, even though a B-52 can, depending on its configuration, carry more than twenty nuclear weapons at a time. Similarly, Russian heavy bombers can carry up to sixteen nuclear weapons at a time.

This new counting rule under the Prague Treaty broke from the formula used in the 2002 Moscow Treaty. Kristensen notes one implication of the new method: “[W]ith the ‘fake’ bomber counting rule the United States and Russia could, if they chose to do so, deploy more strategic warheads under the New START Treaty by 2017 than would have been allowed by the Moscow Treaty by 2012.”³

While conceding that Kristensen’s calculations are correct, Jeffrey Lewis argues that, when viewed holistically, the Prague Treaty’s limiting provisions are a modest yet significant step forward from previous agreements, including START I and the 2002 Moscow Treaty. Lewis argues that warhead accounting rules under all three of these treaties have been fictitious in one way or another. He maintains that the real value of the Prague Treaty is that, while it does not definitively limit nuclear warheads themselves, it puts a clear cap on the number of delivery units for nuclear weapons. As Lewis states:

While the number of warheads is important, the real key to the Prague Treaty is the numerical limit on deployed delivery vehicles—700. Seven hundred is the number of Minuteman III missiles, Trident missiles and B1, B2 and B52 bombers. The United States wanted a much lower warhead number than did the Russians, who were only willing to budge on warhead numbers if the US came down on delivery vehicles. So, the two numbers are tightly integrated.⁴

Lewis has compelling arguments that the overall significance of the Prague Treaty is that it provides for modest yet significant reductions to the nuclear arsenals of the United States and Russia and that it constitutes a continuation

* Associate Professor of Law, University of Alabama School of Law.

of diplomatic and legal engagement between the Cold War rivals in furthering the agenda of progressive nuclear arms reduction.

On January 28, 2011, Russian President Medvedev signed the ratification resolution passed by the Russian Federal Assembly, thus completing the Russian ratification process. After lengthy and contentious debate regarding the ratification of the treaty in the U.S. Congress, U.S. President Obama signed documents completing the U.S. ratification process on February 2, 2011. The treaty went into force when Russian Foreign Minister Sergei Lavrov and U.S. Secretary of State Hillary Clinton exchanged the instruments of ratification in Munich, Germany, on February 5, 2011.

ENDNOTES

- 1 Press Release, Off. of the Press Secretary, White House, Key Facts About the New START Treaty (Mar. 26, 2010), *available at* <http://www.whitehouse.gov/the-press-office/key-facts-about-new-start-treaty>.
- 2 Hans M. Kristensen, *New START Treaty Has New Counting*, FAS STRATEGIC SECURITY BLOG (Mar. 29, 2010), <http://www.fas.org/blog/ssp/2010/03/newstart.php>.
- 3 *Id.*
- 4 Jeffrey Lewis, *Prague Treaty Cuts are Modest, Real*, ARMS CONTROL WONK (Apr. 5, 2010), <http://www.armscontrolwonk.com/2682/prague-treaty-cuts-are-modest-real>.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE RUSSIAN
FEDERATION ON MEASURES FOR THE FURTHER REDUCTION AND
LIMITATION OF STRATEGIC OFFENSIVE ARMS*

[April 8, 2010]

+Cite as 50 ILM 342 (2011)+

The United States of America and the Russian Federation, hereinafter referred to as the Parties,

Believing that global challenges and threats require new approaches to interaction across the whole range of their strategic relations,

Working therefore to forge a new strategic relationship based on mutual trust, openness, predictability, and cooperation,

Desiring to bring their respective nuclear postures into alignment with this new relationship, and endeavoring to reduce further the role and importance of nuclear weapons,

Committed to the fulfillment of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968, and to the achievement of the historic goal of freeing humanity from the nuclear threat,

Expressing strong support for on-going global efforts in non-proliferation,

Seeking to preserve continuity in, and provide new impetus to, the step-by-step process of reducing and limiting nuclear arms while maintaining the safety and security of their nuclear arsenals, and with a view to expanding this process in the future, including to a multilateral approach,

Guided by the principle of indivisible security and convinced that measures for the reduction and limitation of strategic offensive arms and the other obligations set forth in this Treaty will enhance predictability and stability, and thus the security of both Parties,

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties,

Mindful of the impact of conventionally armed ICBMs and SLBMs on strategic stability,

Taking into account the positive effect on the world situation of the significant, verifiable reduction in nuclear arsenals at the turn of the 21st century,

Desiring to create a mechanism for verifying compliance with the obligations under this Treaty, adapted, simplified, and made less costly in comparison to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms of July 31, 1991, hereinafter referred to as the START Treaty,

Recognizing that the START Treaty has been implemented by the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation, Ukraine, and the United States of America, and that the reduction levels envisaged by the START Treaty were achieved,

Deeply appreciating the contribution of the Republic of Belarus, the Republic of Kazakhstan, and Ukraine to nuclear disarmament and to strengthening international peace and security as non-nuclear-weapon states under the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968,

Welcoming the implementation of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions of May 24, 2002,

* This text was reproduced and reformatted from the text available at the United States Department of State website (visited Apr. 4, 2011) <http://www.state.gov/documents/organization/140035.pdf>.

Have agreed as follows:

Article I

1. Each Party shall reduce and limit its strategic offensive arms in accordance with the provisions of this Treaty and shall carry out the other obligations set forth in this Treaty and its Protocol.
2. Definitions of terms used in this Treaty and its Protocol are provided in Part One of the Protocol.

Article II

1. Each Party shall reduce and limit its ICBMs and ICBM launchers, SLBMs and SLBM launchers, heavy bombers, ICBM warheads, SLBM warheads, and heavy bomber nuclear armaments, so that seven years after entry into force of this Treaty and thereafter, the aggregate numbers, as counted in accordance with Article III of this Treaty, do not exceed:
 - (a) 700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers;
 - (b) 1550, for warheads on deployed ICBMs, warheads on deployed SLBMs, and nuclear warheads counted for deployed heavy bombers;
 - (c) 800, for deployed and non-deployed ICBM launchers, deployed and non-deployed SLBM launchers, and deployed and non-deployed heavy bombers.
2. Each Party shall have the right to determine for itself the composition and structure of its strategic offensive arms.

Article III

1. For the purposes of counting toward the aggregate limit provided for in subparagraph l(a) of Article II of this Treaty:
 - (a) Each deployed ICBM shall be counted as one.
 - (b) Each deployed SLBM shall be counted as one.
 - (c) Each deployed heavy bomber shall be counted as one.
2. For the purposes of counting toward the aggregate limit provided for in subparagraph l(b) of Article II of this Treaty:
 - (a) For ICBMs and SLBMs, the number of warheads shall be the number of reentry vehicles emplaced on deployed ICBMs and on deployed SLBMs.
 - (b) One nuclear warhead shall be counted for each deployed heavy bomber.
3. For the purposes of counting toward the aggregate limit provided for in subparagraph l(c) of Article II of this Treaty:
 - (a) Each deployed launcher of ICBMs shall be counted as one.
 - (b) Each non-deployed launcher of ICBMs shall be counted as one.
 - (c) Each deployed launcher of SLBMs shall be counted as one.
 - (d) Each non-deployed launcher of SLBMs shall be counted as one.
 - (e) Each deployed heavy bomber shall be counted as one.
 - (f) Each non-deployed heavy bomber shall be counted as one.
4. For the purposes of this Treaty, including counting ICBMs and SLBMs:
 - (a) For ICBMs or SLBMs that are maintained, stored, and transported as assembled missiles in launch canisters, an assembled missile of a particular type, in its launch canister, shall be considered to be an ICBM or SLBM of that type.

- (b) For ICBMs or SLBMs that are maintained, stored, and transported as assembled missiles without launch canisters, an assembled missile of a particular type shall be considered to be an ICBM or SLBM of that type.
 - (c) For ICBMs or SLBMs that are maintained, stored, and transported in stages, the first stage of an ICBM or SLBM of a particular type shall be considered to be an ICBM or SLBM of that type.
 - (d) Each launch canister shall be considered to contain an ICBM or SLBM from the time it first leaves a facility at which an ICBM or SLBM is installed in it, until an ICBM or SLBM has been launched from it, or until an ICBM or SLBM has been removed from it for elimination. A launch canister shall not be considered to contain an ICBM or SLBM if it contains a training model of a missile or has been placed on static display. Launch canisters for ICBMs or SLBMs of a particular type shall be distinguishable from launch canisters for ICBMs or SLBMs of a different type.
5. Newly constructed strategic offensive arms shall begin to be subject to this Treaty as follows:
 - (a) an ICBM, when it first leaves a production facility;
 - (b) a mobile launcher of ICBMs, when it first leaves a production facility;
 - (c) a silo launcher of ICBMs, when the silo door is first installed and closed;
 - (d) an SLBM, when it first leaves a production facility;
 - (e) an SLBM launcher, when the submarine on which that launcher is installed is first launched;
 - (f) a heavy bomber equipped for nuclear armaments, when its airframe is first brought out of the shop, plant, or building in which components of such a heavy bomber are assembled to produce complete airframes; or when its airframe is first brought out of the shop, plant, or building in which existing bomber airframes are converted to such heavy bomber airframes.
6. ICBMs, SLBMs, ICBM launchers, SLBM launchers, and heavy bombers shall cease to be subject to this Treaty in accordance with Parts Three and Four of the Protocol to this Treaty. ICBMs or SLBMs of an existing type shall cease to be subject to this Treaty if all ICBM or SLBM launchers of a type intended for such ICBMs or SLBMs have been eliminated or converted in accordance with Part Three of the Protocol to this Treaty.
7. For the purposes of this Treaty:
 - (a) A missile of a type developed and tested solely to intercept and counter objects not located on the surface of the Earth shall not be considered to be a ballistic missile to which the provisions of this Treaty apply.
 - (b) Within the same type, a heavy bomber equipped for nuclear armaments shall be distinguishable from a heavy bomber equipped for non-nuclear armaments.
 - (c) Heavy bombers of the same type shall cease to be subject to this Treaty or to the limitations thereof when the last heavy bomber equipped for nuclear armaments of that type is eliminated or converted, as appropriate, to a heavy bomber equipped for non-nuclear armaments in accordance with Part Three of the Protocol to this Treaty.
8. As of the date of signature of this Treaty:
 - (a) Existing types of ICBMs are:
 - (i) for the United States of America, the Minuteman II, Minuteman III, and Peacekeeper;
 - (ii) for the Russian Federation, the RS-12M, RS-12M2, RS-18, RS-20, and RS-24.
 - (b) Existing types of SLBMs are:
 - (i) for the Russian Federation, the RSM-50, RSM-52, RSM-54, and RSM-56;
 - (ii) for the United States of America, the Trident II.

- (c) Existing types of heavy bombers are:
 - (i) for the United States of America, the B-52G, B-52H, B-IB, and B-2A;
 - (ii) for the Russian Federation, the Tu-95MS and Tu-160.
- (d) Existing types of ICBM launchers and SLBM launchers are:
 - (i) for the Russian Federation, ICBM launchers RS-12M, RS-12M2, RS-18, RS-20, and RS-24; SLBM launchers RSM-50, RSM-52, RSM-54, and RSM-56;
 - (ii) for the United States of America, ICBM launchers Minuteman II, Minuteman III, and Peacekeeper; the SLBM launchers Trident II.

Article IV

1. Each Party shall base:
 - (a) deployed launchers of ICBMs only at ICBM bases;
 - (b) deployed heavy bombers only at air bases.
2. Each Party shall install deployed launchers of SLBMs only on ballistic missile submarines.
3. Each Party shall locate:
 - (a) non-deployed launchers of ICBMs only at ICBM bases, production facilities, ICBM loading facilities, repair facilities, storage facilities, conversion or elimination facilities, training facilities, test ranges, and space launch facilities. Mobile launchers of prototype ICBMs shall not be located at maintenance facilities of ICBM bases;
 - (b) non-deployed ICBMs and non-deployed SLBMs only at, as appropriate, submarine bases, ICBM or SLBM loading facilities, maintenance facilities, repair facilities for ICBMs or SLBMs, storage facilities for ICBMs or SLBMs, conversion or elimination facilities for ICBMs or SLBMs, test ranges, space launch facilities, and production facilities. Prototype ICBMs and prototype SLBMs, however, shall not be located at maintenance facilities of ICBM bases or at submarine bases.
4. Non-deployed ICBMs and non-deployed SLBMs as well as non-deployed mobile launchers of ICBMs may be in Transit. Each Party shall limit the duration of each transit between facilities to no more than 30 days.
5. Test launchers of ICBMs or SLBMs may be located only at test ranges.
6. Training launchers may be located only at ICBM bases, training facilities, and test ranges. The number of silo training launchers located at each ICBM base for silo launchers of ICBMs shall not exceed one for each type of ICBM specified for that ICBM base.
7. Each Party shall limit the number of test heavy bombers to no more than ten.
8. Each Party shall base test heavy bombers only at heavy bomber flight test centers. Non-deployed heavy bombers other than test heavy bombers shall be located only at repair facilities or production facilities for heavy bombers.
9. Each Party shall not carry out at an air base joint basing of heavy bombers equipped for nuclear armaments and heavy bombers equipped for non-nuclear armaments, unless otherwise agreed by the Parties.
10. Strategic offensive arms shall not be located at eliminated facilities except during their movement through such facilities and during visits of heavy bombers at such facilities.
11. Strategic offensive arms subject to this Treaty shall not be based outside the national territory of each Party. The obligations provided for in this paragraph shall not affect the Parties' rights in accordance with generally recognized principles and rules of international law relating to the passage of submarines or flights of aircraft, or relating to visits of submarines to ports of third States. Heavy bombers may be temporarily located outside the national territory, notification of which shall be provided in accordance with Part Four of the Protocol to this Treaty.

Article V

1. Subject to the provisions of this Treaty, modernization and replacement of strategic offensive arms may be carried out.
2. When a Party believes that a new kind of strategic offensive arm is emerging, that Party shall have the right to raise the question of such a strategic offensive arm for consideration in the Bilateral Consultative Commission.
3. Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this Treaty for placement of missile defense interceptors therein.

Article VI

1. Conversion, elimination, or other means for removal from accountability of strategic offensive arms and facilities shall be carried out in accordance with Part Three of the Protocol to this Treaty.
2. Notifications related to conversion, elimination, or other means for removal from accountability shall be provided in accordance with Parts Three and Four of the Protocol to this Treaty.
3. Verification of conversion or elimination in accordance with this Treaty shall be carried out by:
 - (a) national technical means of verification in accordance with Article X of this Treaty; and
 - (b) inspection activities as provided for in Article XI of this Treaty.

Article VII

1. A database pertaining to the obligations under this Treaty shall be created in accordance with Parts Two and Four of the Protocol to this Treaty. Categories of data for this database are set forth in Part Two of the Protocol to this Treaty.
2. Each Party shall notify the other Party about changes in data and shall provide other notifications in a manner provided for in Part Four of the Protocol to this Treaty.
3. Each Party shall use the Nuclear Risk Reduction Centers in order to provide and receive notifications, unless otherwise provided for in this Treaty.
4. Each Party may provide additional notifications on a voluntary basis, in addition to the notifications specified in paragraph 2 of this Article, if it deems this necessary to ensure confidence in the fulfillment of obligations assumed under this Treaty.
5. The Parties shall hold consultations within the framework of the Bilateral Consultative Commission on releasing to the public data and information obtained during the implementation of this Treaty. The Parties shall have the right to release to the public such data and information following agreement thereon within the framework of the Bilateral Consultative Commission. Each Party shall have the right to release to the public data related to its respective strategic offensive arms.
6. Geographic coordinates relating to data provided for in Part Two of the Protocol to this Treaty, unique identifiers, site diagrams of facilities provided by the Parties pursuant to this Treaty, as well as coastlines and waters diagrams provided by the Parties pursuant to this Treaty shall not be released to the public unless otherwise agreed by the Parties within the framework of the Bilateral Consultative Commission.
7. Notwithstanding paragraph 5 of this Article, the aggregate numbers of deployed ICBMs, deployed SLBMs, and deployed heavy bombers; the aggregate numbers of warheads on deployed ICBMs, deployed SLBMs, and nuclear warheads counted for deployed heavy bombers; and the aggregate numbers of deployed and non-deployed ICBM launchers, deployed and non-deployed SLBM launchers, and deployed and non-deployed heavy bombers, may be released to the public by the Parties.

Article VIII

In those cases in which one of the Parties determines that its actions may lead to ambiguous situations, that Party shall take measures to ensure the viability and effectiveness of this Treaty and to enhance confidence,

openness, and predictability concerning the reduction and limitation of strategic offensive arms. Such measures may include, among other things, providing information in advance on activities of that Party associated with deployment or increased readiness of strategic offensive arms, to preclude the possibility of misinterpretation of its actions by the other Party. This information shall be provided through diplomatic or other channels.

Article IX

By mutual agreement of the Parties, telemetric information on launches of ICBMs and SLBMs shall be exchanged on a parity basis. The Parties shall agree on the amount of exchange of such telemetric information.

Article X

1. For the purpose of ensuring verification of compliance with the provisions of this Treaty, each Party undertakes:

- (a) to use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law;
- (b) not to interfere with the national technical means of verification of the other Party operating in accordance with this Article; and
- (c) not to use concealment measures that impede verification, by national technical means of verification, of compliance with the provisions of this Treaty.

2. The obligation not to use concealment measures includes the obligation not to use them at test ranges, including measures that result in the concealment of ICBMs, SLBMs, ICBM launchers, or the association between ICBMs or SLBMs and their launchers during testing. The obligation not to use concealment measures shall not apply to cover or concealment practices at ICBM bases or to the use of environmental shelters for strategic offensive arms.

Article XI

1. For the purpose of confirming the accuracy of declared data on strategic offensive arms subject to this Treaty and ensuring verification of compliance with the provisions of this Treaty, each Party shall have the right to conduct inspection activities in accordance with this Article and Part Five of the Protocol to this Treaty.

2. Each Party shall have the right to conduct inspections at ICBM bases, submarine bases, and air bases. The purpose of such inspections shall be to confirm the accuracy of declared data on the numbers and types of deployed and non-deployed strategic offensive arms subject to this Treaty; the number of warheads located on deployed ICBMs and deployed SLBMs; and the number of nuclear armaments located on deployed heavy bombers. Such inspections shall hereinafter be referred to as Type One inspections.

3. Each Party shall have the right to conduct inspections at facilities listed in Section VII of Part Five of the Protocol to this Treaty. The purpose of such inspections shall be to confirm the accuracy of declared data on the numbers, types, and technical characteristics of non-deployed strategic offensive arms subject to this Treaty and to confirm that strategic offensive arms have been converted or eliminated.

In addition, each Party shall have the right to conduct inspections at formerly declared facilities, which are provided for in Part Two of the Protocol to this Treaty, to confirm that such facilities are not being used for purposes inconsistent with this Treaty.

The inspections provided for in this paragraph shall hereinafter be referred to as Type Two inspections.

4. Each Party shall conduct exhibitions and have the right to participate in exhibitions conducted by the other Party. The purpose of such exhibitions shall be to demonstrate distinguishing features and to confirm technical characteristics of new types, and to demonstrate the results of conversion of the first item of each type of strategic offensive arms subject to this Treaty.

Article XII

To promote the objectives and implementation of the provisions of this Treaty, the Parties hereby establish the Bilateral Consultative Commission, the authority and procedures for the operation of which are set forth in Part Six of the Protocol to this Treaty.

Article XIII

To ensure the viability and effectiveness of this Treaty, each Party shall not assume any international obligations or undertakings that would conflict with its provisions. The Parties shall not transfer strategic offensive arms subject to this Treaty to third parties. The Parties shall hold consultations within the framework of the Bilateral Consultative Commission in order to resolve any ambiguities that may arise in this regard. This provision shall not apply to any patterns of cooperation, including obligations, in the area of strategic offensive arms, existing at the time of signature of this Treaty, between a Party and a third State.

Article XIV

1. This Treaty, including its Protocol, which is an integral part thereof, shall be subject to ratification in accordance with the constitutional procedures of each Party. This Treaty shall enter into force on the date of the exchange of instruments of ratification.
2. This Treaty shall remain in force for 10 years unless it is superseded earlier by a subsequent agreement on the reduction and limitation of strategic offensive arms. If either Party raises the issue of extension of this Treaty, the Parties shall jointly consider the matter. If the Parties decide to extend this Treaty, it will be extended for a period of no more than five years unless it is superseded earlier by a subsequent agreement on the reduction and limitation of strategic offensive arms.
3. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party. Such notice shall contain a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests. This Treaty shall terminate three months from the date of receipt by the other Party of the aforementioned notice, unless the notice specifies a later date.
4. As of the date of its entry into force, this Treaty shall supersede the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions of May 24, 2002, which shall terminate as of that date.

Article XV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing entry into force of this Treaty.
2. If it becomes necessary to make changes in the Protocol to this Treaty that do not affect substantive rights or obligations under this Treaty, the Parties shall use the Bilateral Consultative Commission to reach agreement on such changes, without resorting to the procedure for making amendments that is set forth in paragraph 1 of this Article.

Article XVI

This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Prague, this eighth day of April, 2010, in two originals, each in the English and Russian languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:
[undersigned]

FOR THE RUSSIAN FEDERATION:
[undersigned]

2010 START TREATY — U.S. SENATE RESOLUTION OF
ADVICE AND CONSENT TO RATIFICATION*

[December 22, 2010]

+Cite as 50 ILM 349 (2011)+

**NEW START TREATY
RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION**

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

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

- (1) **GENERAL COMPLIANCE.**—If the President determines that the Russian Federation is acting or has acted in a manner that is inconsistent with the object and purpose of the New START Treaty, or is in violation of the New START Treaty, so as to threaten the national security interests of the United States, then the President shall—
 - (A) consult with the Senate regarding the implications of such actions for the viability of the New START Treaty and for the national security interests of the United States;
 - (B) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of bringing the Russian Federation into full compliance with its obligations under the New START Treaty; and
 - (C) submit a report to the Senate promptly thereafter, detailing—
 - (i) whether adherence to the New START Treaty remains in the national security interests of the United States; and
 - (ii) how the United States will redress the impact of Russian actions on the national security interests of the United States.
- (2) **PRESIDENTIAL CERTIFICATIONS AND REPORTS ON NATIONAL TECHNICAL MEANS.**—(A) Prior to the entry into force of the New START Treaty, and annually thereafter, the President shall certify to the Senate that United States National Technical Means, in conjunction with the verification activities provided for in the New START Treaty, are sufficient to ensure effective monitoring of Russian compliance with the provisions of the New START Treaty and timely warning of any Russian preparation to break out of the limits in Article II of the New START Treaty. Following submission of the first such certification, each subsequent certification shall be accompanied by a report to the Senate indicating how United States National Technical Means, including collection, processing, and analytic resources, will be utilized to ensure effective monitoring. The first such report shall include a long-term plan for the maintenance of New START Treaty monitoring. Each subsequent report shall include an update of the long-term plan. Each such report may be submitted in either classified or unclassified form.
 - (B) It is the sense of the Senate that monitoring Russian Federation compliance with the New START Treaty is a high priority and that the inability to do so would constitute a threat to United States national security interests.

* This text was reproduced and reformatted from the text available at the U.S. Department of State website (visited Apr. 4, 2011) <http://www.state.gov/t/avc/fls/153910.htm>.

- (3) **REDUCTIONS.**—(A) The New START Treaty shall not enter into force until instruments of ratification have been exchanged in accordance with Article XIV of the New START Treaty.
- (B) If, prior to the entry into force of the New START Treaty, the President plans to implement reductions of United States strategic nuclear forces below those currently planned and consistent with the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed at Moscow on May 24, 2002 (commonly referred to as “the Moscow Treaty”), then the President shall—
- (i) consult with the Senate regarding the effect of such reductions on the national security of the United States; and
 - (ii) take no such reductions until the President submits to the Senate the President’s determination that such reductions are in the national security interest of the United States.
- (4) **TIMELY WARNING OF BREAKOUT.**—If the President determines, after consultation with the Director of National Intelligence, that the Russian Federation intends to break out of the limits in Article II of the New START Treaty, the President shall immediately inform the Committees on Foreign Relations and Armed Services of the Senate, with a view to determining whether circumstances exist that jeopardize the supreme interests of the United States, such that withdrawal from the New START Treaty may be warranted pursuant to paragraph 3 of Article XIV of the New START Treaty.
- (5) **UNITED STATES MISSILE DEFENSE TEST TELEMETRY.**—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the New START Treaty does not require, at any point during which it will be in force, the United States to provide to the Russian Federation telemetric information under Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol for the launch of—
- (A) any missile defense interceptor, as defined in paragraph 44 of Part One of the Protocol to the New START Treaty;
 - (B) any satellite launches, missile defense sensor targets, and missile defense intercept targets, the launch of which uses the first stage of an existing type of United States ICBM or SLBM listed in paragraph 8 of Article III of the New START Treaty; or
 - (C) any missile described in clause (a) of paragraph 7 of Article III of the New START Treaty.
- (6) **CONVENTIONAL PROMPT GLOBAL STRIKE.**—(A) The Senate calls on the executive branch to clarify its planning and intent in developing future conventionally armed, strategic-range weapon systems. To this end, prior to the entry into force of the New START Treaty, the President shall provide a report to the Committees on Armed Services and Foreign Relations of the Senate containing the following:
- (i) A list of all conventionally armed, strategic-range weapon systems that are currently under development.
 - (ii) An analysis of the expected capabilities of each system listed under clause (i).
 - (iii) A statement with respect to each system listed under clause (i) as to whether any of the limits in Article II of the New START Treaty apply to such system.
 - (iv) An assessment of the costs, risks, and benefits of each system.
 - (v) A discussion of alternative deployment options and scenarios for each system.
 - (vi) A summary of the measures that could help to distinguish each system listed under clause (i) from nuclear systems and reduce the risks of misinterpretation and of a resulting claim that such systems might alter strategic stability.

- (B) The report under subparagraph (A) may be supplemented by a classified annex.
- (C) If, at any time after the New START Treaty enters into force, the President determines that deployment of conventional warheads on ICBMs or SLBMs is required at levels that cannot be accommodated within the limits in Article II of the New START Treaty while sustaining a robust United States nuclear triad, then the President shall immediately consult with the Senate regarding the reasons for such determination.
- (7) UNITED STATES TELEMETRIC INFORMATION.—In implementing Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol, prior to agreeing to provide to the Russian Federation any amount of telemetric information on a United States test launch of a conventionally armed prompt global strike system, the President shall certify to the Committees on Foreign Relations and Armed Services of the Senate that—
- (A) the provision of United States telemetric information—
- (i) consists of data that demonstrate that such system is not subject to the limits in Article II of the New START Treaty; or
- (ii) would be provided in exchange for significant telemetric information regarding a weapon system not listed in paragraph 8 of Article III of the New START Treaty, or a system not deployed by the Russian Federation prior to December 5, 2009;
- (B) it is in the national security interest of the United States to provide such telemetric information; and
- (C) provision of such telemetric information will not undermine the effectiveness of such system.
- (8) BILATERAL CONSULTATIVE COMMISSION.—Not later than 15 days before any meeting of the Bilateral Consultative Commission to consider a proposal for additional measures to improve the viability or effectiveness of the New START Treaty or to resolve a question related to the applicability of provisions of the New START Treaty to a new kind of strategic offensive arm, the President shall consult with the Chairman and ranking minority member of the Committee on Foreign Relations of the Senate with regard to whether the proposal, if adopted, would constitute an amendment to the New START Treaty requiring the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.
- (9) UNITED STATES COMMITMENTS ENSURING THE SAFETY, RELIABILITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.—
- (A) The United States is committed to ensuring the safety, reliability, and performance of its nuclear forces. It is the sense of the Senate that—
- (i) the United States is committed to proceeding with a robust stockpile stewardship program, and to maintaining and modernizing the nuclear weapons production capabilities and capacities, that will ensure the safety, reliability, and performance of the United States nuclear arsenal at the New START Treaty levels and meet requirements for hedging against possible international developments or technical problems, in conformance with United States policies and to underpin deterrence;
- (ii) to that end, the United States is committed to maintaining United States nuclear weapons laboratories and preserving the core nuclear weapons competencies therein; and
- (iii) the United States is committed to providing the resources needed to achieve these objectives, at a minimum at the levels set forth in the President's 10-year plan provided to the Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84).
- (B) If appropriations are enacted that fail to meet the resource requirements set forth in the President's 10-year plan, or if at any time more resources are required than estimated in the

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

- (i) how the President proposes to remedy the resource shortfall;
- (ii) if additional resources are required, the proposed level of funding required and an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;
- (iii) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and
- (iv) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a Party to the New START Treaty.

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

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

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

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

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

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

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

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

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

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

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

(1) MISSILE DEFENSE.—It is the understanding of the United States that—

(A) the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, "Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for

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

(B) any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 of Article V, including any limitations agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States; and

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

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

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

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

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

(D) an agreement reached pursuant to subparagraph (C) is subject to the requirements of Article XV of the New START Treaty and, specifically, if an agreement pursuant to subparagraph (C) creates substantive rights or obligations that differ significantly from those in the New START Treaty regarding a “mobile launcher of ICBMs” as defined in Part One of the Protocol to the New START Treaty, such agreement will be considered an amendment to the New START Treaty pursuant to Paragraph 1 of Article XV of the New START Treaty and will be submitted to the Senate for its advice and consent to ratification.

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

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

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

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

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

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

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

would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

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

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

(i) pursuant to the National Missile Defense Act of 1999 (Public Law 106–38), it is the policy of the United States “to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)”;

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

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

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

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

(2) **DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.**—It is the sense of the Senate that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

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

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

- (F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty.
- (3) CONVENTIONALLY ARMED, STRATEGIC-RANGE WEAPON SYSTEMS.—Consistent with statements made by the United States that such systems are not intended to affect strategic stability with respect to the Russian Federation, the Senate finds that conventionally armed, strategic-range weapon systems not co-located with nuclear-armed systems do not affect strategic stability between the United States and the Russian Federation.
- (4) NUNN-LUGAR COOPERATIVE THREAT REDUCTION.—It is the sense of the Senate that the Nunn-Lugar Cooperative Threat Reduction (CTR) Program has made an invaluable contribution to the security and elimination of weapons of mass destruction, including nuclear weapons and materials in Russia and elsewhere, and that the President should continue the global CTR Program and CTR assistance to Russia, including for the purpose of facilitating implementation of the New START Treaty.
- (5) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the New START Treaty, the President should regulate reductions in United States strategic offensive arms so that the number of accountable strategic offensive arms under the New START Treaty possessed by the Russian Federation in no case exceeds the comparable number of accountable strategic offensive arms possessed by the United States to such an extent that a strategic imbalance endangers the national security interests of the United States.
- (6) COMPLIANCE.—(A) The New START Treaty will remain in the interests of the United States only to the extent that the Russian Federation is in strict compliance with its obligations under the New START Treaty.
- (B) Given its concern about compliance issues, the Senate expects the executive branch to offer regular briefings, not less than four times each year, to the Committees on Foreign Relations and Armed Services of the Senate on compliance issues related to the New START Treaty. Such briefings shall include a description of all United States efforts in United States-Russian diplomatic channels and bilateral fora to resolve any compliance issues and shall include, but would not necessarily be limited to, a description of—
- (i) any compliance issues the United States plans to raise with the Russian Federation at the Bilateral Consultative Commission, in advance of such meetings; and
- (ii) any compliance issues raised at the Bilateral Consultative Commission, within thirty days of such meetings.
- (7) EXPANSION OF STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that if, during the time the New START Treaty remains in force, the President determines that there has been an expansion of the strategic arsenal of any country not party to the New START Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the New START Treaty remains in the national interest of the United States.
- (8) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) of the resolution of advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols (commonly referred to as the “INF Treaty”), approved by the Senate on May 27, 1988, and condition (8) of the resolution of advice and consent to the ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (commonly referred to as the “CFE Flank Document”), approved by the Senate on May 14, 1997.

- (9) **TREATY MODIFICATION OR REINTERPRETATION.**—The Senate declares that any agreement or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the New START Treaty, including the time frame for implementation of the New START Treaty, should be submitted to the Senate for its advice and consent to ratification.
- (10) **CONSULTATIONS.**—Given the continuing interest of the Senate in the New START Treaty and in strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate expects the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article XIV of the New START Treaty.
- (11) **TACTICAL NUCLEAR WEAPONS.**—(A) The Senate calls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.
- (B) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—
- (i) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and
 - (ii) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.
- (12) **FURTHER STRATEGIC ARMS REDUCTIONS.**—(A) Recognizing the obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, “to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at any early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control,” and in anticipation of the ratification and entry into force of the New START Treaty, the Senate calls upon the other nuclear weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.
- (B) The Senate declares that further arms reduction agreements obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.
- (13) **MODERNIZATION AND REPLACEMENT OF UNITED STATES STRATEGIC DELIVERY VEHICLES.**—In accordance with paragraph 1 of Article V of the New START Treaty, which states that, “Subject to the provisions of this Treaty, modernization and replacement of strategic offensive arms may be carried out,” it is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.