

As I have said, I do support the appropriate use of cost-benefit analyses and risk assessments in major rule-making. However, I recognize that risk assessment and cost-benefit analysis are imperfect tools. Even in the best analyses, significant uncertainties exist. More important, any legislation that would impose a cost-benefit test must recognize that other factors including values, equity concerns, and policy judgments are equally important or even dispositive factors in the decisionmaking process.

These points were well illustrated during our debate on the acid rain provisions of the Clean Air Amendments of 1990. Cost-benefit considerations were important elements of the debate. However, in the end Congress made policy judgments based in large measure on the unquantified and unquantifiable value we place on our natural environment. We decided, for instance, that some regions of the country, such as upstate New York, should not be forced to bear a disproportionate impact of acid rain pollution. We now know that the actual costs of the acid rain program are less than one-third of most estimates at the time, and that we still do not understand the ultimate impact of acid deposition on the environment. That experience illustrated the limitations of cost-benefit analysis as a rigid decisionmaking tool, and it ought to be a lesson to us.

Returning to the Dole-Johnston bill, we reached a consensus last week on two major issues. First, we recognized the tremendous resource burden that risk assessment and cost benefit analyses impose on agencies, and we changed the definition of major rule to \$100 million rather than \$50 million. This is a move in the right direction. However, the adoption of another amendment, which extends the definition to include rules that have a major effect on small business, may recreate the problem we were trying to correct. Second, we clarified our intention that the legislation should not impose a supermandate. That is, it should not override existing law. This does not mean we are entirely satisfied with existing laws, but it recognizes that we will not suddenly attain to vastly more intelligent and effective regulations by this single piece of legislation.

I disagree with those who view regulatory reform legislation as a simple answer to the problems accompanying our current health, safety, and environmental statutes. Problems do exist—with Superfund, with the current interpretation of the Delaney clause, and elsewhere. To achieve true comprehensive regulatory reform, we should move forward with current efforts to reauthorize and improve important statutes such as Superfund, the Clean Water Act, and the Safe Drinking Water Act.

I also have continuing concerns with the judicial review and lookback provisions of the Dole-Johnston bill. Regulatory reform should not provide ex-

pansive opportunities for technical and procedural challenges, as much as K Street might wish. We should not turn the courts into arbiters of the adequacy of highly technical cost-benefit analyses and risk assessments. For example, section 634 of the Dole-Johnston bill would allow interested parties to petition agencies to review existing risk assessments and would subject agency decisions on petitions to court challenge.

Do we really expect courts to decide whether the agency or industry interpretation of the data should prevail? Do we really think we can legislate, and litigate, good science? Let us clearly and unambiguously limit judicial review only to final agency rule-making actions.

Further, while I agree that the periodic review of existing rules is an important element of regulatory reform, the lookback process should be constrained to focus on the most significant opportunities for improvement. We need a process that is controlled by the agencies, using clearly defined criteria, with adequate opportunity for public comment—not one controlled by special interests or the courts.

I am pleased that the comparative risk principles which I have proposed on earlier occasions have been incorporated in both the Dole-Johnston bill and the Glenn-Chafee alternative. However, as I have said before, the use of comparative risk to help set agency priorities must recognize the limitations of current methods and provide for continuous development of the discipline. I therefore strongly support the recommendation in the bill that a nationally recognized scientific body be asked to evaluate the state of the science and identify opportunities for improvement of this important science policy tool.

Finally, it ought to be said that many of the problems with our current system cannot be solved by the application of cost-benefit analysis, risk assessment, or any other device. Recently, we received a major study conducted by the National Academy of Public Administration, "Setting Priorities, Getting Results." The report makes a number of recommendations for improving environmental decision-making. As we debate the appropriate role of risk assessment and cost-benefit analysis, we should heed this admonition:

Risk analysis is not a cure-all. The members of Congress and other decision-makers who have displayed a strong desire for more objective and precise quantitative estimates of environmental risks and of the costs and benefits of environmental protection will be disappointed. The unfortunate reality, that EPA and Congress must confront, is that neither risk assessment nor economic analysis can answer most of their crucial questions about environmental problems. The tools can only approximate answers with varying degrees of certainty, and the answers often cannot be reduced objectively to a few numbers. The objective findings of science are essential components of EPA's decisions, but wholly insufficient as a base for environmental policy-making.

The report goes on to state, "Despite these problems, summaries of costs or benefits are useful if they encourage analysts or decision-makers to think rigorously about what impacts and values should be included."

This is the core of what we need to accomplish in regulatory reform legislation: greater scientific rigor in agency thinking and decisionmaking. Let us acknowledge that with this legislation the task of creating a more effective national effort to improve the Nation's health, safety, and environmental quality has just begun.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, we have 53 votes. We need 60. I understand tomorrow we will have an additional four votes on this side of the aisle to make 57, 3 short of the 60.

I am trying to determine whether or not we want to go with this bill, whether we want to set it aside for a period of time, or set it aside forever.

I have been talking with the distinguished Democratic leader. It is my suggestion that if nobody objects, we stand in recess until 4:15 to give the principals involved a chance to go off somewhere to see whether or not they believe any more of these major issues can be resolved, which might move the bill along.

I think, rather than just sit in a quorum call for the next hour, we will stand in recess, unless the Democratic leader has some objection to that.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I think that is a very good idea. Obviously, we are at a point where we have to work through what remains as significant differences between the two sides. I think an opportunity over the next hour to discuss those differences and determine whether or not they are reconcilable is a very good opportunity for both sides. I will encourage it and think that this is probably the best plan.

RECESS UNTIL 4:30 P.M.

Mr. DOLE. So, Mr. President, let me ask unanimous consent that we stand in recess until 4:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, the Senate stands in recess until 4:30, this date.

Thereupon, at 3:10 p.m., the Senate recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to

order by the Presiding Officer (Mr. THOMPSON).

Mr. DOLE. Mr. President, let me suggest the absence of a quorum for just a moment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

RECESS UNTIL 5 P.M.

Mr. DOLE. Mr. President, I think most of our colleagues know there is a meeting in Senator DASCHLE's office underway to see if they can make headway on two or three issues on reg reform so we can make a determination whether to have the third cloture vote tomorrow or do something else, maybe Bosnia.

But the Presiding Officer is one of the principal Members of that negotiating team. And so he may go back and help the negotiation—I guess dealing with the judicial review section—I think it is in the best interest of all of us that the Senate stand in recess until 5 p.m.

I ask unanimous consent that the Senate stand in recess until 5 p.m.

There being no objection, at 4:32 p.m., the Senate recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANTORUM).

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Members permitted to speak therein for 5 minutes each.

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

COMPREHENSIVE REGULATORY REFORM ACT

Mr. DOLE. Let me indicate that I understand a number of our colleagues are still meeting in Senator DASCHLE's office on regulation reform. We hope to find out here before too long whether we will proceed with the bill or lay it aside, or just what may be developing. We would like to, obviously, finish the bill. It may not be possible.

BOSNIA

Mr. DOLE. Mr. President, following whatever disposition of regulatory reform, we will take up the resolution on Bosnia. We were visited today by Secretary of State Christopher and General Shalikashvili, and they made their pitch about how bad the Dole-

Lieberman resolution would be on Bosnia, as far as lifting the arms embargo.

Somebody asked the question, if it is so bad, what is so good about what is happening in Bosnia now? Obviously, we did not have an answer. There is not any answer.

Today I received from Lady Margaret Thatcher a letter which I think is probably the best summation I have read about Bosnia and the tragedy there. I placed a copy on everyone's desk, but I will read it for the record.

The letter is as follows:

JULY 18, 1995

DEAR SENATOR DOLE: I am writing to express my very strong support for your attempt to have the arms embargo against Bosnia lifted.

I know that you and all members of the United States Senate share my horror at the crimes against humanity now being perpetrated by the Serbs in Bosnia. The UN and NATO have failed to enforce the Security Council Resolutions which authorized the use of force to defend the safe havens and to get humanitarian assistance through. The safe havens were never safe; now they are falling to Serb assault. Murder, ethnic cleansing, mass rape and torture are the legacy of the policy of the last three years to the people of Bosnia. It has failed utterly. We owe it to the victims at last and at least to have the weapons to defend themselves—since we ourselves are not willing to defend them.

The arms embargo was always morally wrong. Significantly, it was imposed on the (then formally intact but fragmenting) former Yugoslavia at that regime's own behest. It was then, quite unjustly and possibly illegally, applied to the successor states. Its effect—and, as regards the Serbs, its intention—was to ensure that the proponents of a Greater Serbia, who inherited the great bulk of the Yugoslav army's equipment, enjoyed overwhelming military superiority in their aggression. It is worth recalling that the democratically elected, multi-faith and multi-ethnic Bosnian Government never asked for a single UN soldier to be sent. It did ask for the arms required to defend its own people against a ruthless aggressor. That request was repeatedly denied, in spite of the wishes of the US administration and of most leading American politicians.

There is no point now in listing the failures of military policy which subsequently occurred. Suffice it to say that, instead of succeeding in enforcing the mandates the UN Security Council gave them, UNPROFOR became potential and then actual hostages. Airpower was never seriously employed either. The oft repeated arguments against lifting the arms embargo—that if it occurred UN troops would be at risk, that the enclaves like Srebrenica would fall, that the Serbs would abandon all restraint—have all now been proved worthless. For all these things have happened and the arms embargo still applies.

Two arguments are, however, still advanced by those who wish to keep the arms embargo in place. Each is demonstrably false.

First, it is said that lifting the arms embargo would prolong the war in Bosnia. This is, of course, a morally repulsive argument, for it implies that all we should care about is a quick end to the conflict without regard to the justice or otherwise of its outcome. But in any case it is based on the false assumption that the Serbs are bound to win. Over the last year the Bosnian army has grown much stronger and the Bosnian Serbs weaker. The Bosnian army has, with its

Croat allies, been winning back crucial territory, while desertion and poor morale are badly affecting the over-extended Serb forces. What the Bosnian government lacks however are the tanks and artillery needed to hold the territory won and force the Serbs to negotiate. This lack of equipment is directly the result of the arms embargo. Because of it the war is being prolonged and the casualties are higher. Lifting the arms embargo would thus shorten not lengthen the war.

Second, it is said that lifting the arms embargo would lead to rifts within the UN Security Council and NATO. But are there not rifts already? And are these themselves not the result of pursuing a failed policy involving large risks to outside countries ground troops, rather than arming and training the victims to repel the aggressor? American leadership is vital to bring order out of the present chaos. No country must be allowed to veto the action required to end the present catastrophe. And if American leadership is truly evident along the lines of the policy which you and your colleagues are advancing I do not believe that any country will actually try to obstruct it.

The West has already waited too long. Time is now terribly short. All those who care about peace and justice for the tragic victims of aggression in the former Yugoslavia now have their eyes fixed on the actions of the US Senate. I hope, trust and pray that your initiative to have the arms embargo against Bosnia lifted succeeds. It will bring new hope to those who are suffering so much.

With warm regards,

Yours Sincerely,

MARGARET THATCHER.

Mr. President, having read the letter, I think it says it all. I know the administration has said we will finally have a policy. It will not be business as usual. After 30 months, we will do something.

No one is talking about committing American ground troops. In fact, just the opposite. Lifting the arms embargo keeps America out of any engagement. It seems to me that is something that should have been done a long time ago. We have waited almost a year. A year ago August we had our last vote on this important issue. Mr. President, 58 out of 100 Senators voted to lift the embargo—Democrats and Republicans, bipartisan.

This is not an initiative by Senator DOLE or Senator LIEBERMAN, though we are working together. This is an initiative of the U.S. Senate, in a bipartisan way, to address a very serious problem.

The President has made two promises. One, to commit 25,000 American forces, if, in fact, there is a peace settlement, to keep the peace. More recently, commit 25,000 Americans to extricate members of the U.N. protection forces in case of withdrawal.

I am advised by the Bosnian Foreign Minister today that only 30 U.N. protection force members are in occupied Serb territory today. And he asked the question, why would it take 25,000 Americans to extricate 30 members of the U.N. protection forces? He says very clearly that there will be no interference on the part of Muslims with any withdrawal of U.N. protection forces.