

President of Russia ought to meet on a regular basis every year concerning the nuclear warheads of both sides. We should not set as a standard that the only time they can meet is if they come back with some enormous agreement. As a practical matter, that guarantees failure. They have to meet with or without agreement because there is too much at stake, and we ought to take the lessons of those Congresses in the past to at least let the President come home before we tell him we disagree with him. Let us not have foreign leaders when he is meeting with them see a cacophony of criticism coming, often from those who are not really fully informed of what is going on.

Mr. President, I thank my distinguished colleagues for allowing me to have this time.

I yield the floor.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. BAUCUS. Mr. President, we have now reached a point where the Senate is about to give our small towns the right to say no. I hope the House will follow suit quickly so that we can send the bill to the President this year.

We have debated this bill extensively. We have heard a lot of statistics. We have heard a lot about policy. So I would like to use a small example to remind the Senate of why this is so important.

Miles City, MT, is a small prairie town of 8,500 people on the Yellowstone River. Not too long ago, its people faced the prospect of what was probably a Noah's flood of garbage imports. A garbage entrepreneur from Minneapolis came out to look them over. He had a rather remarkable plan: Empty coal trains run out of Minneapolis. Each one of them has about 110 cars—open-roofed cars, 50 feet long, 10 feet wide, 11 feet high. He wanted to fill them to the brim with garbage and bring all that garbage to Miles City and dump it in Miles City. Think of it. A giant garbage snake over a mile long ripening in the sun for anywhere up to 5 days on the run out of Minneapolis, shedding rotten food, broken glass, and used diapers into the Yellowstone River at every bend in the track, steaming into town on a hot summer day with as much trash in one single trip as Miles City throws out in a whole year.

It is crazy; it is humiliating; and Miles City should have the right to say no. So far, the people of Miles City and their representatives in the Montana Legislature have been able to stop these plans. But, with no disrespect to the legislature, it is a weak reed.

Every time waste companies have challenged State laws restricting out-of-State waste, the State laws have been overturned by the courts. So we cannot rely on State legislatures. We need a Federal law. Without congres-

sional action, according to the Supreme Court, neither the people of Montana nor of any other State can stop these garbage trains.

Some interstate movement of garbage makes sense. In Montana, two towns have made arrangements to share landfills with western North Dakota towns and some trash from Wyoming areas of Yellowstone Park is disposed in Montana. These arrangements save money for the communities involved and shared regional landfills can be a policy that makes sense. But it only makes sense when the communities involved agree to it. No place should become an unwilling dumping ground. Nobody should have to take garbage they do not want from another community—not Miles City, not anybody.

This bill is a very good start, and I strongly support it. But like any other bill, it is not perfect. In particular, I am concerned that it would allow waste to be imported until a community gets wise to it and has to say no.

I believe we should take a good-neighbor approach. Waste from big cities should not be allowed into our communities until the people agree to accept it. I do not want the people of Miles City to wake up one morning with a garbage train in the station. I want the garbage broker to come to town first and ask the people's permission before using the community as a trash dump. That is just common courtesy.

I hope we can move in that direction as the bill goes ahead, and for now I urge the Senate's support for this critical new law.

Finally, Mr. President, I wish to congratulate the Senators who have worked so very hard over the years in finally developing a balanced bill. Senator COATS from Indiana has been a bulldog, and Senators LAUTENBERG and SMITH, and our new chairman, Senator CHAFEE, have worked tirelessly. Brokering the agreements that brought the bill to this point was not easy, but they met the challenge.

In closing, let us stand up for small towns and give them the right to protect their people from unwanted trash.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RATIFICATION OF THE LAW OF THE SEA CONVENTION WILL PROMOTE THE ECONOMIC INTERESTS OF THE UNITED STATES

Mr. PELL. Mr. President, the Law of the Sea Convention entered into force on November 16, 1994, and was transmitted to the Senate for its advice and

consent on October 6, 1994 [Treaty Document 103-39]. On this occasion I applauded the President's transmittal of this historic treaty and spoke to the ways in which it will protect the economic, environmental, scientific, and most importantly, the national security interests of the United States (CONGRESSIONAL RECORD, Vol. 140, No. 144, p. 14467). On March 14, 1995 I addressed the importance of ratification of the Convention to the fishery interests of the United States (CONGRESSIONAL RECORD, Vol. 141, No. 47, p. 3862). Today I would like to address how ratification of the convention will best serve U.S. economic interests.

The Third U.N. Conference on the Law of the Sea was initiated as early as 1973 by the United States and the U.S.S.R. to protect navigation rights and freedoms, at a time where coastal States were claiming excessive areas of jurisdiction. Most of the provisions of the convention have long been supported by the United States, and at the conclusion of the law of the sea negotiations in 1982, the Reagan administration indicated that it was fully satisfied with, and supported the entire convention, except for the deep seabed mining part. The recently negotiated part XI implementation agreement, which is also before the Senate [Treaty Document 103-39] addressed all the reservations that the United States and other industrialized countries had. I will speak to the deep seabed mining issues in a forthcoming statement.

The convention directly promotes United States economic interests in many areas: It provides the U.S. with exclusive rights over marine living resources within our 200 miles exclusive economic zone; exclusive rights over mineral, oil and gas resources over a wide continental shelf that is recognized internationally; the right for our communication industry to place its cables on the sea floor and the continental shelves of other countries without cost; a much greater certainty with regard to marine scientific research, and a groundbreaking regime for the protection of the marine environment. With regard to national security, the Department of Defense has repeatedly expressed its strong support for the ratification of the convention because public order of the oceans is best established by a universally accepted Law of the Sea Treaty that is in the U.S. national interest.

The extension by other nations of their national claims were not always limited to matters of resources use but also represented a potential threat to our interests as a major maritime nation in the freedom of commercial and military navigation and overflight. The United States is both a maritime power and a coastal State and, as such, it benefits fully from the perfect balance that the convention strikes. It gives extensive rights to States over the resources located within their EEZ's, but also recognizes the need to maintain freedom of navigation on the high seas,

through archipelagic waters thanks to the concept of transit passage and even through the territorial seas of other States based upon the principle of innocent passage.

Mr. President, seaborne commerce represents 80 percent of trade among nations and is a lifeline for U.S. imports and exports. Ninety-five percent of U.S. export and import trade tonnage moves by sea. With continuing economic liberalization occurring globally, exports are likely to continue to grow as a percentage of our economic output. In addition, on some sectors, such as oil, our dependence on imports will continue to grow. Thus our economic well being—economic growth and jobs—will increasingly depend on foreign trade. Without the stability and uniformity in rules provided by the convention, we would see an increase in the cost of transport and a corresponding reduction of the economic benefit currently realized from an increasingly large part of our economy.

Consequently, the United States would stand to lose a great deal if it was no longer assured of the freedom of navigation: trade would be impaired, ports communities would be impacted and our whole maritime industry could be put in jeopardy. The convention addresses these concerns and failure of the United States to ratify would impose a tremendous burden on this industry.

Within its EEZ, the United States has exclusive rights over its living marine resources. Foreign fleets fishing in our waters can be controlled or even excluded, and our regional management councils are in a position to adopt the best management plans available for each of the fisheries on which our industries depend. The settlement of disputes provisions of the convention do not apply to the measures taken by the coastal State within its EEZ. Consequently, the United States has discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management measures.

The provisions of the convention generally reflect current U.S. policy with respect to marine living resources management, conservation and exploitation. As such, they incur little new U.S. obligation, commitment, or encumbrance. The U.S. Fishery Conservation and Management Act of 1976, commonly referred to as the Magnuson Act, was crafted to parallel closely most of the law of the sea's provisions for living resources. But the convention also ensures that some of the stricter measures that the U.S. has adopted, precautionary in nature, are also incumbent on other States, in their EEZ's and, more importantly, on the high seas. As such, some measure of increased stability in international living marine resources policy can be anticipated as a beneficial aspect of U.S. participation of the law of the sea regime.

The convention also provides a jurisdictional framework for the negotiation of a new regime for straddling stocks and highly migratory fish stocks on the high seas. A conference is currently under way at the United Nations to establish such a regime, and I am happy to note that at the last session, held a few weeks ago in New York, the U.S. delegation expressed its satisfaction at the progress already achieved. The negotiators involved are cautiously optimistic that an agreement will be reached by the end of this year, which should help prevent the kind of incidents that recently pitched Canada and the European Union in the latest case of gunboat diplomacy. The convention will provide both the basis and the framework for this new agreement.

Representatives of the oil and gas industry served as active advisers to the U.S. Government throughout its negotiation of the convention. In 1973 the National Petroleum Council published a detailed analysis of industry objectives in relation to this treaty, all of which have been achieved. The National Petroleum Council determined that it was important to its industry that the convention reflect the following principles:

Confirmation of coastal State control of the continental shelf and its resources to a distance of 200 nautical miles, and beyond to the edge of the continental shelf;

Establishment of a continental shelf commission to advise States in delimiting their continental shelves in order to promote greater certainty and uniformity regarding resources ownership;

A constructive mechanism for the settlement of disputes;

And guarantees that the principles of freedom of navigation essential to the movement of tankers and other commercial vessels will not be undercut by the extension of coastal State jurisdiction.

Working in close coordination with our offshore oil and gas industry, our negotiators successfully obtained convention provisions that serve U.S. interests both in regards to development of energy resources off our coasts as well as the interests of our nationals operating abroad. The convention goes further than the Truman Proclamation, in which our country asserted our rights over oil and gas resources on the continental shelf, because it specifies the outer limits of the area.

This new certainty is very important for our oil and gas industry because offshore development is enormously capital intensive and security of tenure is the key. The convention's standards and procedures avoid uncertainty and disagreement over the maximum seaward extent of our jurisdiction. The resulting clarity advances both our resource management and commercial interests, as well as our interest in stabilizing claims to maritime jurisdiction by other States.

At the same time, the convention ensures the protection of the marine en-

vironment in relation to pollution, including the allocation of enforcement responsibility between flag, port, and coastal States. It here again strikes the right balance between the need to ensure the development of the oil and gas industries and greater certainty that the environment is adequately protected.

The convention also provides significant benefits to the communication industry. As we know, our country is a proud leader in the technology and communication revolution. In that respect, we depend upon ships to carefully lay fiber optic cables on the sea floor. When these cables are broken, U.S. companies and consumers incur huge repair costs. For example, one such cable, connecting the United States and Japan, can carry up to 1 million simultaneous telephone calls and is valued at over a billion dollars. As one of our major growth industries, telecommunication firms have ambitious plans for replacing existing coaxial cable on our ocean floor and expanding the existing cable network globally.

Our telecommunication industry had long suffered from the poor legal protection afforded to cables laid on the seabed. The Geneva Convention on the High Seas of 1958 provided that the laying of cables and pipelines is a high seas freedom, and that coastal States may not impede laying or maintenance of cables on the continental shelf. Yet it did not contain clear provisions designed to prevent mariners from working dangerously close to cables.

The Convention on the Law of the Sea incorporates the language and principles of the 1958 Geneva Convention. Most important, it also goes further in providing that States are to make it a punishable offense, not only to break a cable, but to engage in conduct likely to result in such breaking or injury. For the first time, cable owners and enforcement authorities are able to act to prevent cable breaks from occurring. Consequently, the protection afforded submarine cables is substantially increased by the convention.

Mr. President, the negotiations on this new "Constitution for the Oceans" took more than 9 years, and when the first version, open for signature in 1982, did not meet all our concerns, the Democratic and Republican administrations refused to sign it. It was only after 12 more years of negotiations that all the concerns of the United States were addressed. Significant U.S. economic interests are now protected by this convention and we now need to reap the benefits of these long years of negotiations.

President Clinton said it best in his transmittal letter to the Senate, "Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which

cover 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength."

I strongly agree and look forward to the Senate giving its advice and consent to this historic convention during the 104th Congress.

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

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, in a minute or so, I am going to send an amendment to the desk. But so as to not waste time, let me take a few minutes to talk before it is submitted.

First of all, I understand the managers of this bill want to get it finished today, and I gather the leader wants to do it quickly. I want to be cooperative. Essentially, I am not going to say a great deal, other than, first, I compliment Senator KEMPTHORNE on language in this bill that I call common-sense language that relates to small and arid landfills. They are relieved of some very expensive monitoring, and I compliment the Senator for that.

Second, I would like to go a little further, because I want to add a little more common sense. I think common sense, with reference to regulatory processes, was part of the last election. You do not hear me come to the floor trying to second-guess what the election was about. But I am convinced that as to people regulated, be it cities, counties, tiny communities, small business people, the election was about common sense.

So I am going to send an amendment to the desk which would allow States to promulgate their own regulations with regard to small landfills, provided that those regulations are sufficient to protect human health and environment.

In my amendment, small landfills are those which receive 20 tons or less of municipal waste per day based upon an annual average. Such landfills, as the occupant of the chair, the former Governor of a great State would know, serve very small communities. In my State of New Mexico alone there are 50 such small community landfills. Let me suggest that they are not next door to anything. Those landfills are out in a huge, huge open space surrounded, in most instances, by hundreds, if not thousands, of acres of unused land, public or private.

So we are not talking about these small landfills in my 50 small communities as, per se, bothering anyone. The question is, are they safe? Do they protect the health and environment?

Frankly, I believe that our States are sufficiently different, and that States ought to be able to determine the regulations that these small landfill operators, small communities, must comply with in order to meet the standards of our law. I believe States are totally capable of drafting the regulations for safe and healthy small landfills in rural America and in rural New Mexico.

According to the Environmental Protection Agency, these small landfills make up 50 percent of the total number of landfills and contribute only 2 percent in terms of the total cumulative waste—2 percent.

Now, I realize that some argue that EPA does give States flexibility with regard to landfill management, and I assume the managers might even say that they believe it has already been done. I also know, however, that my State's environment department has not experienced this purported flexibility on EPA's part.

Frankly, I believe we ought to make it clear that the Environmental Protection Agency shall give this authority to the States to draw up their own regulations with reference to small community landfills so long as the regulation adequately protects human health and the environment. That is very simple.

I have seen small communities attend meetings for 3 years in New Mexico. They are looking for a regional landfill, I say to Senator SMITH, and they are going to meetings for 3 years, trying to figure out how to have this big regional landfill and how this little small town can buy into that. And it is not getting done yet. The little towns are worried about it, and they are out telling their 100 citizens, or 300, what they might have to pay, what they might have to do. And many of them are not even cities, as the occupant of the chair knows. They are villages. They are less than municipalities, many of them.

So I believe common sense says as to those small, but very important, community landfills that we ought to make it mandatory that they can be operated pursuant to State regulations in terms of their adequacy.

With that I yield the floor. I hope I have not taken too much time. I hope the managers will accept this amendment, and I yield the floor.

AMENDMENT NO. 1092

Purpose: To revise guidelines and criteria for the Resource Conservation and Recovery Act)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. KEMPTHORNE, and Mr. SMITH, proposes an amendment numbered 1092.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 69, line 22, strike "..."

On page 69, between lines 22 and 23, insert the following new provision:

"(5) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow states to promulgate alternate design, operating, landfill gas monitor, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average, provided that such alternate requirements are sufficient to protect human health and the environment."

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I would like to compliment the Senator from New Mexico. I think his amendment is helpful. I intend to support it. It provides additional flexibility for the States to more closely tailor their own individual problems. One-size-fits-all Federal regulations do not always work. Many times they do not work. I think the Senator has hit on an area here that improves the bill. It would be helpful, certainly, for very small communities in very remote areas, which we find everywhere in almost every State in the country.

One area the Senator did not mention which would have a positive impact on his amendment is many rural areas used to burn their garbage, a lot of it. Of course, when it is burned and not buried, we do not have the methane buildup. So this would give those communities great flexibility because you do not need to monitor where you did not bury and you did burn.

So I think that is another dimension which is really attractive and, frankly, the main reason I support this amendment.

So this Senator will be voting for the amendment, and I congratulate the Senator on his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from New Mexico is attempting to address the concerns of small communities, a concern which we all share. Under the bill before us, and according to pursuant regulations, generally the State of New Mexico can already now do what this amendment asks EPA to do. That is quite clear.

The Senator from New Mexico thinks there is some ambiguity, and I respect the Senator's view there might be some ambiguity, although we checked with the EPA and checked the regulations and today they can do already what New Mexico wants to do.

I am in a bit of an awkward position because the State of Montana, frankly, sent me a letter expressing their reservations about this amendment. Their reservations generally revolve around the following point; namely, that when the landfill regulations went into effect in 1991, States acted pursuant to these regulations. And under these regulations virtually all authority was