

early as June 4 when we come back. Let us set aside this so-called Defend America Act. Let us bring welfare reform to the floor and let us begin to address it. We can compare our provisions. We can agree on principles. We can decide how we answer the questions that I have addressed, but let us move it.

Let's drop the partisan ploy to combine welfare and Medicaid. There is no consensus on Medicaid. There is a consensus on welfare. Not proceeding on June 4 means that perhaps there are some who are not serious about whether or not we ought to move in an expeditious way, that we may not be able to get this bipartisan consensus in a time-frame that will allow the majority leader to demonstrate his leadership as he has in the last couple of days.

So I hope that we could get some agreement to take up welfare reform at the earliest possible date. I would be prepared to work with the majority leader to find a way to ensure that Senators have an opportunity to voice their objectives and their goals as well as their opposition to specific ideas that may be debated. That is what a good welfare debate is all about.

But I can guarantee this. There would not be any long, unnecessary, extended debate. We could resolve this matter. We could send it on to the President. We could find the President and the majority leader in agreement, and move on to other issues that may separate us and continue to require the debate that I know they will. Medicaid and Medicare may be two examples. But we can do welfare. We can do it the week we get back. We can do it in a matter of a limited period of time. That is possible. I hope we could find a way, in a bipartisan agreement, to make that happen sooner rather than later.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Montana.

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. We are in morning business with Senators allowed to speak up to 5 minutes.

Mr. BAUCUS. I thank the Presiding Officer, my colleague from Montana.

MFN STATUS FOR CHINA

Mr. BAUCUS. Mr. President, I rise to discuss the question of most-favored-nation tariff status for China.

Our goals in China policy over the next 10 years are more important than our goals for the next 2 months. But we must begin with the next 2 months and MFN status, because we can not do much at all unless we avoid disaster in the short term.

We Americans should begin by understanding what MFN status is, and what it is not. MFN is not a special favor and it does not mean "best country." It traditionally meant that we would give a country the same tariff rates every-

one else got. But today, MFN is closer to "Least" than "Most" favored nation.

Only seven countries—Afghanistan, Cuba, Cambodia, Laos, North Korea, Vietnam, and Yugoslavia lack MFN status. And the House, as well as the Senate Finance Committee, has already passed a bill to get Cambodia off that list.

By contrast, 31 countries get tariffs below MFN through the Caribbean Basin Initiative, the Andean Trade Preference Act, the NAFTA, and the United States-Israel Free-Trade Agreement. And when we renew the Generalized System of Preferences, the total will rise to 151 countries and territories with tariffs below MFN.

So giving China MFN status is nothing special. Now look at revoking MFN. It raises tariffs from Uruguay Round to Smoot-Hawley rates. That brings our average tariff on Chinese goods from 4.6 to 40 percent. To choose some of China's largest exports, Smoot-Hawley tariffs raise the duty on silk blouses tenfold, from 6.5 to 65 percent. On radio-tape players, from 1 to 35 percent. On toys and stuffed animals, zero to 70 percent.

This would make trade with China impossible. China would lose about \$44 billion of exports, nearly a third of its total sales to the world. China's inevitable retaliation would cost us \$14 billion in direct exports, plus much of our \$17 billion in exports to Hong Kong.

The consequences would be staggering. China would suffer a humanitarian crisis, as millions of workers in coastal export factories lose their jobs overnight. That is why the dissident Wei Jingsheng hopes we will not revoke MFN status, and says that "the direct victims of such measures are the already poverty-stricken Chinese people."

They would not be the only victims. The damage to Hong Kong would be tremendous. The United States would lose hundreds of thousands of export jobs. Retailers and the millions of people they employ would suffer a massive disruption of toy and apparel imports just as they are buying stocks for the Christmas season.

And although MFN is a trade policy, the malign effect of revoking it would go far beyond trade and jobs. It is hard to see how we could continue working with China in areas of mutual interest. And the consequences in politics and security—from our ability to manage the nuclear aspirations of North Korea, to preventing weapons proliferation in the Middle East, to the U.N. Security Council and beyond—would be immense.

That brings us to the larger and more important question—what we hope to achieve in China policy generally. And again, start with the facts.

China is the world's most populous country. It has nuclear weapons and the world's largest army.

It is a major industrial contributor to global climate change and pollution

of the oceans. And it is the world's fastest growing major economy. So in the coming decades, China will have significant effect, for good or for ill, on economic, environmental and political developments in Asia and around the world.

If China is hostile—or, short of outright hostility, refuses to recognize the standards of behavior most countries accept, and approaches the world with an angry nationalism—hopes for peace and prosperity recede.

And as the first half of this century showed, a weak, poor, and fragmented China is equally dangerous.

It becomes a source of revolution. It sends refugees across the world. And it attracts the greed and aggression of its neighbors, as it did Bolshevik Russia and Imperial Japan.

So we should do what we can to avoid either extreme. That is a difficult foreign policy problem which requires patient, continuous engagement. We should work with China wherever possible. And issues from environmental protection, to adoption of Chinese orphans, to security in Korea show that it is often possible.

We also have disputes with China, on intellectual property protection, treatment of dissidents, and weapons sales. And we must address these disputes in a calm but serious way. The U.S.T.R.'s announcement of sanctions for violations of the 1995 Intellectual Property Agreement today is a good example.

But whether we are talking about mutual interests, or disputes, there is really only one way to succeed. That is by staying engaged and remembering our long-term goal of a world a bit more peaceful and more prosperous.

Barring a cataclysmic event that makes engagement impossible—an unprovoked attack on Taiwan, for example—revoking or conditioning MFN will not help achieve that goal. Rather the reverse, to put it mildly. And if such an event were to occur, a policy based on MFN would be far too weak.

In fact, there is no situation to which revoking MFN status would be the appropriate response. And thus, after 6 years, it is time to end the debate. It has become simply an artificial, annual crisis at a time when we have all too many real ones.

So this year, the administration should show strength and confidence in its basically sound policy.

We should not revoke MFN status. We should not try a split-the-baby half measure like revoking MFN for state-owned industry or bringing China back to Tokyo round tariffs. Nor should we use new conditions to postpone the decision a few months or a year. We should just leave MFN alone.

And next year, we should move on. It is time to bring China out of the Jackson-Vanik amendment, extend MFN permanently, and close this debate for good.

VOLUNTARY ENVIRONMENTAL SELF-AUDITING

Mr. LOTT. Mr. President, this week the Senate Judiciary Subcommittee on Administrative Oversight and the Courts held a hearing on voluntary environmental self-auditing. The hearing was held to explore the State experience with laws to encourage self-audits and why it is necessary to enact Federal legislation to complement these State laws.

I want to take this opportunity today to share with you the importance of what was said at this hearing.

First, an explanation of what voluntary environmental self-auditing is; why companies do it; and what the problems are.

In the past 10 years, the number of environmental statutes and regulations that impose compliance obligations, and the corresponding increase in civil and criminal penalties and sanctions for violations of those obligations, have dramatically increased. Furthermore, thanks in part to these laws, social mores that value environmentally responsible business practices also compel environmental awareness by businesses. In response to these developments, more and more companies use environmental self-audit programs as a tool to ensure compliance with this complex and litigious system.

Generally, an environmental audit is a means of reviewing a business in order to get a snapshot of its overall compliance with environmental laws and to troubleshoot for potential future problems. EPA defines an audit as a systematic, documented, periodic, and objective review by regulated entities of facility operations and practices related to meeting environmental requirements. Audits can include inspections of equipment to ensure that permit requirements are being met; assessment of future and present risks of regulated and unregulated materials used at the facility; and assessment of day-to-day operation of its environmental management structure and resources. Some companies have compliance management systems that can include day-to-day, even shift-to-shift voluntary activities to assure compliance.

No State or Federal law requires companies to undertake comprehensive environmental self-auditing. This is a voluntary, good business practice initiated by companies that are taking extra steps to be in full compliance with environmental law.

There are no guidelines or standard practices—audits vary considerably because they are done voluntarily and because they must accommodate the individual needs of companies or specific facilities to be most effective. They are typically much more extensive than an inspection by a State or Federal regulator because they are done more often and because companies simply know much more about their operations and permit obligations than the regulator can.

So, a company conducting its own audit can identify and correct a much wider range of potential violations.

Sounds like a great idea, doesn't it?

Unfortunately, many companies do not do voluntary self-audits because the information contained in the audit document can be obtained by regulators, prosecutors, citizens' groups, or private citizens and used to sue the company.

Remember that we have an incredibly complex compliance system. A recent survey by Arthur Anderson Environmental Services and the National Law Journal found that nearly 70 percent of 200 corporate attorneys interviewed said that they did not believe total compliance with the law was achievable—due to the complexity of the law, the varying interpretations of the regulators, the ever-present role of human error, and the cost. Because of this complexity, it is possible and logical that companies that take on the task of self-evaluation will find violations—that is what we want them to do. Find problems and fix them without waiting a year for a government inspection. Unfortunately, the audit documents are a vehicle for anyone to use to sue. Companies completing environmental audits develop documentation of their instances of noncompliance or areas of potential concern. These documents, if made public, are a roadmap for third parties or governments to use to sue the company even if the problem has already been corrected and no environmental harm has occurred.

Companies are already vulnerable to extensive liability under environmental laws. Under the Clean Air Act amendments of 1990, for example, the maximum civil penalty that may be assessed is now \$25,000 per day per violation. EPA's fiscal year 1994 enforcement and compliance assurance accomplishments report shows that 166 civil judicial penalties were brought in 1994 totaling \$65.6 million. On average, that is about \$400,000 a case. Administrative penalty orders for the same year numbered 1,433 actions, which totaled \$48 million.

That's a lot of money and a pretty powerful disincentive to self-auditing.

Seventeen States have recognized this disincentive to self-auditing and have enacted laws to fix the problem so more companies will self-audit.

Mississippi is one of those States that has acted on this issue.

These laws typically do two things:

First, provide a qualified evidentiary privilege for internal company audit documents, and second, grant penalty immunity to companies that conduct audits, voluntarily disclose any violations they discover in their audit, and promptly clean up or fix the violation.

In other words, if you are a responsible company that does self-auditing to find out where you have problems, and you tell the State authority that you found it and fixed it, you are rewarded by not having to pay a fine and

by getting protection from use of an internal company audit in court.

Better environmental compliance using a voluntary flexible approach: this is what we all—both Republicans and Democrats alike—believe to be the new environmentalism.

This is common sense—companies have an incentive to find and fix their problems right away.

That's better for the environment: State officials benefit because they can establish cooperative relationships with companies instead of the current adversarial enforcement first system; Taxpayers get better return from their tax dollars because enforcement resources can be redirected toward the bad guys who are not following the law; and of course, best of all, we are all rewarded with greater compliance with environmental law.

These laws are not about secrecy and letting polluters off the hook—you'll hear that from the opponents of these laws.

Opponents will say that these laws make it more difficult to prosecute and that they will interfere with enforcement actions or compromise the public's right to know.

Not true. These laws protect only the voluntary self-audit document—they do not protect any information required by law to be collected, developed, maintained, reported, or otherwise made available to a government agency. The opponents are saying that protection of the audit document will allow bad actors to hide violations and endanger human health. Of course, that is not true: you gain nothing from these laws if you are using an audit for a fraudulent purpose, or if you find a violation and don't fix it, or if you have a pattern of repeat violations.

If you're cheating, you're out, as it should be. These laws are about a new way to do things with all the safeguards you would expect a State legislature would insist upon to protect its citizens.

Again, 17 States think this is a better way to get things done. And by the way, 25 other State legislatures are considering this voluntary self-audit legislation—that is a grand total of 42 States.

I'd say this is a definite trend.

We need to enact similar legislation on the Federal level to complement and assist these States with full and effective implementation of this concept. This is what the hearing was all about: the need for Federal legislation.

Why not let the States continue to show us innovative ways to achieve environmental progress? Because the way our system of environmental law is set up, EPA retains the right to enforce the law after it delegates program authority to a State. This means that without a Federal law granting a qualified privilege and immunity for voluntary self-audits, the EPA can take separate enforcement actions—or overfile—regardless of any State action. So, a company that wishes to

take advantage of a State audit law which provides it with enforcement protections from State action, is not protected from Federal enforcement actions.

Why would a company voluntarily disclose violations to a State when the feds can come after them for the same thing? It would be asking them to be hit with a lawsuit.

EPA has been very clear about its intent to scrutinize actions in States which have enacted laws and in States which are currently addressing audit bills in their legislatures. EPA has set up a task force to monitor the approval of State delegated programs under the Clean Air Act for States with voluntary environmental audit statutes. The Agency has indicated that approval of certain State programs may be delayed or denied because of their State audit privilege statutes. EPA has used this threat to withhold Federal program delegation in order to influence pending State legislation.

This is an astonishing breach of States' rights, if you ask me.

Threatening States because of laws their citizens' representatives have enacted. Governor Merrill of New Hampshire said it best in responding to EPA's opposition to that State's law:

I reject the suggestion that States like New Hampshire must recognize the primacy of Federal laws in order to successfully design and implement effective environmental laws. In fact, States have proven time and time again that the Federal Government does not know best and does not get the job done for the citizens of the several States. I hope that the EPA does not intend to minimize the independent sovereign rights of States to adopt and enforce environmental laws that protect our environment and add to our quality of life.

Full use of these State laws will never happen in this adversarial climate and an opportunity to encourage this creative and cost-effective approach to environmental problems will be missed if we do not take action on the Federal level.

Even the Clinton administration has recognized the value of promoting environmental self-auditing, having issued a policy statement in December 1995. It is a good step forward by this administration; unfortunately, it does not really do the job.

Basically, the administration policy says if companies come forward and voluntarily disclose violations, then EPA will not prosecute them as aggressively as they could otherwise. Not a real bonus. No evidentiary protection, no protection against citizen suits, and it is only a policy, not a rule, so it does not have the force of law nor does it have any impact on what the Justice Department or the FBI can do.

A nice gesture but that's about it.

The hearing makes a compelling case for enactment of Federal legislation. Senators BROWN and HATFIELD have introduced legislation, S. 582, to encourage environmental self-auditing by setting up parallel protections and incentives on the Federal level that parallel those on the State level.

Enactment of S. 582 will allow these 17 States to fully implement their laws. We here in Congress can put our money where our mouth is by enacting the kind of flexible, voluntary environmental statutes that we have all been talking about for a year. And it presents the EPA with the opportunity to work with instead of against our States. This is the best reason yet to pass the Brown-Hatfield bill.

We all get better environmental compliance.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Thursday, May 23, 1996, the Federal debt stood at \$5,120,583,551,676.66.

On a per capita basis, every man, woman, and child in America owes \$19,329.45 as his or her share of that debt.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum can be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the Democratic leader for being here. We do want to engage in some unanimous-consent requests and hear his response. I am pleased that we are able to make these offers today.

UNANIMOUS-CONSENT REQUESTS— H.R. 3415, S. 295, AND H.R. 3448

Mr. LOTT. Mr. President, I begin by asking unanimous consent that the majority leader, after notification of the Democratic leader, may turn to the consideration of H.R. 3415 regarding the gas tax repeal, and that it be considered under the following time restraints, 1 hour on the bill to be equally divided in the usual form, no amendments or motions be in order, and following the conclusion of time, the bill be read for a third time, and final passage occur without further action or debate.

I think, since we are entering the Memorial Day week, we could come together on an agreement on a number of unanimous-consent requests here, particularly this one. It would be very helpful to the American people if we could send this gas tax repeal to the President of the United States. He would be able to sign it right here at this critical moment as Americans are traveling all over our country. And, therefore, I make that unanimous-consent request at this time, Mr. President.

I further ask immediately following the disposition of H.R. 3415 the Senate turn to consideration of S. 295 regard-

ing labor-management—that is the TEAM Act, cooperation in the workplace—that no amendments or motions be in order, and there be 2 hours of debate to be equally divided in the usual form, and following the conclusion or yielding back of time, the Senate proceed to third reading, and final passage occur all without action or debate. Again, that is the so-called TEAM Act, and it be brought up with no amendments.

I ask unanimous consent that following the disposition of S. 295, the Senate proceed to the consideration of H.R. 3448 regarding the minimum wage, and it be considered under the following time restraints: 1 hour on the bill to be equally divided in the usual form, one amendment in order to be offered by the majority leader or his designee, one amendment in order to be offered by the Democratic leader or his designee; that the amendments be offered in the first degree and limited to 1 hour each, to be equally divided in the usual form, no motions be in order other than motions to table, and following the disposition of the amendments and the conclusion of time the bill be advanced to third reading, and final passage occur all without further action or debate.

Therefore, I ask unanimous consent for all of those I listed.

Mr. DASCHLE. Mr. President, the distinguished majority whip and I have had the opportunity to discuss these matters now on several occasions and I appreciate his candor and the opportunity we have had to discuss ways with which to bring these bills to the floor.

I have indicated to him that on several of these bills my Democratic colleagues hope to offer amendments. It is not our desire to extend debate, to my knowledge, on any of these bills. Our hope, however, is that on the gas tax bill we have the opportunity to offer an amendment which would ensure that consumers benefit from this reduction in the gas tax. This unanimous-consent agreement would not allow for that. We have other amendments that we would like to be able to offer.

Because of our desire to offer amendments and our difficulty in having that right under this unanimous-consent agreement, I have to object.

The PRESIDING OFFICER. The objection is heard.

Mr. LOTT. Mr. President, if I could inquire of the Democratic leader, I know that the majority leader has indicated that he would be willing to work with the minority in developing the concept where the gas tax repeal would be subject to some amendments, including a technical amendment to be offered by the majority leader regarding previously purchased gas, an amendment to be offered by the Democratic leader or his designee, and then one to be offered by the majority leader or his designee. I know you have a