U.S. PARTICIPATION IN GLOBAL CLIMATE CHANGE RESPONSE

Mr. BYRD. Mr. President, last week, 178 countries reached an agreement in Bonn, Germany, on implementation of the Kyoto Protocol. While this agreement does not settle all the details of how a ratified protocol might work, nearly all the signatories to that treaty hailed last week's agreement as a step forward in the worldwide response to global climate change.

I am disappointed, however, that the United States remained on the sidelines of this latest round of negotiations. I urged the Bush administration not to abandon the negotiation process. I think that we have seen, in last week's agreement, proof that the rest of the world will not sit idly by and wait for the United States. Perhaps this is a good lesson for the administration to learn. America must make an effort, in concert with both industrialized and developing countries, to address the real and serious problem of global climate change.

While I believe that the United States must remain engaged in multilateral talks to address the ever-increasing amounts of greenhouse gases that are emitted into our atmosphere, this does not mean that we should simply sign up to any agreement that may come down the road. The Senate has been very clear on the conditions under which a treaty on climate change may be ratified.

Developing countries must also be included in a binding framework to limit their future emissions of greenhouse gases. It makes no difference if a greenhouse gas is released from a factory in the United States or a factory in China; the global effect is the same. Quizzically, the Kyoto Protocol, as now written, does make such distinctions. It ignores scientific knowledge about the global nature of the problem.

The question of developing country participation was not addressed at the conference in Bonn. Without the United States' full engagement in the talks, there is no other country that can raise this issue and stand a chance of success. This is not meant to disparage the herculean efforts of some of our closest allies to improve the technical aspects of last week's agreement. Some of our allies made substantial contributions to the agreement on technical issues such as allowing the use of forests to absorb carbon dioxide, which is a greenhouse gas, and attempting to improve the compliance mechanisms of the treaty. Those allies should be applauded for their efforts to craft an agreement that does not preclude the United States from participating in future talks, but even our allies would agree that the United States must return to the table.

Despite the shortcomings in the agreement reached at Bonn, I see a window of opportunity for the United States to rejoin the multilateral talks on the Kyoto Protocol. It is a small window, and it is closing, but it is a window nonetheless. In October 2001, the next round of negotiations on climate change will begin in Marrakesh, Morocco. If the administration were to formulate a new, comprehensive, multilateral plan to address climate change before that conference, I believe there would be several factors working in our favor.

The world agrees that any treaty on climate change will be of limited use unless the United States is a full participant, because we are, for now, the largest emitter of greenhouse gases. Developing countries know that we will be the source of much of the new technology that will allow them to use cleaner, more efficient forms of energy. The United States also has much to gain by working with other countries to secure ''emission credits'' that will help us to reduce our greenhouse gas emissions in a manner that lessens the impact on our economy. Other countries recognize these facts, and many may be willing to hear a bold, new proposal from the United States that may facilitate our return to an improved version of the Kyoto Protocol.

Make no doubt about it, if the United States does return to negotiating on the Kyoto Protocol, progress will not come easy. But in some respects, our role as an international leader is at stake. In Bonn, by remaining on the sidelines during the negotiation, the United States ceded its leadership because of a hasty declaration that the Protocol was, in the words of the President, ''fatally flawed.'' I continue to urge President Bush to demonstrate the indispensability of our leadership in the world by rejoining the negotiations on global climate change, and directing those negotiations toward a solution that encourages developing country participation and protects the health of our economy.

I note that my colleagues on the Committee on Foreign Relations also recognize the importance of remaining engaged in these discussions. On Wednesday, that committee accepted, by a unanimous vote, an amendment to the State Department authorization bill that expounds upon the Senate's position on climate change. Sponsored by Senator KERRY, this amendment expresses the sense of the Congress that the United States must address climate change both domestically and internationally, and supports the objective of our participation in a revised Kyoto Protocol or other, future binding climate change agreement, that includes developing country participation and protects our economy. It is a wise and well-crafted statement, which I support fully.

Formulating an international response to climate change is an ambitious goal. It is a challenge to which the United States must rise. I hope that when Congress returns to session in September, the President will have made the decision that our country must be a full participant in international talks on the Kyoto Protocol, and that he will have made progress in developing specific proposals to improve a multilateral treaty on climate change.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

EXPORT ADMINISTRATION ACT

Mr. REID. Mr. President, I have been very concerned for several months about the Senate not taking action on the Export Administration Act. It is so important to this country that we keep up with the technology that is available and sell it overseas.

I called the President's Chief of Staff yesterday and said it appeared the House was not going to act on the bill. They had simply given us an extension until November. That really does not help very much. So I asked the President's Chief of Staff, Andrew Card, if we can get a letter from the President indicating how important this was and that he would use whatever Executive powers he had at his control during this period of time when we are in a situation where companies cannot sell what they need to sell, and the President fulfilled that responsibility. I appreciate it very much.

Condoleezza Rice said among other things:

> I am pleased that the Senate plans to take up S. 149 on September 4, 2001. Because the current Export Administration Act will expire on August 20, 2001, the President is prepared to use the authorities provided him under the International Emergency Economic Powers Act to extend the existing dual-use export control program. As you know, IEEPA authority has previously been used to administer our export control programs. Since a new EAA will provide us the strongest authority to administer dual-use export controls, particularly as related to enforcement, penalties for export control violations, and the protection of business propriety information, we support swift enactment of S. 149.

Mr. President, this statement says a great deal. As I indicated, I am very appreciative.

To maintain America's technology superiority, the United States must modernize outdated export controls on information products and technology. Reform of the export control system is critical because restricting access to computing power is not feasible and no longer serves the national interest. It needlessly undermines technological preeminence of America's information technology industry without accomplishing any significant national security objective.

The continued use of MTOPS, a standard design by the United States Government to regulate the export of information technology is outdated given today's technological and economic realities and the global economy.

Under current law, the President of the United States is required to use an antiquated metric, called MTOPS, which means millions of theoretical

operations per second, to measure computer performance and set export control thresholds based on country tiers. This is the intelligence information we have in various countries.

The conclusion could not be clearer. MTOPS are increasingly useless as a measure of performance. MTOPS cannot accurately measure performance of current microprocessors or alternative supercomputing sources clustering. This makes MTOPS-based hardware controls irrelevant. The best choice is to eliminate MTOPS.

Eliminating MTOPS will ensure America's continued prosperity and security in the networked world. It will ensure Government policies that promote U.S. global economic, technological, and military leadership.

Eliminating MTOPS will remove unnecessary and unproductive layer of regulation that no longer serves a meaningful national security purpose and will help level the playing field for American companies that compete in the global economy.

President Bush, the Department of Defense, the General Accounting Office, and the Defense Science Board all recently concluded that MTOPS is an ''outdated and invalid'' metric and that the current system is simply ineffective. Repeal of NDAA language would give the President the flexibility to develop a more modern, effective system.

This is a bill good for America, and when we come back, I will urge my colleagues to quickly move this legislation.

I again express my appreciation to the President of the United States and his Security Adviser Condoleezza Rice for giving us this information. We will, with their approval, move on this legislation as soon as we get back.

This letter was sent to the majority leader, Senator DASCHLE. I ask unanimous consent it be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, August 2, 2001.

Hon. THOMAS A. DASCHLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Thank you for your efforts to advance the Senate's consideration of S. 149, the Export Administration Act of 2001. This bill has the Administration's strong support.

I am pleased that the Senate plans to take up S. 149 on September 4, 2001. Because the current Export Administration Act (EAA) will expire on August 20, 2001, the President is prepared to use the authorities provided to him under the International Emergency Economic Powers Act (IEEPA) to extend the existing dual-use export control program. As you know, IEEPA authority has previously been used to administer our export control programs. Since a new EAA will provide us the strongest authority to administer dual-use export controls, particularly as related to enforcement, penalties for export control violations, and the protection of business proprietary information, we support swift enactment of S. 149.

I look forward to continuing to work with you on these important national security issues.

Sincerely,

CONDOLEEZZA RICE,
Assistant to the President for National Security Affairs.

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

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

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent all nominations received by the Senate during the 107th Congress, except numbers PN 386 and PN 630, remain in status quo, notwithstanding the August 3, 2001, adjournment of the Senate, and the provisions of rule 31, paragraph 6 of the Standing Rules of the Senate.

Mr. LOTT. Reserving the right to object, Mr. President, it is my understanding if this consent were granted on the two nominations, the two cited as PN 386 and PN 630, they would be returned to the White House. However, the White House could immediately resubmit the names. Therefore, I modify the request, or ask to modify the request so that all nominations remain in status quo during the adjournment of the Senate.

Mr. REID. Mr. President, I reserve the right to object to that. I simply say Mary Gall had a hearing and she was not reported out of the committee. In fact, the committee acted affirmatively not to report that to the Senate. I say that Otto Reich as the Assistant Secretary of State—there have been a number of Senators who raised questions about that. If the President feels strongly about Otto Reich, during this period of time we are gone, he has the absolute authority to send that name back to us. I think that would be an appropriate way to proceed.

Therefore, I object to the modified request of the minority leader.

Mr. LOTT. Therefore, I object to the original request by the distinguished assistant majority leader.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I respect very much, of course, the decision made by the minority leader. I just disagree with him. It seems to me it is going to unnecessarily create a lot of work for a lot of people. Sending those two names back—if the President wishes to resubmit them, he can do that, but there is no need to belabor that any further today.

Mr. LOTT. Mr. President, if I could be recognized just to respond briefly, I understand what the Senator from Nevada is saying. We discussed it.

We believe Mary Sheila Gall's nomination to be Chairman of the Consumer Product Safety Commission was treated very badly and very shabbily in terms of the things that were said about her and the vote that occurred. I am sure there will be those who make the argument on the other side.

With regard to Otto Reich to be Assistant Secretary of State, he has not had a hearing. We believe it is unfair to single him out and send back just one nominee at this time.

My understanding is over the past several years, during the 5 years I was majority leader, in every year but one we sent back no nominees. In 1999, we did actually send back nine. To isolate it down to one or two this early in the session, we believe, is a problem. We realize it is a ministerial process now. They will all be sent down and all will be bundled up and sent back, but it does highlight our concern about the way these two nominees are being treated.

I understand what Senator REID was saying. We have taken that action, right or wrong. Now we can move on.

Mr. REID. I just say to the distinguished Republican leader, I had a meeting in my office yesterday on Otto Reich. Some of my friends came to speak to me very favorably about Otto Reich.

I think the decision may focus more attention on it than if the President simply resubmitted the name, but as I said earlier, time will only tell if he will resubmit the name. I am sure he will resubmit the names of all the others. It just creates a lot of paperwork for a lot of people.

Mr. LOTT. If the Senator will just yield on one point, I thank the Senator for nominations we are going to be able to move now. A lot of work has been done to get this list cleared. You have given a lot of time to it, as has Senator NICKLES. I just wanted to thank you in advance for the work that has been done.

Mr. REID. Of course, nothing would be done but for the two leaders. Senator NICKLES and I were given an assignment to do what we could to clear these names. He came to me yesterday and he said, since you have been given this job, I have been able to clear three. He said prior to my getting involved he cleared 58 or so. For Senator NICKLES and me, this makes us look good also. But these names could not have been cleared but for the work of our two leaders.

The nominations returned are as follows:

NOMINATIONS RETURNED

The following nominations were returned to the President of the United States pursuant to Rule XXXI, paragraph 6 of the Standing Rules of the Senate on Friday, August 3, 2001.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

PN336 Department of Agriculture. Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.