

THE FEDERALIST SOCIETY
2003 NATIONAL LAWYERS CONVENTION

ADDRESS BY
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MR. BAKER: I'm Stewart Baker. It's really a great pleasure to introduce Paula Dobriansky. She is the Under Secretary for Global Affairs at the State Department. She's been a scholar and a spokesman on international affairs for many years here in Washington at the Council of Foreign Relations as a human rights deputy assistant secretary in the past.

I have to say that the achievement that I personally most admire her for was for handling, when she had just come into the office, the World Summit on Sustainable Development. Now, the World Summit was one of those grand gatherings of nations and NGOs that we've seen so much of in the last 20 years, which are mainly convened to determine that the United States is the source of most of the ills of the world and to so resolve and go home. And we had gotten used to being beaten up badly in these international conventions.

Paula came in and said, "You know, we don't always have to lose." She worked very hard on that sustainable development conference. And I just want to read to you from the *Washington Post's* summary of the results of World Summit:

"With the Summit drawing to a close today, Brandon McGillis began taking stock of how well the environmental groups had fared. 'If you were taking score,' said the spokesman for the National Environmental Trust, 'you would have to say the U.S. got just about everything they wanted. The environmental lobby is extremely disappointed. The Bush Administration won this ballgame 44-0.' His assessment of the ten-day conference typified the mixture of dismay and awe with which many environmentalists, relief organizations, and foreign diplomats view the U.S.'s ability to prevail upon negotiators from more than 170 countries at the conference."

So, with considerable awe and not a bit of dismay, I give you Paula Dobriansky.

UNDERSECRETARY DOBRIANSKY: Thank you, Stewart, for that very kind introduction. It's an honor to be here today. I want especially to pay tribute to the

Federalist Society and the ideas for which you stand. In the 21 years since the Society was founded, you have fought for the principle that the Constitution actually means what it says and what its framers intended, that laws should be written by Congress and state legislatures, rather than judges, and that the state exists first and foremost to preserve freedom. I commend you for your efforts over the years and for holding this Convention on the important topic of U.S. national sovereignty and the way it is affected by our interaction with the world.

Our sovereignty is the basis of our freedom, and it is commendable that organizations like the Federalist Society stand ready to defend this pillar of our republic. As George Washington wrote to Alexander Hamilton, "If we are told by a foreign power what we shall do and what we shall not do, we have independence yet to seek and have contended hitherto for very little."

The United States is engaged in the world now more than ever before in our history, and we must be mindful that our sovereignty rests always with the American people and never with a foreign government or international organization. As we have done at pivotal times throughout our history, over the last few years, the United States has been taking stock of the role that we play in the world. Similar periods of adjustment took place after the First and Second World Wars. The current effort stems from the advent of the War on Terror, as well as other historical changes since the end of the Cold War, such as the dawn of the information age and globalization.

Part of this introspection also involves an evaluation of some of the tools that we use to conduct our foreign relations, such as international treaties and agreements, as well as membership in international organizations. At times, these activities may require the United States to collaborate with multilateral organizations and even be bound by decisions made by others. This understandably gives rise to the concern that America's sovereignty is being undermined and that foreign interests that do not necessarily share our values will gain influence and power over us. My view is that this challenge can be managed. We can fully participate in the globalizing world and enter into treaties and international organizations while still preserving our traditional sovereignty. The key to this is a foreign policy focused on promoting our national interests and joining international efforts when there is a clear, well thought out reason to do so.

The trend driving many of the changes with which we are grappling is globalization. The term is often used, but I believe it can be generally defined as the increasingly free flow of ideas, information, goods, capital, and people across borders and around the globe. Overall, this is a positive development. It entails more freedom and opportunity for people in every country. Nations have economic strengths and weaknesses, and globalization allows them to focus more on what they do best. As globalization progresses, countries become more interdependent and must work together on issues that might have been previously been viewed as domestic in nature. This is partly why the position of the Undersecretary of State for Global

Affairs was created, to handle our foreign relations to the extent they transcend borders and traditional bilateral relationships, which is increasingly common.

My office deals directly with many of the issues related to globalization. They range from migration, refugees, narcotics trafficking, human rights, Democracy, health, the environment, trafficking in persons, among other issues. It is important to realize that there is not a spectrum with globalization on one end and national sovereignty on the other. Reaping the benefits of globalization does not necessarily mean countries must lose the ability to determine their own destinies. From the point of view of the nation-state, globalization means that countries compete more and that capital and people can vote with their feet and cross borders to find the most suitable locale. It does not mean the end of the nation-state or replacement of sovereign national governments.

Conversely, resistance to globalization does not translate into a surefire method of preserving a sovereign and independent nation-state. In fact, the opposite is often true. If you identify the parts of the world where governments are actively resisting the forces of globalization and compare that to where military coalitions and peacekeepers have been engaged in the past 15 years, you will find a surprisingly strong correlation. Participating in globalization, by definition, entails a degree of freedom, government transparency, and rule of law. Since those are typical prerequisites to trade and lawful profit making. Countries that resist this can boast that they have a pure form of national sovereignty and do not have to countenance the advice of foreigners. But in reality, they do not have true sovereignty, which is to say they are not autonomous, nor do they have complete and credible control over their destinies. Take, for example, the situation on the Korean peninsula. There, you have one country, South Korea, which is one of the world's greatest export-base and high-tech economies, and at once both embodies the information age and globalization. Then, there is North Korea, one of the world's most closed and repressive nations that has elected, through its conduct, to be completely estranged from the international community. Which one of these nations has more real sovereignty? Which one has in place a polity that can identify and defend the interests of its people and see that they are addressed without foreign assistance or involvement? What you have is the case where, in one nation, the people are sovereign, and in the other, their rightful sovereignty has been usurped by an unelected government. One is free and democratic and the other is not. It is the policy of the Bush Administration to promote democracy around the world, and in doing so, we are actually empowering the nation-state. We are helping free and democratic nations to secure for themselves the tools to effectively govern. This is what I mean by real sovereignty. It is where the people themselves are sovereign, as they are in the United States and as they ought to be everywhere.

In a speech last week, at the 20th Anniversary for the National Endowment for Democracy, President Bush touched on this very issue. He said, "Historians in the

future will reflect on an extraordinary, undeniable fact. Over time, free nations grow stronger and dictatorships grow weaker." The promotion of democracy is a major component of the Bush Administration's foreign policy, one we enshrined in our national security strategy last year. That document plainly states, "America must stand firmly for the non-negotiable demands of human dignity, the rule of law, limits on the absolute power of the state, free speech, freedom of worship, equal justice, respect for women, religious and ethnic tolerance, and respect for private property." Our foreign policy defends U.S. interests and bolsters the nation-state as a sovereign entity.

This Administration has joined other free democratic countries in forming what is known as the Community of Democracies. The Community is a group of nations at different stages of development with different cultures that recognize democracy as the best form of government, to provide for the needs of its citizens, to foster economic growth, and establish domestic stability. The Community brings democracies together to address emerging threats, identify and exchange best practices, and undertake initiatives to bolster representative government. It is a simple and effective tool to achieve our goal of promoting democracy, and it does not diminish American sovereignty in any way.

When it comes to international organizations where the United States is already a member, we seek to make these entities as efficient as possible. That is one reason we are working with other countries to create a democracy caucus in the United Nations. The objective of the Community of Democracies is not simply to convene meetings but to increase the coordination among democracies to help advance democratic principles. The United Nations is a natural forum for those principles to be reaffirmed. A democracy caucus will both strengthen the United Nations and bolster the common bonds and values which tie democracies together.

In his National Endowment for Democracy speech on freedom and democracy, President Bush also noted that, "In the early 1970s, there were about 40 democracies. As the 20th Century ended, there were around 120 democracies around the world, and I can assure you that more are on the way." Democracy has been on the march and we intend to continue this trend. By doing so, we are helping people around the world to achieve the freedom that is their birthright, but we are also securing our own interests, which buttresses our sovereignty and that of other free and peaceful nations.

Another way in which this Administration is defending American sovereignty is by making sure that when we do sign treaties or join international bodies, we do so for good reasons that clearly serve our international interests. We do not sign treaties simply because they happen to be in vogue. We seek efficient and effective solutions to the problems we confront, and we will not accede to initiatives that are contrary to our interests and that harm our sovereignty.

This approach is embodied in our policy regarding the challenge of global climate change and our rejection of the Kyoto Protocol. There are many flaws to Kyoto, but one of the more troubling is that parties that have no real obligations under the Treaty would be allowed to participate in the enforcement mechanism. This is quite unusual for a treaty and clearly has troubling ramifications as a precedent for future agreements, even in other areas.

The Protocol would also have taken a severe economic toll on America, and its timelines and emission caps are arbitrary, not based on science. Kyoto is furthermore flawed in that it excludes major parts of the world and would be ineffective in achieving its stated goal. Excluded from the obligations of Kyoto are all developing nations, including China and India. Both of these nations are expected to undergo rapid industrialization and they will eventually be the largest emitters of greenhouse gasses. A treaty that purports to address the challenge of global climate change, yet exclude these nations, cannot be effective.

Rather than accept this treaty, which would have diminished our sovereignty and inflicted harm on the United States while failing to achieve its goal, we have taken a different approach. We have focused, first and foremost, on improved scientific research and expended considerable resources for research and development of new technologies that offer the promise of providing cheap and clean energy for the world's growing needs. This embodies our approach to other international agreements and organizations as well. We have actively engaged the world on any number of issues and have no compunction about accepting international obligations. However, we will only do so when it clearly serves the interests of the United States and when there is a reasonable expectation that the initiative is effective and efficient. We do this because we value America's sovereignty, just as we value our security.

Globalization is changing the ways nations interact with each other. Before long, it will be clear that America's role in the world has evolved, just as it has throughout other periods of major historical change. If managed properly, globalization offers the promise of great benefits for nations around the world, including the United States. The movement encompasses many good trends, such as freer trade, the proliferation of democracy, and the international flow of ideas, capital, and people. However, it will create a world that is more interdependent and where nations must collaborate more closely with each other. In our interactions with other nations and multilateral bodies, it is necessary that America's independence be kept in mind. Our conduct in foreign policy must never be cavalier, and we must ensure that actions we take serve our national interests and preserve our sovereignty.

MR. BAKER: Thank you. I'm delighted to have been here this afternoon and really appreciate the invitation. Paula has to leave, I'm afraid, so we won't be able to take questions.