What in fact the majority leader tried to bring before the Senate today is a bill which was introduced in the Senate by the Senator from Louisiana and the Senator from Alaska, and in the House by Congressman GILCHREST. This bill would amend, I would say gut, the existing law that defines the term ''dolphin safe'' for purposes of the sale of tuna in this country.

The agreement that the bill relates to is neither a treaty nor an international agreement. The so-called Panama Declaration is only a political statement—an agreement to agree in the future on a binding international agreement.

How do we know the Panama Declaration is not a treaty? A treaty is a binding commitment in international law which requires the parties to abide by its provisions. It is a legal instrument imposing legal obligations.

In our system of law, a treaty has the same standing as a statute passed by Congress—they are both the law of the land. This principle is embodied in article VI of the United States Constitution, which states:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land . . .

The principle that treaties are the law of the land was confirmed by the Supreme Court in 1920 in the case of Missouri versus Holland, in which Justice Oliver Wendell Holmes wrote:

> By Article VI, treaties made under the authority of the United States . . . are declared the supreme law of the land.

Another fundamental constitutional doctrine relates to how the law of the land principle operates—the last in time doctrine, which means that if a treaty and a statute are in conflict, then the last one to be put into effect governs. So clearly—if the Panama Declaration were a binding international agreement, there would be no need for the bill the majority leader tried to take up.

In fact, the very wording of the Panama Declaration itself reveals that it is not a binding international agreement. In the second paragraph of the document, it reads:

> The governments . . . announce their intention to formalize . . . The La Jolla Agreement . . . as a binding legal instrument.

In addition, the declation sets forth a series of principles which will ultimately be contained in this yet-to-be-drafted international agreement. But these principles are so vague and largely hortatory that they cannot possible be read as imposing legal obligations.

If there were any doubt that the United States did not intend to be bound by this ''declaration'', we need only turn to the statement issued by the U.S. representative to the meeting in Panama.

> The U.S. Administration supports this initiative which is an important step on the road to a permanent, binding instrument . . . The initiative . . . is contingent upon changes in U.S. legislation . . . The U.S. Administration needs to work with our Congress on this . . . We do not want to mislead anyone here as to what the final outcome of that process might be.

It is clear that the administration was not binding the United States to anything, other than to work with the Congress to enact this legislation.

That is the commitment of the United States that the Senator from Louisiana talked about. It is nothing more. If we don't pass this bill, no binding agreement will have been broken, no international treaty obligation will have been violated.

The other nations present during the discussions in Panama surely understood this. They are fully aware that we have a government with co-equal branches, and that any changes in the tuna labelling laws, as envisioned by the Panama Declaration, require the consent of Congress.

The argument that rejection of this bill amounts to a violation of an international agreement is a red herring. There is no treaty and no international agreement in force for us to break.

Finally, on this point, Mr. President, let me ask unanimous consent to insert in the RECORD two letters: a letter sent by Senator BIDEN and myself to the State Department on the question of whether the Panama Declaration is a binding international agreement, and the State Department's response to us on that question. The State Department letter reads, in part:

> Thus, the Panama Declaration itself is not a legally binding international agreement, but rather a commitment to conclude such an agreement. . . . Fulfillment of that commitment is expressly contingent upon—and only upon—certain changes in U.S. law.

So, Mr. President—This declaration may be a political commitment, but it is most definitely NOT a legal obligation.

In summary, the arguments made by the supporters of the Stevens-Breaux-Gilchrest legislation—arguments of fact as well as arguments of law—are unsupportable. The bill is not needed for any convincing scientific or environmental purpose, and is not needed to meet any binding obligation of the United States.

In summary, Mr. President, in 1990, Senator BIDEN and I wrote a law called the Dolphin Protection Act. What happens is that when the tuna fishermen go out, they follow the dolphin because the dolphin follow the tuna. They cast a purse seine net, and they kill the dolphin along with the tuna.

We have taken the dolphin kill since 1990 down from 60,000 a year to 3,000 a year. We do not think there is any need at all to now allow this purse seining on dolphin. What this negotiation with Mexico would do is allow the Mexican fishermen to bring in their tuna. It is not dolphin-safe and the dolphin-safe label on the tuna can would lose all its meaning.

I very, very strongly object, not only in my behalf, but on behalf of Senator BIDEN, and I will also say, 85 environmental organizations, including the Humane Society, the Sierra Club and a host of others.

I appreciate the majority leader giving me this opportunity to explain why I object strongly, and I will do everything I can to make sure this bill never does become the law of the land.

I do object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST—H.R. 1296

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the conference report to accompany the Presidio parks bill; that the conference report be considered as having been read; and that immediately following the reporting by the clerk, the conference report be immediately recommitted to the conference committee.

Mr. FORD. Mr. President, on behalf of this side of the aisle, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, if I can be heard further on this, time has not run out. There is still time for us to get this conference report that affects 41 States and contains 126 parks and public land provisions. The Senate must recommit the conference report back to the conference committee in order to correct a tax matter which has now been cleared, I believe, in the House.

So it would allow us to get this very important piece of legislation through the process. If there is some other way it can be done, we have a couple of days, perhaps, in which we can pursue it.

I, again, repeat my great concern that this major preservation legislation, affecting so many areas, so many States appears to be in a position of being killed for no apparent reason that I can figure out. In fact, when I first talked to my Democratic colleagues about this, I think they were surprised that it was being objected to. I know the Presidio provision, for instance, is supported by the Senators from California.

For some reason, the administration has problems with this bill. They object, for instance, to the project in Utah called Snow Basin, which is an important part of where the Olympics will be held. I asked Chief of Staff Leon Panetta last night, ''Do you want to be involved in stopping a project which has been broadly supported in the area and is going to be critical to the next winter Olympics?'' I think he didn't realize that it had that ramification. But for some reason, it continues to be objected to.

Mr. President, I yield to the Senator from Alaska.

Mr. MURKOWSKI. I wonder if the Senator will yield for just a moment, because clearly the Utah Olympics and the Snow Basin exchange that is in

this are in jeopardy. It simply will not happen, and, of course, the motivating section was the Presidio. That is not included. Sterling Forest, I might add, in New Jersey and New York, is not included. It is my understanding the appropriators chose to put in Mount Hood in honor of Senator HATFIELD, as well as very early this morning adding the San Francisco Bay cleanup, which was part of the Presidio omnibus package and now will be moving evidently on a separate track.

Unless the administration sees fit to lift their hold, the Presidio, Utah Snow Basin, Sterling Forest, and all those 126 will be lost, and we will have to start again in the next Congress. Evidently, the San Francisco Bay cleanup has gone on the appropriations process, as well as Mount Hood. So that is what we are left with.

I thank the majority leader.

Mr. FORD. Mr. President, will the majority leader yield?

Mr. LOTT. I will be glad to yield.

Mr. FORD. I think negotiations are still available. I hope we can use the same procedure we did with the Kassebaum-Kennedy bill: have an agreement before it is referred back to conference. I think that is still doable. I would not say to my friend to throw it over his shoulder and forget it, that is the end of it. I think we ought to continue to try to work it out and have an agreement worked out prior to sending it back. I think it can be worked on.

Mr. MURKOWSKI. Let me say we stand ready. We spoke with the White House last night about the 46 items they found objectionable and potentially subject to veto, and we are still awaiting word back from the White House on those. So I appreciate the response of the majority leader and the response of the Senator from Kentucky. Again, we stand ready to respond.

Mrs. BOXER. Will the majority leader yield to me for a moment?

Mr. LOTT. Yes, I will, Mr. President.

Mrs. BOXER. Mr. President, I thank all the parties. I think we should not let this moment go by, I say to my majority leader, because I do believe there are so many wonderful things in the package that have been assembled by the Senator from Alaska. I know he has invested himself personally in the Presidio. He has been out there and he has shown, by his presence there, the bipartisan support we have out there.

This is one of the few issues where we have President Clinton, we have Senator Dole, we have Vice President GORE and Vice Presidential candidate Kemp all in agreement. We have FRANK MURKOWSKI and BARBARA BOXER agreeing that we have to do something with this Presidio.

I talked with Congressman MILLER this morning. I know he is trying hard to come up with a compromise. I just think, knowing all of you as I do, there has to be some way we can reach agreement. I stand ready to help in any way. Please contact me at any point in the negotiations if I can be of help.

Mr. LOTT. I thank the Senator.

UNANIMOUS-CONSENT REQUEST—H.R. 4137

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4137, a bill to combat drug-facilitated crimes of violence, which is at the desk.

I further ask unanimous consent that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, I think this is another one they are still trying to work out. But on behalf of Senators on my side, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I do hope the effort will continue to be made to work it out, because it would, as I said, combat drug-facilitated crimes of violence, including sexual assaults. I don't know where the hangup is.

Mr. FORD. I say to my friend, I don't know either. I am doing like he does. He has some friends on his side who object. I have them on my side. I understand everyone is feverishly working on a lot of things. The push to get out of here soon may cause us to get out later. So I hope we can all work together.

I thank my friend.

UNANIMOUS-CONSENT REQUEST—H.R. 4134

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 634, a bill to amend the Immigration and Nationality Act to deny public education benefits to illegal aliens; further, that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. BURNS). Is there objection?

Mr. FORD. Mr. President, on behalf of Senators on my side, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST—S. 1174

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 484, S. 1174, a bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Lamprey River in New Hampshire as components of the National Wild and Scenic Rivers System; further, that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, this is one of the items in the so-called Presidio parks bill that is being attempted to be jerked out. I think if we are going to agree on one, we ought to agree on all or agree on the bill. So, therefore, I must object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST—H.R. 2715

Mr. LOTT. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from H.R. 2715 and, further, that the Senate proceed to its immediate consideration, and, further, that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, the distinguished majority whip asked me about this one earlier, how we could get it cleared. And I had given that information. So we are working on this bill. And until we get an answer back from your side, I must object. But I think we are moving in the right direction.

I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. This is the Paperwork Elimination Act. We will continue to work to see what we can do on that. I am aware of the Senator's other interests, and we are checking on that to see how we can work it out.

Mr. FORD. A quid pro quo here.

Mr. LOTT. We have been known to do that on occasion, for the best interests of the country.

Mr. FORD. You got that right.

UNANIMOUS-CONSENT REQUEST—H.R. 3719

Mr. LOTT. Mr. President, I ask unanimous consent to proceed to the immediate consideration of H.R. 3719, which is at the desk, further, that a substitute amendment at the desk offered by Senators BOND and BUMPERS be agreed to, the bill be deemed read a third time, passed, and that the motion to reconsider be laid upon the table, and any statements relating to this Small Business Act and Small Business Investment Act, which are amendments to the existing law of 1958, be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, this is the Small Business Act, as the majority leader said, and the Small Business Investment Act. Several Senators on both