

to sell in places like Japan, China, Germany, and elsewhere costs our corporations profits, our workers job opportunities, and our Nation revenues—all of which weigh down our own economic growth and add to our fiscal deficit.

Whether it is a requirement for American firms to hire local agents to conduct business; cumbersome inspection and customs procedures; bans on the sale of products for dubious claims of national sovereignty or some other sort of prerogative, the simple fact is that protected sanctuary markets abroad are a major contributor to America's economic problems.

To explain this simply, I will use as an example the well-known case of how Japanese manufacturers sell things like electronics in the United States at such cheap prices, even when the yen is at a record height. I am citing Japan here, but it could be any other country that has a "sanctuary" market. It is well-known that many Japanese-made products are cheaper in the United States than in Japan. That is because Japan's closed market is a sanctuary that effectively insulates producers from competition, and allows them to over-charge Japanese consumers, giving them enough of a profit margin at home to sell below cost here. That means American companies lose on both ends. We can't export into these markets, and their subsidized exports harm our domestic industries and cost us jobs.

My trade policy is quite simple, in addition to preserving the effectiveness of America's trade laws, I support measures that will increase American exports, and West Virginia exports specifically. Every \$1 billion in exports supports about 17,000 jobs. So it follows that if we increase American exports, we will create more jobs here in the United States. And export related jobs are, on average, better, higher paying jobs. That is why I have worked so hard to introduce West Virginia businesses to foreign market opportunities.

While this bill will expose countries with whom we have a trade deficit to extra scrutiny by the Commerce Department, the Open Markets and Fair Trade Act of 1995 is about market opportunities for American firms and especially markets for American industries with the most export potential and which promote critical technologies. Most importantly, it instructs the Commerce Department to look at markets which, if we can export there, offer the greatest employment opportunities for American workers.

America cannot afford to be a market for everyone else's products when we don't get the same kind of access in return. Our economy, and the global economy, cannot sustain that kind of imbalance. The American people will only continue to support free trade if it means we are able to sell American products abroad as easily as Asian and European and Latin American manufacturers have access to our shelves

and showrooms. While past negotiations should have made these points perfectly clear, the Open markets and Fair Trade Act of 1995 will erase any doubts that may have lingered with our trading partners.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

U.S. TRADE DEFICIT: TOP 10 COUNTRIES  
(In billions of dollars)

Country	Trade deficit		
	1994	1993	1992
1. Japan .....	65,669	59,318	49,417
2. China .....	29,494	22,768	18,260
3. Canada .....	14,693	10,732	8,341
4. Germany .....	12,512	9,648	7,593
5. Taiwan .....	9,633	8,855	9,397
6. Italy .....	7,518	6,764	3,602
7. Malaysia .....	7,012	4,504	3,898
8. Thailand .....	5,446	4,773	3,546
9. Venezuela .....	4,336	3,541	2,730
10. Nigeria .....	3,921	4,410	4,073
Subtotal for top 10 .....	160,234	135,313	110,857
Total for the world .....	151,414	115,611	84,881

By Mr. COCHRAN:

S.J. Res. 33. A bill proposing an amendment to the Constitution of the United States relative to the free exercise of religion; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT JOINT  
RESOLUTION

• Mr. COCHRAN. Mr. President, I am pleased today to introduce a joint resolution proposing an amendment to the Constitution that will restore to individuals the fundamental right to the free exercise of their religious beliefs.

Although most of us would agree that the Framers of the Constitution intended special protection for the "free exercise of religion" when they included it in the Bill of Rights, several judicial rulings, and other acts of governments at all levels, over the years have brought that provision into question and resulted in much confusion.

I invite Senators to support this reaffirmation of fundamental, constitutional right. •

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 44

At the request of Mr. REID, the names of the Senator from Hawaii [Mr. INOUE] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 103

At the request of Mr. BAUCUS, the names of the Senator from New Mexico

[Mr. BINGAMAN], the Senator from California [Mrs. BOXER], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 103, a bill entitled the "Lost Creek Land Exchange Act of 1995."

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 440

At the request of Mr. WARNER, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 448

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 476

At the request of Mr. NICKLES, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 476, a bill to amend title 23, United States Code, to eliminate the national maximum speed limit, and for other purposes.

S. 539

At the request of Mr. COCHRAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 539, a bill to amend the Internal Revenue Code of 1986 to provide a tax exemption for health risk pools.

S. 602

At the request of Mr. BROWN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 602, a bill to amend the NATO Participation Act of 1994 to expedite the transition to full membership in the North Atlantic Treaty Organization of European countries emerging from Communist domination.

S. 607

At the request of Mr. WARNER, the name of the Senator from Mississippi

[Mr. LOTT] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 615

At the request of Mr. AKAKA, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 615, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 694

At the request of Mr. KYL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 694, a bill to prevent and punish crimes of sexual and domestic violence, to strengthen the rights of crime victims, and for other purposes.

S. 722

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes.

## SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

## SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from New York [Mr. D'AMATO] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

## SENATE RESOLUTION 113—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. GORTON (for Mr. DOLE, for himself, and Mr. DASCHLE) submitted the following resolution; which was agreed to:

S. RES. 113

Whereas, in the case of *Committee for Judicial Review v. The United States Senate Committee on the Judiciary, Senator Orrin Hatch*, No. 1:95CV0770, pending in the United States District Court for the District of Columbia, the plaintiff has filed a complaint, seeking, among other relief, to restrain the Committee on the Judiciary from conducting confirmation hearings on the nomination of Peter C. Economus, who has been nominated to be a United States District Judge for the Northern District of Ohio;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of

1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend committees and Members of the Senate in civil actions relating to their official responsibilities; Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the Committee on the Judiciary, its chairman, Senator Orrin G. Hatch, and the other members of the Committee on the Judiciary in the case of *Committee for Judicial Review v. The United States Senate Committee on the Judiciary, Senator Orrin Hatch*.

## SENATE RESOLUTION 114—TO REFER S. 740 TO THE U.S. COURT OF FEDERAL CLAIMS

Mr. GORTON (for Mr. HATCH) submitted the following resolution; which was agreed to:

S. RES. 114

*Resolved*, That the bill S. 740 entitled "A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims. The chief judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimants from the United States.

## AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995  
COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

## DODD AMENDMENT NO. 624

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the appropriate place insert the following:

## SEC. . UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Bifurcation and Judicial Determination.—

(1) In general.—Notwithstanding any other provision of this Act, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate

rate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) Admissible evidence.—

(A) Inadmissibility of evidence relative only to a claim of punitive damages in a bifurcated proceeding.—Notwithstanding any other provision of this Act, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of this Act, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by the court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of paragraph (3), the court shall state the effect of the consideration of the factor on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

## DODD AMENDMENT NO. 625

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows: