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entitled "By the Sweat and Toil of Children—the Use of Child Labor in U.S. Manufactured and Mined Imports." That report found that in textiles manufacturing, food processing, furniture making, and a host of other export-directed activities, children are employed for long hours in abysmal conditions, and are paid very low wages. They have few, if any legal rights, can be fired without recourse, and are often abused. They are hired by our foreign competitors to minimize labor costs. The International Labor Organization reports that 25 million children, world wide, are so engaged.

In the Philippines, for example, the Labor Department Report stated that in the wood and rattan furniture industry, children working in factories received 15 to 25 pesos per day—approximately 61 cents to $1. About 29 percent of the children were unpaid or compensated with free food; the rest were paid on a piece rate basis. About 48 percent of the children work between 15 to 25 hours a week, while another 13 percent work more than 50 hours for less than minimum wage.

The report stated that children who work in the garment industry in Thailand work 12-hour days in shops where they earn as little as five cents for sewing 100 buttons. Furthermore, they reported that in Cairo in Egypt's small family-operated textile factories, 25 percent of the workers were under the age of 15. Seventy-three percent of the children worked in excess of 12 hours per day and earned an average of $8 per month.

These are just a few examples of countries that employ children. Clearly, it is in the interest of every modern business and every industrialized nation to develop new international standards to help end child labor. Lower wages and extremely poor working conditions can lower manufacturers' costs in the short term, but they create long-term economic and geopolitical problems, not just for the country that exploits its children, but for the United States, as well.

When foreign industries artificially depress their labor costs by exploiting children, how can a U.S. worker compete? We must level the playing field for American workers. And more importantly, we must put our Nation on record that child labor must end. The United States must realize that it is an enlightened business policy to eliminate abusive child labor. Free-trade agreements should contain clear provisions against the use of abusive child labor.

Child labor should be designated an unfair trade practice, but S. 1269 does not make it so. Without such minimal ground rules with respect to child labor, our trade policy will be at cross purposes with our trade and larger foreign policy and national security objectives. We will have created a two-tier system in which U.S. companies will be prohibited from exploiting children here at home, while foreign firms, and U.S. companies, which leave to take advantage of the lower labor costs on foreign soil, will be permitted to exploit children so they can gain competitive advantage over those who play by our domestic rules. Such a system does nothing to benefit American business, creates incentives for the loss of U.S. jobs, and leaves us all with the shame of complicity in child abuse.

Finally, it is important to note that the Executive has the ability and the authority to negotiate trade agreements even in the absence of the fast-track procedure. It is my understanding that some 200 trade agreements have been concluded without it. Fast-track has only been used five times since 1974, for the GATT Tokyo round in 1979, the United States-Israel Free-Trade Area Agreement in 1985, the United States-Canada Free-Trade Agreement in 1988, NAFTA in 1992, and the Uruguay round of the GATT in 1994.

Instead of closing off debate about the proper purposes and architecture of free trade, we ought to encourage open and full debate with the American people about it. Trade is inevitably a more and more important aspect of our economic landscape, and indeed, as American business achieves the kind of market access in the world community that its capacity will allow, more and more U.S. workers will see the benefits of liberalization. Even today, those businesses which have benefited from the increased access accorded by NAFTA and GATT are enthusiastic about the prospects for real economic growth from this sector. We should be optimistic about our prospects overall, because American goods and services are seen by the rest of the world as providing the excellence they want. But we will see only fractiousness and retreat, if we fail to achieve consensus about the rules of our foray into this global economic competition.

I have a sense that trade, and its impacts, not only on our economy, but on our foreign policy as well, will come more and more to dominate the debate in our country about our future course and direction. If we are to be mindful of the ancient warning that "all wars start with trade" then we should redouble our resolve to make certain that our policy is based on consensus among our people regarding its direction, its objectives, its ground rules. We do not have such consensus yet. We should not shut off the debate which is the only way to get that consensus.

PUBLIC UTILITY HOLDING COMPANY ACT REPEAL

Mr. LOTT. Mr. President, I would like to state my strong support for S. 621, and express my disappointment that a few Senators have prevented this body from considering the bill this year. A bipartisan majority of Senators supports PUHCA repeal, and I will bring it to the floor for consideration and passage early next year.

Both Chairmen D'AMATO and MURKOWSKI, along with Senators DODD and SARBANES, deserve great credit for helping to move this legislation forward. It is unfortunate that their efforts on both sides of the aisle were unsuccessful this session. They know—as do the other 20 cosponsors of S. 621—that repealing PUHCA would remove an outdated regulatory burden that restricts the operations of a handful of electric and gas utilities.

Mr. President, PUHCA was enacted in 1935 to eliminate holding company abuses of that time, and it was quite successful. In the last six decades, however, Congress and the States have enacted a whole spectrum of securities, antitrust and utility regulatory statutes that make it impossible for those abuses to occur again. Even the Securities and Exchange Commission, the agency tasked to enforce PUHCA, has said that PUHCA is no longer needed and should be repealed.

Now, long past its usefulness, PUHCA stands in the way of competition. While some argue that PUHCA should only be repealed as a part of comprehensive restructuring legislation, I believe that incremental steps toward competition are responsible and realistic accomplishments for the 105th Congress. Repealing PUHCA should be the first incremental step.

Mr. President, crafting comprehensive restructuring legislation requires Congress to consider a whole host of difficult issues—stranded cost recovery, State versus Federal authority, renewable resources, public power subsidies, environmental impacts. The list goes on and on. There is no consensus among Senators on these issues, but there is an overwhelming amount of support for PUHCA repeal.

Instead of searching for the perfect total package, let's focus on the incremental steps toward competition that we can agree on. PUHCA is the biggest single Federal obstacle to the advancement of retail competition, and it should be repealed now. Several States have already adopted or are in the process of adopting retail competition plans without comprehensive utility restructuring legislation. We can't allow the Federal Government to block progress in the States. Without PUHCA repeal, retail competition in the States simply cannot flourish.

Mr. President, now is the time for PUHCA repeal. Although the few opponents of S. 621 have prevented the Senate from considering the bill this year, I will bring it to the floor early next year. I hope that my colleagues on both sides of the aisle will join me in repealing this outdated and burdensome Federal obstacle to competition in the utility industry.

KEEP HIGH TECHNOLOGY FREE FROM WASHINGTON INTERFERENCE

Mr. ABRAHAM. Mr. President, I rise to urge my colleagues to join me in

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fighting to ensure that our high technology industries, and the Internet in particular, remain as free as possible from Government regulation and taxation.

America's high-technology, information age industries embody America's entrepreneurial spirit. In this sphere, initiative and inventiveness are joined as thousands of people work to create new ways of generating and transferring technology, information and commerce. The high technology sector is crucial to our economy, crucial to our workers and crucial to our way of life. It must remain as free as possible so that it may continue to grow, employing ever more Americans in good jobs, generating commerce and employment throughout our Nation and constantly reviving our spirit of independence and innovation.

Mr. President, we first must keep in mind, in my view, that the hi-tech, information age industry is crucial to our economy. This industry is growing very quickly. A 1997 study by the Business Software Industry found that the American software industry has grown two and a half times faster than the overall economy from 1990 to 1996, and that software industry employment will grow 5.8 percent per year between now and 2005. In 1982, according to the Federal Trade Commission [FTC], computer products were found on the desks of only 5 percent of American workers; only 4 percent of American households contained personal computers. By 1992 the figures surged to 45 percent and 31 percent, respectively. Currently, 40 percent of American homes contain PCs. Between 1972 and 1992, research intensive industries grew an average of twice the rate of overall GDP growth, with computers, semiconductors and software leading the group.

Hi-tech industries are serving as engines of economic expansion, creating many spin-off jobs. Economist Larry Kudlow reports that the hardware and software industries combined account for about one third of real economic growth. Overall, electronic commerce is expected to grow to $80 billion by the year 2000. The FTC reports that, from 1985 to 1995, the worldwide number of hardware vendors increased from 120 to 350, and the number of service providers—programmers, consultants, maintenance and systems operators—increased from 1,715 to 30,000. Not only hi-tech, but supporting hi-tech has become booming business.

To judge the dynamism of this sector of our economy, and of the Internet in particular, we should consider the fact that the Internet grew from four linked sites in 1969 to become the first ubiquitous, interactive advanced communications network. 15 million households are now connected to the Internet, with 43 million expected by the year 2000.

Mr. President, we all have benefited from this tremendous growth, and we will continue to benefit from the hi-tech industry, so long as we continue to allow it to expand and innovate. Affordable world-wide communications and information transfer have changed our world for the better. Consumers now have far more choices, and benefit from greater competition among sellers. Workers have seen their opportunities increase as well in our expanding economy. Perhaps most benefited has been American small business. During a time in which it is increasingly difficult to deal with Government bureaucracies, regulations and so forth, in one sector of our economy an individual can still work nights and weekends in his garage and end up running his own company. This sector offers minimal barriers to entry and a convenient, cost-effective distribution. That sector is, of course, that of high technology.

Increased opportunity—to shop, to work, to start one's own business—has been supplemented by an overall increase in freedom thanks to the open availability of information on the Internet and the freeing up of new opportunities, for example through telecommuting, to enrich our lives without sacrificing our careers.

All of this is possible, Mr. President, because we have a vital, growing and free hi-tech industry in America. And our hi-tech industry has succeeded because in it Americans are able to respond quickly and efficiently to technical and marketing challenges, unencumbered by any preconceptions imposed by regulation relating to its development or from inappropriate Government charges on its business.

We are a freer, more prosperous and more open country because of our free high technology industry. To the greatest extent possible, we should keep that industry free from Washington rules, regulations and taxes for the sake of our consumers, our small businesses and our workers.

Mr. President, a number of issues have found their way before Congress that might severely affect our high technology sector. For example, Local Exchange Carriers [LECs] have contended that increasing Internet traffic could soon exceed the current phone system's capacity. To fund new infrastructure, the LECs have argued that a user fee should be paid by companies that provide Internet access. But this user fee could make consumers reluctant to use the Internet, particularly if it is not used to fund product improvements. What is more, access charges would only suppress Internet development, leaving us all with inadequate infrastructure.

In response to this situation I joined with Senator LEAHY to propose Senate Resolution 86, a nonbinding sense of the Senate resolution urging cooperation between Internet providers and the local phone companies. That resolution also calls for a rejection of access fees as a means of solving the dispute.

Encryption also has been the subject of significant debate. More and more, Mr. President, businesses are encrypting electronic mail messages sent interoffice and intraoffice. These businesses seek to protect themselves against industrial espionage or recreational hackers. In addition, on-line commercial transactions, such as wiring money or purchasing and selling products, require encryption to ensure security.

Currently, there are no limits on the strength of encryption products for domestic purposes. The same is true for importation. However, exportation of encryption is tightly controlled.

Many in the law enforcement community are concerned about the proliferation of strong encryption products, particularly should they fall into the hands of criminals. But this technology already exists, Mr. President. We will not make ourselves safer by exposing businesses to industrial espionage, sabotage and the loss of commerce. That is why I supported Senator BURNS' bill to maintain business' right to develop and use strong encryption.

As important as restrictions on development, Mr. President, have been proposals to tax commerce on the Internet. Over the last 2 years, several States and localities have passed or interpreted laws to permit taxation of Internet sales and use.

The result, Mr. President, would be double taxation of Internet commerce and a stifling of Internet use. S. 442, recently voted out of the Commerce Committee, will stop this trend by imposing a 6-year moratorium on subnational taxes on communications or transactions that occur through the Internet or online service, and access or use of the Internet or online services.

This moratorium would apply to all Internet and interactive computer services, but not to property, income or business license taxes. In essence, it prohibits sales and use taxes unless the retailer has a physical presence in the taxing State. It would keep Government from piling on taxes that will strangle the infant Internet commerce industry in its cradle. It also will allow the States to come up with a rational system by which to tax Internet commerce.

Another area in which governmental action has threatened our hi-tech, information age industry has been immigration. I am proud that we pushed back efforts during the last Congress to radically reduce the numbers of immigrants coming legally into this country. I firmly believe that immigration is the American way, and because I know that legal immigration is crucial to our hi-tech industry.

For example, 40 percent of Cypress Semiconductor's top-level management is foreign-born. Chief Financial Officer Manny Hernandez is from the Philippines, vice president of research and development Tony Alvarez is from Cuba. And this immigrant-driven company employs 1,800 people in the United States.

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Immigrants give America an entrepreneurial edge. In 1995 12 percent of the "Inc." 500—a compilation of the fastest growing corporations in America—were started by immigrants. They also give us an edge in innovation. Immigrants make up nearly a third of all Ph.D.'s involved with research and development in science and engineering—the basis for innovation and economic growth.

Immigrants also fill needed roles, particularly in the engineering field. The CATO Institute reports that over 40 percent of our engineering Ph.D.'s are foreign-born, yet the unemployment rate in that field is only 1.7 percent. Clearly there is a gap in engineering in America that is being filled by immigrants.

I am pleased, then, Mr. President, that we did not close the door on immigrants seeking to come to this country to make a contribution and seek a better life. And I hope we will continue to keep the door open, so that we may live up to our heritage as a nation of immigrants, and so that we may continue to prosper.

Finally, Mr. President, abusive class action lawsuits have caused significant harm to high technology companies, as they have to much of the American economy. Some suits, alleging malfeasance on the part of company directors, have been brought within hours after a drop in a company's stock price.

Not long ago, this body successfully overrode the President's veto of legislation to reform securities litigation in this country. That bill will provide that discovery be stayed whenever a motion to dismiss is pending in a securities action. Discovery costs have been estimated to account for 80 percent of the costs of defending a lawsuit in this kind of action, and that is too much, particularly when the suit may be dismissed as without merit.

The bill also would create a modified system of proportionate liability, such that each codefendant in a securities action is generally responsible for only the share of damages that defendant caused. This should prevent companies from being joined to a lawsuit solely because of their deep pockets.

In addition, under this legislation, plaintiffs now must state facts with particularly, and state facts that give rise to a strong inference of intent on the part of the defendant. This should end the too-common practice of filing cases on the basis of few or no hard, relevant facts.

Finally, the bill contains a safe harbor provision protecting forward-looking predictive statements from liability.

Mr. President, we must go further, particularly in the area of legal reform, to protect our hi-tech industry from unwarranted interference. S. 1260, which I have cosponsored, would limit the conduct of securities class actions under State law. But even this is not enough.

Hi-tech and other companies are hit with all sorts of abusive lawsuits, not just securities litigation. That is why I am working for broader litigation reforms. I offered an amendment last Congress that would have expanded the joint and several liability provision of the product liability bill to cover all civil lawsuits. I also have introduced my own bill to protect small businesses from frivolous lawsuits. And I am working with Senator MCCONNELL to provide needed reforms to our civil justice system. It is my belief that we can make substantial progress in this area in the near future.

Finally, Mr. President, I would just like to note that, while antitrust laws must apply to new industries as they have to the old, we should not allow antitrust laws to become an excuse for excessive regulation. Hi-tech is a dynamic sphere of economic activity. Over-zealous Government regulation from Washington, by whatever means, will only hurt consumers, producers and workers. I think most hi-tech CEOs would agree that producers and consumers in the free market economy—not bureaucrats and politicians in Washington—should determine winners and losers in the high tech industry.

Frivolous lawsuits, unnecessary regulation and onerous taxation. Mr. President, all these actions threaten our high technology, information age industry. It is my hope that we can work together to lessen the chance that they will be imposed on an industry that is central to our economic well-being.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. KYL], is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. KYL. Mr. President, I realize that the debate on the Labor-HHS conference report is supposed to begin at 1 o'clock.

I ask unanimous consent that Senator FAIRCLOTH and I each have 10 minutes as in morning business, subject to only Senator SPECTER changing that if he needs to during the course of our presentations. And, Mr. President, in addition, I ask that the Senator from Minnesota, Mr. GRAMS, have 5 minutes following Senator FAIRCLOTH.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KYL. Mr. President, I wanted to give a report to my colleagues on the status of the Medicare Beneficiary Freedom To Contract Act, the so-called Medicare private contracting issue, which has been before both the Senate and House for several weeks now following the adoption of the Balanced Budget Act, which contained in it a provision which makes it much more difficult for physicians to serve patients who want to contract outside of Medicare.

Let me briefly tell you what the problem is, the legislative status, and the resolution—at least as of now—that we have been able to accomplish.

The issue is whether or not physicians can serve both Medicare patients and people under private contracts who are 65 years of age. Once a person turns 65, of course, they are eligible for Medicare, and most of the services they can obtain are paid for by Medicare. But occasionally, either there is a service that is not covered by Medicare, or even sometimes services that are covered by Medicare that a patient would prefer to obtain from a physician outside of the Medicare Program.

For example, a constituent of mine had a condition that required the aid of a specialist in her small community. There were none available, except one person who was no longer taking Medicare patients. By the way, Mr. President, this is a common situation, because Medicare, especially for specialists, does not reimburse even up to their level of costs. So while many physicians don't want to dump their existing Medicare patient load and they want to continue to serve those patients they have been serving for a long time, they are not anxious to take on new Medicare patients. In this case, she went to the physician. He said he would be happy to take care of her, but he wasn't taking anymore Medicare patients. Her response was, "Well, I will just pay you directly. You bill me, and I will pay you. That way Medicare will save some money, and I will get the treatment I need, and you won't have to take new Medicare patients." He found that the Federal Government would have deemed that to be a violation of law and, therefore, he would have been precluded from providing the services.

It was in response to that kind of a problem that we created a piece of legislation that would allow patients who are 65 years of age to have the right to go to the physician of their choice and to be treated outside of the Medicare Program, if that is their choice. We passed that legislation here in the Senate. It became part of the Balanced Budget Act. And, before the act was finalized, the President indicated his desire to veto that legislation if that provision were retained. As a result, some changes were made, the most important of which was to add a provision to the act which makes it virtually impossible for patients to actually have the benefit of that freedom of choice. The provision was that a physician providing such services had to opt out of all Medicare treatment 2 years in advance.

In other words, patients still had the right to go to a physician. But any physician that provided those services could not provide any Medicare services for a period of 2 years. That meant that it was virtually impossible then for physicians to serve these particular patients.

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