

in 1985. In 1990, he received the Distinguished Alumni of Texas Tech honor and in 1992, the People of Vision Award. Mr. Chambers earned the Rita P. Harmon Volunteer Service Award from the United Way in 1995, the William Booth Award from the Salvation Army, and the Lubbock Chamber of Commerce Distinguished Citizen Award in 1998.

J.C. has been a local insurance sales agent at Massachusetts Mutual Life Insurance Company in Lubbock since 1957. He graduated Lubbock High School in 1950 and from Texas Tech University in 1954. J.C. volunteers out of a sense of responsibility to his community. Through his service, he has made the city of Lubbock and our society a better place to live. I would like to congratulate Mr. J.C. Chambers for his outstanding commitment to others.

THE INTRODUCTION OF H.R. , THE
TRADE ENHANCEMENT ACT OF 1999

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. LEVIN. Mr. Speaker, today, along with Representatives HOUGHTON and THURMAN, I am introducing the Trade Enhancement Act of 1999. This bill will strengthen the ability of the U.S. government to counteract foreign country measures that act as market access barriers to U.S. agricultural and manufactured goods and services. It will do this by updating section 301 of the Trade Act of 1974, as well as the Sherman Antitrust Act.

For 25 years, section 301 has been essential to the effective conduct of U.S. trade policy. Section 301 investigations by the Office of the U.S. Trade Representative ("USTR") have opened foreign markets for U.S. workers, farmers and businesses. These investigations have also led to negotiation of multilateral and bilateral agreements that liberalize trade, expand markets and strengthen rules of fair and open competition for manufactured and agricultural products and services, and improve protection of intellectual property rights. Today, benefits from these agreements flow not only to the United States, but to all WTO members.

Section 301 remains an important policy tool, even with the advent of binding dispute settlement in the WTO. As international trade and economic integration have grown, new barriers have arisen or have become more apparent. In a number of cases, neither U.S. laws nor WTO rules yet provide an adequate means for addressing such barriers. This bill identifies three significant gaps in the existing body of U.S. and WTO law and amends U.S. law to address foreign country barriers that exploit those gaps.

The first gap concerns market access barriers masquerading as health and safety measures. Such barriers come within the purview of the WTO Agreement on Sanitary and Phytosanitary Measures ("the SPS Agreement"). However, barriers in this sector have tended to proliferate in a fragmented way, which makes them difficult to challenge one at a time. WTO-inconsistent health and safety regulations often focus on individual products or narrow product categories. It is generally inefficient to take each one on independently. However, there is no mechanism under cur-

rent law to call attention to or challenge a series of regulations en bloc.

This bill begins to fill that gap by creating an "SPS Special 301" provision, modeled after the existing Special 301 for measures affecting intellectual property rights. It requires USTR to make an annual identification of the most onerous or egregious instances of foreign country trade barriers disguised as health and safety measures. As with Special 301 for intellectual property rights, identification of the priority foreign country SPS measures will trigger a requirement for USTR to undertake a section 301 investigation of those measures.

The bill also requires the President to take into account the extent to which a country's health and safety regulations are based on scientific evidence in determining that country's eligibility for benefits under the Generalized System of Preferences.

The second gap in current U.S. and WTO law concerns market access barriers that take the form of private anticompetitive conduct supported, fostered, or tolerated by a foreign government. For example, some governments delegate regulatory-type authority to trade associations, which are thereby able to engage in conduct that would violate the antitrust laws if engaged in by entities in the United States. These practices allow foreign producers to gain a regulatory advantage over exporters from the United States and other countries.

Neither current U.S. laws nor the rules of the WTO are equipped to address fully joint public-private market access barriers. Section 301 authorizes USTR to respond to certain foreign government measures, but does not refer expressly to some of the forms of conduct that make these barriers effective. Nor does section 301 authorize USTR to respond to the private activity component of these barriers.

U.S. antitrust law authorizes the Justice Department and Federal Trade Commission to address foreign anticompetitive conduct that harms U.S. exports, but this authority has rarely been exercised, and there is no requirement that it be exercised in appropriate cases.

Nor are WTO rules yet adequate to address joint public-private anticompetitive conduct. This was illustrated by the recent Japan-Film decision, in which the WTO declined to find that U.S. benefits under the WTO had been "nullified or impaired" due to a Japanese distribution regime that discriminated against imports, including U.S.-made photographic film and paper.

Joint public-private barriers flourish in environments where government rulemaking and administration are opaque. While WTO rules require transparency in these processes, the WTO to date has failed to apply its rules in a way that achieves that result. Also, the WTO rules are not designed to address the private component of joint public-private market access barriers.

The Trade Enhancement Act of 1999 begins to fill this second gap by upgrading the authority of USTR so that the agency is better able to respond to joint public-private market access barriers. It does this in two principal ways.

First, the bill broadens the definition of foreign conduct that will trigger USTR's authority to take responsive action. To the category of conduct requiring responsive action by USTR, the bill adds a foreign government's fostering of systematic anticompetitive activities. (Under

current law, a foreign government's toleration of systematic anticompetitive activities triggers USTR's discretionary authority to take responsive action.) The bill also makes clear that anticompetitive conduct triggering USTR's authority includes conduct coordinated between or among foreign countries (not just within a single foreign country) and conduct that has the effect of diverting goods to the U.S. market (not just conduct that keeps U.S. goods and services out of foreign markets).

Second, the bill establishes a mechanism for addressing the private components of joint public-private market access barriers. Under current law, at the conclusion of a section 301 investigation, USTR must determine whether the foreign country under investigation has engaged in conduct requiring or warranting responsive action. Under this bill, if that determination is affirmative, USTR will be required to make an additional determination, to wit: whether there is reason to believe that the conduct at issue involves anticompetitive conduct by any person or persons. If the latter determination is also affirmative, USTR will be required to refer the matter to the Department of Justice.

Upon referral of a matter from USTR, the Department of Justice will be required to undertake an investigation to determine whether there is reason to believe that any persons have violated the Sherman Antitrust Act. That investigation ordinarily will have to be completed within 180 days. An affirmative determination will require the Department either to commence an enforcement action against the alleged violators or explain to Congress its reasons for declining to do so.

The third gap in current law is the lack of any express penalty for foreign non-cooperation in the gathering of evidence relevant to an investigation of market access barriers. In recent years, there have been several instances in which a foreign government refused to cooperate with USTR in the conduct of a section 301 investigation or the enforcement of a bilateral trade agreement. In certain cases, these attempts to obstruct the conduct of an investigation extended even to refusing to meet with Cabinet-level and other senior Administration officials. These actions prevent the United States from developing a factual basis to understand and resolve important trade problems and issues and, in addition, contradict longstanding norms of diplomatic behavior.

The Trade Enhancement Act of 1999 begins to fill the third gap by creating a deterrent to non-cooperation in investigations of market access barriers. USTR will be authorized to draw an inference adverse to the interests of a foreign respondent in the event of non-cooperation in the provision of relevant evidence. The adverse inference would be limited to the issues on which the foreign government refused to cooperate. This sanction is modeled on discovery sanctions that courts and administrative bodies in the United States commonly apply.

Mr. Speaker, it is important that the agencies working to open foreign markets to U.S. goods, services, and capital be equipped with modern tools to address modern problems. It has been over a decade since these tools were last upgraded. In that time, the nature of foreign trade-impeding activity has changed. It has become more sophisticated. The tools used to defend U.S. rights ought to be equally sophisticated. Accordingly, I urge my colleagues to support this bill, and I urge that it

receive serious consideration by the committees of jurisdiction and by the full House.

TRIBUTE TO TOM SOUTHALL

HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. MCINNIS. Mr. Speaker, I would like to recognize a man who has been an inspiration to hundreds of young men and a legend amongst his colleagues within his own profession. Mr. Speaker, I am talking about Tom Southall, Steamboat Springs High School basketball coach and a recent inductee to the Colorado High School Activities Association Hall of Fame.

Tom is known as one of the best coaches in Colorado, as the facts clearly attest. He is the all-time winningest coach in the history of Colorado. While Tom is known to be a great coach, he is also known for being a man of great character and imparts his knowledge to his players. A mark of a good coach is the ability to make his players better. While Tom certainly fulfills that role, he also makes his players better people and teaches them about what it means to do things the right way.

While being the winningest coach in the history of Colorado is more than impressive, Tom not only understands sports as a coach, but also was a great athlete in his day. He was a four-year letterman in football, basketball and track. He was on a state championship team in football as the star running back. In track, he was a three time state champion. Besides his athletic prowess, Tom was also an intelligent student, member of the student council and participated in the school band. Mr. Speaker, Tom Southall should be used as a role model of what being a good coach and doing things the right way is all about.

PRESIDENT ABDURRAHMAN
WAHID TAKES IMPORTANT
STEPS TO STRENGTHEN DEMOC-
RACY AND CIVIL SOCIETY IN DE-
MOCRACY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. LANTOS. Mr. Speaker, this past week His Excellency Abdurrahman Wahid, the newly elected President of Indonesia, paid a brief visit to Washington, where he met with President Clinton and other officials of our government.

This was an important visit, Mr. Speaker, because it reflected the desire to strengthen Indonesia's relations with the United States. President Wahid—both in private in conversations with President Clinton and publicly in statements to the press and to friends of Indonesia who welcomed him to Washington—affirmed Indonesia's desire, as he said “to make sure that we are still great friends of the United States.” I am pleased that President Clinton affirmed our friendship with Indonesia and emphasized our interest in a stable, prosperous, and democratic Indonesia.

Mr. Speaker, I want to reaffirm my own commitment to strengthening our nation's rela-

tions with Indonesia. Indonesia is the fourth largest nation in the world, and it is a country that has recently taken the first important steps in the direction of greater democracy. The Indonesian elections held last June were an important step forward, the first democratic elections in Indonesia in nearly half a century. The next important step in strengthening democracy was the action of the Indonesian parliament just three weeks ago in voting to elect Abdurrahman Wahid as President of the country.

Mr. Speaker, in the few short weeks since President Wahid has been in office he has taken a number of important steps to strengthen democracy in his country. There are still difficulties ahead, but he has started out on the right foot, and it is in our interest to support his efforts.

The President has announced an effort to fight corruption, which has been one of the serious and persistent problems that faced Indonesia under its previous authoritarian leaders. Questions have been raised about certain actions of three members of President Wahid's cabinet. The President has announced that if the Attorney General finds evidence of corruption, the ministers will be investigated, charged, and relieved of office. That kind of integrity and moral leadership is what is required, and I believe President Wahid has these qualities.

Mr. Speaker, President Wahid has also sought to establish civilian control over the military—an important democratic principle. The President appointed a civilian as his Minister of Defense, the first civilian to hold such a position. Democratic control of the military has been a serious matter of concern in Indonesia. The military has played an important role in the integration of Indonesia, but it has also acted outside the control of elected officials, as was particularly evident in the mishandling of the referendum in East Timor. Decades of the precedent of the military acting independently and abusing the human rights of Indonesians will be difficult to reverse overnight, but the direction taken by the President is clearly the right one.

The President also has indicated his intention to speed the return of East Timorese refugees to their home. It is estimated that some 180,000 refugees from East Timor remain in Indonesian-controlled western Timor, but they have been unable or unwilling to return because of fear for their lives. The President's intention to see the return of these refugees reflects his pragmatic and principled interest in resolving this difficult issue.

President Wahid has also taken steps in the foreign policy area that reflect his desire to involve Indonesia more positively in the world. He has indicated his intention to establish trade relations with the State of Israel. Indonesia is the world's largest Muslim nation, and such a decision reflects a serious interest to change past practice in the face of considerable opposition. President Wahid has the authority and credibility to make such a decision, since his is a highly respected Muslim religious leader.

Mr. Speaker, I invite my colleagues to join me in welcoming the enlightened leadership of Indonesia's new President. In the few short weeks that he has been in office, he has taken a number of important steps to strengthen democracy, to improve economic conditions, to restore the rule of law, and to deal

with the difficult problems of his country. President Wahid assumes the leadership of this important country with integrity and a commitment to democratic values that we here in the United States admire and share. We wish him well in the challenges he faces, and we should work with him in meeting them.

THE WORLD MUST NOT FORGET SIKH POLITICAL PRISONERS IN INDIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. TOWNS. Mr. Speaker, India frequently boasts about its democratic institutions, so the world pays little attention to the abuses of human rights that go on there. Yet it has recently come out that there are thousands of political prisoners being held in “the world's largest democracy.”

These political prisoners are being held in illegal detention for their political opinions. Some have been held without charge or trial for 15 years. One known case is an 80-year-old man. Yes, India is holding an 80-year-old man in illegal detention for his political opinions.

What have these Sikhs done? They have spoken out for freedom for their people and an end to the violence against their people. They have spoken out against the repression and tyranny that have killed 250,000 Sikhs since 1984. In India, this is apparently a crime.

Other minority nations have also seen substantial numbers of their members taken as political prisoners by the democratic government of India. In addition, the Indian government has murdered over 200,000 Christians in Nagaland since 1947. Tens of thousands of people in Manipur, Assam, Tamil Nadu, and other areas have also died at the hands of the Indian government.

Mr. Speaker, why should the people of the United States support a government like this? The answer is that they shouldn't. Yet India remains one of the largest recipients of U.S. aid. That aid should be ended, Mr. Speaker. Perhaps then India will understand that it must respect human rights.

We should also make clear our strong support for the movement of self-determination for the minority peoples and nations of South Asia, such as the Sikh homeland of Punjab, Khalistan; the heavily-Muslim Kashmir; and Christian-majority Nagaland. Only by conducting a free and fair vote can real freedom come to the peoples and nations of South Asia.

I call on the President to press these important issues when he visits India next year. This is the only way to bring real stability, peace, freedom, and dignity to South Asia.

IN TRIBUTE TO THE HONORABLE THOMAS M. FOGLIETTA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. WOLF. Mr. Speaker, I want to bring to our colleagues' attention news about our