

the Curt Flood Act passed in 1998, and it inserts an inadvertently omitted period in the Year 2000 Information and Readiness Disclosure Act. Neither of these corrections makes any substantive change.

I believe that all of these provisions are noncontroversial and they will help clean up some underbrush in the antitrust laws and recommend that the House suspend the rules and pass the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I am pleased to join the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER) in support of these technical corrections to antitrust law.

The gentleman has described them adequately. There are six non-controversial changes. We are in total support. And I might add that we have had a very bipartisan experience in the Committee on the Judiciary during the period of time that we have been working on bills together, so I am happy to join with the chairman in support of the measure.

I am pleased to join the gentleman from Wisconsin (Mr. SENSENBRENNER) in support of H.R. 809, the "Antitrust Technical Corrections Act of 2001." The Chairman and I have worked together on this bill, and we have consulted with the Department of Justice Antitrust Division and the Federal Trade Commission Bureau of Competition to ensure that the technical changes made in the bill will improve the efficiency of our antitrust laws.

When the gentleman from Wisconsin and I met at the beginning of this Congress, he spoke about creating a more bi-partisan approach on the Judiciary Committee. I am gratified that his conciliatory words were followed up by deeds, and I hope that this is the kind of cooperative relationship we can look forward to throughout the 107th Congress.

To briefly summarize, H.R. 809 makes six non-controversial changes in our antitrust laws to repeal some out-dated provisions of the law, to clarify that our antitrust laws apply to the District of Columbia and to the Territories, and to make some needed grammatical and organizational changes.

The bill will permit depositions taken in Sherman Act equity cases brought by the government to be conducted in private—just as they are in all other types of cases. It also repeals a little-known and little-used provision that prohibits vessels from passing through the Panama Canal if the vessel's owner is violating the antitrust laws. With the return of the Canal to Panama in 1999, it is appropriate to repeal this outdated provision.

H.R. 809 also clarifies that Sherman Act's prohibitions on restraint of trade and monopolization apply to conduct occurring in the District of Columbia and the various territories of the United States. It also repeals a redundant jurisdiction and venue provision in Section 77 of the Wilson Tariff Act. Finally, the bill makes two minor grammatical and organizational changes to the antitrust laws.

Again, I want to thank the chairman for his bi-partisan approach on this legislation, and I urge its passage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to thank Chairman SENSENBRENNER, and Ranking Member CONYERS for their work in bringing H.R. 809, the "Antitrust Technical Corrections Act of 2001," before the House for consideration.

This bill seeks to make six technical corrections to United States antitrust laws. Three of these technical corrections repeal outdated provisions of the law, one clarifies a long existing ambiguity regarding the application of the law to the District of Columbia and the territories, one is organizational in nature, and one is grammatical. The Committee has informally consulted the antitrust enforcement agencies, the Antitrust Division of the Department of Justice and the Bureau of Competition of the Federal Trade Commission, and the agencies have indicated that they do not object to any of these changes. In response to written questions following the Committee's November 5, 1997 oversight hearing on the antitrust enforcement agencies, the Department of Justice recommended two of the repeals and the clarification contained in this bill.

Those provisions of the Sherman Antitrust Act, which deal with conspiracies regarding the establishment of monopolies have not been clearly defined as they relate to the District of Columbia. The changes being made by this legislation will make it clear that the District of Columbia and other U.S. territories are included under the preview of the Justice Department as it relates to Antitrust Law enforcement in the United States.

Finally, this legislation will repeal the redundant Antitrust Jurisdictional Provision in Section 77 of the Wilson Tariff Act. This repeal will not diminish any substantive rights because Section 4 of the Clayton Act provides any potential plaintiff with broader rights of jurisdiction and venue than does Section 77. This repeal will only rid the existing law of a confusing, redundant, and little used provision.

I am in support of these minor changes to our Nation's antitrust laws, and urge my colleagues on both sides of the aisle to vote in favor of this legislation.

Ms. NORTON. Mr. Speaker, I rise in strong support of H.R. 809, the Antitrust Technical Corrections Act of 2001. I want to thank Chairman SENSENBRENNER and Ranking Member CONYERS for their leadership in bringing this important corrective measure to the floor so early in the session. Because of the bill's beneficial impact on the District of Columbia and the territories, I am pleased to be an original cosponsor.

Section 2(c) of the Antitrust Technical Corrections Act would close a potentially dangerous loophole in the nation's antitrust laws with respect to the District of Columbia and the territories. Two of the most important provisions of the Sherman Act are 15 U.S.C. sections 1 and 2. Section 1 prevents conspiracy in restraint of trade and section 2 prevents monopoly, attempts to create a monopoly and conspiracy to create a monopoly. These provisions form the bedrock of our antitrust laws. However, section 3 of the Sherman Act, which was intended to apply these vital provisions to the District of Columbia and the territories, is ambiguous with respect to whether section 2, prohibiting monopolies, applies to these jurisdictions. Despite the ambiguous language in

section 3 of the Sherman Act, we believe that Congress clearly intended the nation's antitrust laws to apply not only to the states, but to the territories and the District of Columbia as well. This bill would clarify that intent.

The committee has found at least one instance in which the Department of Justice decided not to bring a potentially meritorious monopoly claim under section 2 of the Sherman Act because of the ambiguous language in section 3. Although this case occurred in the Virgin Islands and not the District, the Antitrust Technical Corrections Act is necessary to safeguard against a similar occurrence in the District and to ensure the seamless application of our antitrust laws not only throughout the nation but also in the territories and the nation's capital.

I thank the chairman and ranking member once again for their attention to this important matter and urge my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 809.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1100

#### MADRID PROTOCOL IMPLEMENTATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 741) to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes.

The Clerk read as follows:

H.R. 741

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Madrid Protocol Implementation Act".

#### SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following new title:

#### "TITLE XII—THE MADRID PROTOCOL

#### SEC. 60. DEFINITIONS.

"For purposes of this title:

"(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the

Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

“(2) BASIC APPLICATION.—The term ‘basic application’ means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

“(3) BASIC REGISTRATION.—The term ‘basic registration’ means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

“(4) CONTRACTING PARTY.—The term ‘Contracting Party’ means any country or intergovernmental organization that is a party to the Madrid Protocol.

“(5) DATE OF RECORDAL.—The term ‘date of recordal’ means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

“(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term ‘declaration of bona fide intention to use the mark in commerce’ means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

“(A) the applicant or holder has a bona fide intention to use the mark in commerce;

“(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce; and

“(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

“(7) EXTENSION OF PROTECTION.—The term ‘extension of protection’ means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

“(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A ‘holder’ of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

“(9) INTERNATIONAL APPLICATION.—The term ‘international application’ means an application for international registration that is filed under the Madrid Protocol.

“(10) INTERNATIONAL BUREAU.—The term ‘International Bureau’ means the International Bureau of the World Intellectual Property Organization.

“(11) INTERNATIONAL REGISTER.—The term ‘International Register’ means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

“(12) INTERNATIONAL REGISTRATION.—The term ‘international registration’ means the registration of a mark granted under the Madrid Protocol.

“(13) INTERNATIONAL REGISTRATION DATE.—The term ‘international registration date’ means the date assigned to the international registration by the International Bureau.

“(14) NOTIFICATION OF REFUSAL.—The term ‘notification of refusal’ means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

“(15) OFFICE OF A CONTRACTING PARTY.—The term ‘Office of a Contracting Party’ means—

“(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks; or

“(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

“(16) OFFICE OF ORIGIN.—The term ‘office of origin’ means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

“(17) OPPOSITION PERIOD.—The term ‘opposition period’ means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

**SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.**

“The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

“(1) is a national of the United States;

“(2) is domiciled in the United States; or

“(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Director.

**SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.**

“Upon the filing of an application for international registration and payment of the prescribed fees, the Director shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Director shall transmit the international application to the International Bureau.

**SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.**

“With respect to an international application transmitted to the International Bureau under section 62, the Director shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

“(1) within 5 years after the international registration date; or

“(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

**SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.**

“The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

“(1) directly with the International Bureau; or

“(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Director.

**SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.**

“(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

“(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

**SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.**

“(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

“(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

“(1) The international registration date, if the request for extension of protection was filed in the international application.

“(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

“(3) The date of priority claimed pursuant to section 67.

**SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.**

“The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

“(1) the international registration contained a claim of such priority; and

“(2) the international application contained a request for extension of protection to the United States; or

“(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

**SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.**

“(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described

in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Director shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

“(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

“(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

“(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

“(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Director shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

“(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Director shall transmit to the International Bureau any of the following that applies to such request:

“(A) A notification of refusal based on an examination of the request for extension of protection.

“(B) A notification of refusal based on the filing of an opposition to the request.

“(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

“(2) If the Director has sent a notification of the possibility of opposition under paragraph (1)(C), the Director shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

“(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Director after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

“(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Director shall issue a certificate of extension of protection pursuant to the request.

“(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Director.

#### “SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

“(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

“(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

“(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and

“(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

#### “SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

“(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

“(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

“(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

#### “SEC. 71. AFFIDAVITS AND FEES.

“(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director—

“(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Director, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an

affidavit under subsection (b) together with a fee prescribed by the Director; and

“(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Director, and at the end of each 10-year period thereafter, unless—

“(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; or

“(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Director.

“(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

#### “SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

“An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

#### “SEC. 73. INCONTESTABILITY.

“The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 69, except as provided in section 74.

#### “SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

“An extension of protection shall convey the same rights as an existing registration for the same mark, if—

“(1) the extension of protection and the existing registration are owned by the same person;

“(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

“(3) the certificate of extension of protection is issued after the date of the existing registration.”

#### “SEC. 3. EFFECTIVE DATE.

“This Act and the amendments made by this Act shall take effect on the date on which the Madrid Protocol (as defined in section 60(1) of the Trademark Act of 1946) enters into force with respect to the United States.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 741, the Madrid Protocol Implementation Act, and urge the House to pass the measure.

H.R. 741 is the implementing legislation for the Protocol Related to the Madrid Agreement on the Registration of Marks, commonly known as the Madrid Protocol. This bill is identical to legislation introduced in each of the preceding four Congresses and will again send a signal to the international business community, U.S. businesses and trademark owners that the 107th Congress is determined to help our Nation and particularly our small businesses become a part of an inexpensive, efficient system that allows the international registration of marks.

As a practical matter, Mr. Speaker, the ratification of the Protocol and the enactment of H.R. 741 will enable American trademark owners to pay a nominal fee to the U.S. Patent and Trademark Office which will then register the marks in the individual countries that comprise the European Union. Currently, American trademark owners must hire attorneys or agents in each individual country to acquire protection. This process is both laborious and expensive and discourages small businesses and individuals from registering their marks in Europe.

A final comment on an issue peripheral to this bill, Mr. Speaker. While there is no opposition to the bill, I note that two companies, Bacardi and Pernod, are in the process of attempting to settle a dispute over rights to a mark which each wishes to market. At least one of these companies believes that the implementing language should be amended to reflect its position on the matter. It is also my understanding that talks between the two companies are fluid and ongoing and that a resolution to this problem may be forthcoming in the near future.

I therefore urge my colleagues to pass this legislation today and to allow these talks to continue. Once a compromise is reached I am confident that the other body will shortly ratify the Protocol and pass the implementing language.

Mr. Speaker, H.R. 741 is an important and noncontroversial bill that will greatly help those American businesses and other individuals who need to register their trademarks overseas in a quick and cost-effective manner. I urge the House to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I support the bill. It has been described very adequately by the chairman of the Committee on the Judiciary.

I might remind our colleagues that we passed the bill by voice vote twice under suspension of the rules. It is an important measure because it implements the provisions of the 1989 Madrid Protocol, which creates a low-cost and efficient system for registering marks

internationally. The most important aspect of the Protocol is that it allows entities to file for mark protection with all member countries through one fee and one application. And so this international concept is an important one as we expand the understanding of the principles of copyright, trademark, and patent law around the world. I am very happy to join in support with the chairman of the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time.

The gentleman from Wisconsin and the gentleman from Michigan have pretty clearly laid out what this entails, Mr. Speaker. The World Intellectual Property Organization, WIPO, administers the Protocol, which in turn operates the international system for the registration of trademarks. This system would assist our businesses in protecting their proprietary names and brand name goods while saving cost, time and effort. This is especially important to our small businesses which may only be able to afford worldwide protection for their marks through a low-cost international registration system.

Unfortunately, and as the gentleman from Wisconsin alluded to in his remarks, Senate ratification of the Protocol and passage of the implementing language were derailed the last term as a result of a private dispute over a mark between Bacardi, the rum distiller, and Pernod, a French concern which formed a joint venture with the Cuban government. Although negotiations to develop an acceptable compromise failed, it is my understanding that the Senate and trademark community will redouble their efforts to resolve this problem during the present term.

Mr. Speaker, it is important to move this legislation forward as a way of encouraging all parties involved in the Bacardi dispute to intensify their negotiations. House consideration of the Protocol will also assure American trademark holders that the United States stands ready to benefit imminently from its ratification. As the chairman pointed out and as the gentleman from Michigan pointed out, this matter has been before this House, and I think we have approved it three times before.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. BERMAN), ranking member of the Subcommittee on Courts and Intellectual Property.

Mr. BERMAN. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

H.R. 741 is an important piece of legislation because it implements the Protocol to the Madrid Agreement Concerning the International Registration

of Marks. It will allow U.S. businesses and trademark owners to become part of a low-cost, efficient system to internationally register trademarks. U.S. membership in the Protocol would assist American businesses in protecting their proprietary names and brand name goods while saving money, time and effort. That is especially critical to small businesses that may otherwise lack the resources to acquire worldwide protection for their trademark.

This is the fourth Congress in which the Committee on the Judiciary has favorably reported, and I hope the House will pass this implementing legislation. In 1999, H.R. 769 passed by voice vote under suspension. While the Senate has failed to follow suit in the past, there is a reason to believe that this Congress will be different. A previous dispute over representation of the European community and its constituent nations has been resolved to the satisfaction of the State Department. Further, rum manufacturers embroiled in an unrelated trademark dispute have agreed not to interfere with House passage of this bill.

I urge my colleagues to join me in voting for H.R. 741.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H.R. 741, legislation known as the Madrid Protocol. I was pleased to support this legislation during a Judiciary Committee markup on March 8. The legislation concerning the Madrid Protocol advances U.S. interests in a bipartisan manner, and I urge my colleagues to support the bill.

As with many intellectual property rights, there are international agreements relating to the registration and protection of trademarks. Since 1891, the Madrid Agreement Concerning the International Registration of Marks ("Madrid Agreement") has provided an international registration system operated under the auspices of the International Bureau of the World Intellectual Property Organization (WIPO). The United States has never been a signatory to the Madrid Agreement.

On June 27, 1989, at a Diplomatic Conference in Madrid, Spain, the parties to the Madrid Agreement signed the Madrid Protocol. The United States was an observer and advisor to these talks. Practically speaking, there have been revisions to the original Madrid Agreement, in many respects by conforming its contents to existing provisions in U.S. law.

H.R. 741 represents implementing legislation for the Protocol. It is virtually identical to measures passed by the Congress over the past four Congresses, including H.R. 769, which was passed by voice vote under suspension of the rules on April 13, 1999, and reported favorably by the Judiciary Committee on March 24, 1999. In fact, the Clinton administration forwarded the treaty to the Senate for the ratification, thereby allowing the United States to become a member of the Protocol.

The passage of the bill will allow businesses and trademark owners to become part of a low-cost, efficient system to promote the international registration of marks. U.S. membership in the Protocol would also assist American businesses in protecting their proprietary names and brand-names while saving money, time, and effort. This is important for small businesses which may otherwise lack the resources to acquire worldwide protection for

their trademarks. Mr. Speaker, we must do everything we can to encourage small business to grow in this New Economy.

I urge my colleagues to support the legislation.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 741.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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**MULTIDISTRICT, MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 2001**

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 860) to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and to provide for Federal jurisdiction of certain multiparty, multiforum civil actions, as amended.

The Clerk read as follows:

H.R. 860

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Multidistrict, Multiparty, Multiforum Trial Jurisdiction Act of 2001".

**SEC. 2. MULTIDISTRICT LITIGATION.**

Section 1407 of title 28, United States Code, is amended—

(1) in the third sentence of subsection (a), by inserting "or ordered transferred to the transferee or other district under subsection (i)" after "terminated"; and

(2) by adding at the end the following new subsection:

"(i)(1) Subject to paragraph (2) and except as provided in subsection (j), any action transferred under this section by the panel may be transferred for trial purposes, by the judge or judges of the transferee district to whom the action was assigned, to the transferee or other district in the interest of justice and for the convenience of the parties and witnesses.

"(2) Any action transferred for trial purposes under paragraph (1) shall be remanded by the panel for the determination of compensatory damages to the district court from which it was transferred, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages."

**SEC. 3. MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.**

**(a) BASIS OF JURISDICTION.—**

(1) **IN GENERAL.**—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

**“§ 1369. Multiparty, multiforum jurisdiction**

"(a) **IN GENERAL.**—The district courts shall have original jurisdiction of any civil action

involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed \$150,000 per person, exclusive of interest and costs, if—

"(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

"(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

"(3) substantial parts of the accident took place in different States.

"(b) **LIMITATION OF JURISDICTION OF DISTRICT COURTS.**—The district court shall abstain from hearing any civil action described in subsection (a) in which—

"(1) the substantial majority of all plaintiffs are citizens of a single State of which the primary defendants are also citizens; and

"(2) the claims asserted will be governed primarily by the laws of that State.

"(c) **SPECIAL RULES AND DEFINITIONS.**—For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

"(3) the term 'injury' means—

"(A) physical harm to a natural person; and

"(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

"(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(d) **INTERVENING PARTIES.**—In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(e) **NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.**—A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action."

"(2) **CONFORMING AMENDMENT.**—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1369. Multiparty, multiforum jurisdiction."

(b) **VENUE.**—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1369 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place."

(c) **MULTIDISTRICT LITIGATION.**—Section 1407 of title 28, United States Code, as amended by section 2 of this Act, is further amended by adding at the end the following:

"(j)(1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1369 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

"(3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum."

(d) **REMOVAL OF ACTIONS.**—Section 1441 of title 28, United States Code, is amended—

(1) in subsection (e) by striking "(e) The court to which such civil action is removed" and inserting "(f) The court to which a civil action is removed under this section"; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1369 of this title; or

"(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.