

104TH CONGRESS
2D SESSION

H. R. 3812

To impose certain sanctions on countries that do not prohibit child labor.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 1996

Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. LANTOS, Mr. MORAN, Mr. KENNEDY of Massachusetts, and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose certain sanctions on countries that do not prohibit child labor.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Child
5 Labor Elimination Act of 1996”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Article 32 of the United Nations Convention
2 on the Rights of the Child recognizes “the right of
3 the child to be protected from economic exploitation
4 and from performing any work that is likely to be
5 hazardous or to interfere with the child’s education
6 or to be harmful to the child’s health or physical,
7 mental, spiritual, moral or social development.”.

8 (2) Article 2 of the International Labor Organi-
9 zation Convention 138, the Minimum Age Conven-
10 tion, states that the minimum age for admission to
11 employment or work “shall not be less than the age
12 of completion of compulsory schooling and, in any
13 case, shall not be less than 15 years.”.

14 (3) International Labor Organization Conven-
15 tion 29, the Forced Labor Convention, which has
16 been in effect since 1930, prohibits most forms of
17 “forced or compulsory labor”, including all forced
18 labor by people under the age of 18.

19 (4) Although it is among the most universally
20 condemned of all human rights abuses, child labor is
21 widely practiced. The International Labor Organiza-
22 tion has estimated the total number of child workers
23 to be between 100,000,000 and 200,000,000. More
24 than 95 percent of those child workers live in devel-
25 oping countries.

1 (5) The International Labor Organization has
2 estimated that 13.2 percent of all 10-to-14 year olds
3 around the world were economically active in 1995.
4 There are no reliable figures on workers under 10
5 years of age, though their numbers are known to be
6 significant. Reliable child labor statistics are not
7 readily available, in part because many governments
8 in the developing world are reluctant to document
9 those activities, which are often illegal under domes-
10 tic laws, which violate international standards, and
11 which may be perceived as a failure of internal pub-
12 lic policy.

13 (6) Notwithstanding international and domestic
14 prohibitions, many children in developing countries
15 are forced to work as debt-bonded and slave laborers
16 in hazardous and exploitative industries. According
17 to the United Nations Working Group on Contem-
18 porary Forms of Slavery and the International
19 Labor Organization, there are tens of millions of
20 child slaves in the world today. Large numbers of
21 those slaves are involved in agricultural and domes-
22 tic labor, the sex industry, the carpet and textile in-
23 dustries, and quarrying and brick making.

1 (7) In many countries, children lack either the
2 legal standing or the means to protect themselves
3 from cruelty and exploitation in the workplace.

4 (8) The employment of children often interferes
5 with the opportunities of such children for basic edu-
6 cation. Furthermore, where it coexists with high
7 rates of adult unemployment, the use of child labor
8 likely denies gainful employment to millions of
9 adults.

10 (9) While child labor is a vast, complex, and
11 multifaceted phenomenon that is tied to issues of
12 poverty, educational opportunity, and culture, its
13 most abusive and hazardous forms are repugnant to
14 basic human rights and must be eliminated.

15 **SEC. 3. IDENTIFICATION OF FOREIGN COUNTRIES AND IN-**
16 **DUSTRIES THAT USE CHILD LABOR IN PRO-**
17 **DUCING GOODS.**

18 (a) IDENTIFICATION OF COUNTRIES AND INDUS-
19 TRIES.—The Secretary of Labor shall, not later than 6
20 months after the date of the enactment of this Act, and
21 not later than the end of each 1-year period thereafter,
22 identify those foreign countries that do not prohibit child
23 labor, or that have laws prohibiting child labor but do not
24 effectively enforce them, and those industries in such
25 countries in which child labor is used. The Secretary may

1 revoke the identification of a country or an industry before
2 the end of the 1-year period during which the identifica-
3 tion would otherwise be effective, if revocation is war-
4 ranted by new information or a change in the laws or prac-
5 tices of a country.

6 (b) SANCTIONS.—The sanctions set forth in sections
7 4 and 5 shall apply with respect to those countries and
8 industries identified under subsection (a) for so long as
9 the identification is effective under such subsection.

10 (c) EXEMPTION.—The prohibition on imports under
11 section 4(a), the prohibition under section 5(a)(1) on fi-
12 nancing under the Export-Import Bank Act of 1945, and
13 the prohibition on multilateral assistance under section
14 5(a)(2) shall not apply to a business entity if it is estab-
15 lished to the satisfaction of the Secretary of Labor that
16 no goods produced by that entity are products of child
17 labor.

18 **SEC. 4. PROHIBITION ON IMPORTS.**

19 (a) PROHIBITION.—The Secretary of the Treasury
20 shall prohibit the entry of any manufactured article that
21 is a product of an industry identified under section 3(a).

22 (b) EXCEPTION.—Subsection (a) shall not apply to
23 the entry of a manufactured article—

24 (1) that is entered under any subheading in
25 subchapter IV or VI of chapter 98 (relating to per-

1 sonal exemptions) of the Harmonized Tariff Sched-
2 ule of the United States; or

3 (2) that was exported from the foreign country
4 in which the industry concerned is located and was
5 en route to the United States before the first day on
6 which the identification of the country and industry
7 was effective.

8 **SEC. 5. PROHIBITION ON ASSISTANCE FOR FOREIGN COUN-**
9 **TRIES THAT USE CHILD LABOR IN PRODUC-**
10 **ING GOODS.**

11 (a) PROHIBITION ON ASSISTANCE.—

12 (1) BILATERAL ASSISTANCE.—The President
13 may not provide United States assistance to a for-
14 eign country identified by the Secretary of Labor
15 under section 3(a).

16 (2) MULTILATERAL ASSISTANCE.—The Sec-
17 retary of the Treasury shall instruct the United
18 States Executive Director of each international fi-
19 nancial institution to use the voice and vote of the
20 United States to oppose any loan or other utilization
21 of the funds of their respective institution to or for
22 any industry identified by the Secretary of Labor
23 under section 3(a).

24 (b) EXCEPTION.—A foreign country or an industry
25 identified by the Secretary of Labor under section 3(a)

1 may receive United States assistance if the President de-
2 termines and certifies to the Congress that it is in the
3 vital national interest of the United States to provide such
4 assistance to such country or industry, as the case may
5 be. The President shall include in any such certification—

6 (1) a full and complete description of the vital
7 national interest of the United States that is placed
8 at risk if such assistance is not provided to such
9 country or industry; and

10 (2) a statement weighing the risk described in
11 paragraph (1) against the risk posed to the vital na-
12 tional interest of the United States by the failure of
13 such country to adopt or enforce laws prohibiting
14 child labor or by the use of child labor by such in-
15 dustry, as the case may be.

16 **SEC. 6. PENALTIES.**

17 (a) **UNLAWFUL ACTS.**—It is unlawful—

18 (1) to attempt to enter any manufactured arti-
19 cle that is a product of an industry if the entry is
20 prohibited under section 4(a); or

21 (2) to violate any regulation prescribed under
22 section 7.

23 (b) **CIVIL PENALTY.**—Any person who commits any
24 unlawful act set forth in subsection (a) is liable for a civil
25 penalty of not to exceed \$25,000.

1 (c) **CRIMINAL PENALTY.**—In addition to being liable
2 for a civil penalty under subsection (b), any person who
3 intentionally commits any unlawful act set forth in sub-
4 section (a) is, upon conviction, liable for a fine of not less
5 than \$10,000 and not more than \$35,000, or imprison-
6 ment for not more than 1 year, or both.

7 (d) **CONSTRUCTION.**—The violations set forth in sub-
8 section (a) shall be treated as violations of the customs
9 laws for purposes of applying the enforcement provisions
10 of the Tariff Act of 1930, including—

11 (1) the search, seizure, and forfeiture provi-
12 sions;

13 (2) section 592 (relating to penalties for entry
14 by fraud, gross negligence, or negligence); and

15 (3) section 619 (relating to compensation to in-
16 formers).

17 **SEC. 7. REGULATIONS.**

18 The President shall issue such regulations as are nec-
19 essary to carry out this Act.

20 **SEC. 8. UNITED STATES SUPPORT FOR DEVELOPMENTAL**
21 **ALTERNATIVES FOR UNDERAGE CHILD**
22 **WORKERS.**

23 There is authorized to be appropriated to the Presi-
24 dent the sum of \$10,000,000 for each of fiscal years 1997
25 through 2001 for a United States contribution to the

1 International Labor Organization for the activities of the
2 International Program on the Elimination of Child Labor.

3 **SEC. 9. DEFINITIONS.**

4 As used in this Act:

5 (1) CHILD LABOR.—The term “child labor”
6 means—

7 (A) services performed by an individual
8 who has not attained the age at which children
9 complete compulsory schooling under the na-
10 tional laws of the country concerned, or the age
11 of 15, whichever age is older, except for services
12 performed on a part-time basis by an individual
13 14 years of age or older that does not interfere
14 with the individual’s health or education, and

15 (B) services performed by an individual
16 under the age of 18 that would likely jeopardize
17 the health, safety, or moral character of a
18 young person,

19 in exchange for remuneration (regardless to whom
20 paid), subsistence, goods or services, or any com-
21 bination thereof, or under circumstances tantamount
22 to involuntary servitude.

23 (2) PRODUCT OF CHILD LABOR.—A manufac-
24 tured article shall be treated as being a product of
25 child labor if the article—

1 (A) was fabricated, assembled, or proc-
2 essed, in whole or part,

3 (B) contains any part that was fabricated,
4 assembled, or processed, in whole or in part, or

5 (C) was mined, quarried, pumped, or oth-
6 erwise extracted,

7 with child labor.

8 (3) ENTERED AND ENTRY.—The terms “en-
9 tered” and “entry” mean entry, or withdrawal from
10 warehouse for consumption, in the customs territory
11 of the United States.

12 (4) BUSINESS ENTITY.—The term “business
13 entity”—

14 (A) means any entity that produces a man-
15 ufactured article in a foreign country; and

16 (B) includes, but is not limited to, entities
17 owned or controlled in whole or in part by the
18 government of a foreign country.

19 (5) FOREIGN COUNTRY.—The term “foreign
20 country” means any foreign country and any posses-
21 sion or territory of a foreign country that is admin-
22 istered separately for customs purposes (and in-
23 cludes any designated zone within such country, pos-
24 session, or territory).

1 (6) INTERNATIONAL FINANCIAL INSTITU-
2 TION.—The term “international financial institu-
3 tion” means the International Bank for Reconstruc-
4 tion and Development, the International Develop-
5 ment Association, the Multilateral Investment Guar-
6 antee Agency, the Inter-American Development
7 Bank, the Asian Development Bank, the African De-
8 velopment Bank, the African Development Fund, the
9 International Monetary Fund, the European Bank
10 for Reconstruction and Development, and the Inter-
11 national Finance Corporation.

12 (7) MANUFACTURED ARTICLE.—The term
13 “manufactured article” means any good that is fab-
14 ricated, assembled, or processed. The term also in-
15 cludes any mineral resource (including any mineral
16 fuel) that is entered in a crude state. Any mineral
17 resource that at entry has been subjected to only
18 washing, crushing, grinding, powdering, levigation,
19 sifting, screening, or concentration by flotation,
20 magnetic separation, or other mechanical or physical
21 processes shall be treated as having been processed
22 for the purposes of this Act.

23 (8) UNITED STATES ASSISTANCE.—The term
24 “United States assistance” means—

1 (A) any assistance under the Foreign As-
2 sistance Act of 1961 (including programs under
3 title IV of chapter 2 of part I of such Act, re-
4 lating to the Overseas Private Investment Cor-
5 poration), other than—

6 (i) disaster relief assistance, including
7 any assistance under chapter 9 of part I of
8 such Act;

9 (ii) assistance which involves the pro-
10 vision of food (including monetization of
11 food) or medicine; and

12 (iii) assistance for refugees;

13 (B) sales, or financing on any terms, under
14 the Arms Export Control Act;

15 (C) the provision of agricultural commod-
16 ities, other than food, under the Agricultural
17 Trade Development and Assistance Act of
18 1954; and

19 (D) financing under the Export-Import
20 Bank Act of 1945.

21 (9) UNITED STATES ASSISTANCE TO A FOREIGN
22 COUNTRY.—The term “United States assistance to a
23 foreign country” includes any sales, financing, or
24 other assistance described in subsection (8) to or for
25 programs, projects, business ventures, or other ac-

1 tivities in the foreign country, whether or not such
2 assistance is received by the government of the for-
3 eign country.

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