

MONITORING OF PRODUCTS THAT ARE MADE WITH
FORCED LABOR

OCTOBER 31, 1997.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 2195]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2195) to provide for certain measures to increase monitoring of products of the People's Republic of China that are made with forced labor, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, and indentured labor in several countries.

(2) The United States Customs Service has actively pursued attempts to import products made with forced labor, resulting in seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) The United States Customs Service does not currently have the tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor that are destined for the United States market.

SEC. 2. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR.

There are authorized to be appropriated for monitoring by the United States Customs Service of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, \$2,000,000 for fiscal year 1999.

SEC. 3. REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Customs shall prepare and transmit to the Congress a report on products made with forced labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 or section 1761 of the title 18, United States Code, and is seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.

SEC. 4. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of the Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade which involves goods made with forced labor is frustrating implementation of the memorandum. Should an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor, including improved procedures to request investigations of suspected prison labor facilities by international monitors.

SEC. 5. DEFINITION OF FORCED LABOR.

As used in this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930.

Amend the title so as to read:

A bill to provide for certain measures to increase monitoring of products that are made with forced labor.

I. INTRODUCTION**A. PURPOSE AND SUMMARY**

H.R. 2195, as amended, would provide certain measures to increase the ability of the U.S. Customs Service (Customs) to identify, monitor, and interdict products made with forced labor that are destined for the United States market. First, the legislation would outline four findings relating to Customs resources, efforts,

and successes in interdicting products made with forced labor that are destined for the U.S. market. Second, the legislation would authorize \$2 million of appropriations for fiscal year 1999 for Customs to monitor and interdict products made with forced labor that are destined for the U.S. market. Third, the legislation would require Customs to report, one year after the date of enactment, on the following: the extent of the use of forced labor in products destined for the U.S. market; the volume of products made with forced labor destined for the U.S. market; and, the progress of Customs in identifying and interdicting products made with forced labor destined for the U.S. market. Fourth, the legislation would outline the sense of the Congress that the President should determine whether any country with whom the U.S. has a memorandum of understanding (MOU) on forced labor is frustrating implementation of the MOU. Should an affirmative determination be made, it is the further sense of the Congress that the President should renegotiate a new MOU with new procedures for identifying forced labor products, including improved procedures to request investigations of suspected prison labor facilities by international monitors. Lastly, the legislation would clarify that the term “forced labor” as used in this Act means convict labor, forced labor, and indentured labor as used in section 307 of the Tariff Act of 1930, and does not expand the meaning of those terms.

B. BACKGROUND AND NEED FOR LEGISLATION

The Committee on Ways and Means has historically used the budget authorization process to provide Customs with policy direction as its plans its budget, as well as guidance from the Committee for the appropriations process. The statutory basis for the authorization of appropriations for Customs is section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)). The most recent authorization of appropriations for Customs was included in the Customs and Trade Act of 1990 [P.L. 101–382]. These authorizations expired at the end of fiscal year (FY) 1992. H.R. 2195, as amended, would provide an additional \$2 million authorization of appropriations for FY 1999 for Customs to identify, monitor, and interdict products made with forced labor that are destined for the U.S. market.

C. LEGISLATIVE HISTORY

Committee bill

H.R. 2195, was introduced by Mr. Smith of New Jersey, on July 17, 1997, and was referred to the Committee on Ways and Means and, in addition, to the Committee on International Relations.

The Committee on Ways and Means met to consider H.R. 2195, on October 1, 1997. The Committee ordered the bill favorably reported, with an amendment in nature of a substitute by Chairman Archer, by voice vote, with a quorum present.

The Committee previously considered related legislation. On March 13, 1997, the Subcommittee on Trade of the Committee on Ways and Means met to consider a draft bill to authorize appropriations for fiscal years (FY) 1998 and 1999 for the U.S. Customs Service (Customs), the Office of the U.S. Trade Representative

(USTR), and the U.S. International Trade Commission (ITC) and ordered the draft bill to be favorably reported by voice vote, without amendment with a quorum present.

The Subcommittee reported bill was introduced as H.R. 1463 by Mr. Crane of Illinois, Chairman of the Subcommittee on Trade, Committee on Ways and Means, on April 28, 1997, and was subsequently referred to the Committee on Ways and Means. The Committee on Ways and Means met to consider H.R. 1463 on April 30, 1997, and ordered it favorably reported, as amended, by voice vote, with a quorum present. On May 6, 1997, H.R. 1463 passed the House of Representatives. No further action has been taken in the Senate.

Legislative hearing

The Subcommittee on Trade of the Committee on Ways and Means held a public hearing on March 11, 1997 on budget authorizations for FY 1998 and FY 1999 for Customs, the Office of the U.S. Trade Representative, and the U.S. International Trade Commission. Representatives from Customs testified as well as private sector witnesses.

II. EXPLANATION OF PROVISIONS

A. FINDINGS (SEC. 1)

Present law

There is currently no findings provision in the law relating to Customs' activities in identifying and interdicting products made with forced labor.

Explanation of provision

Sec. 1 outlines four findings relating to Customs resources, efforts, and successes in identifying and interdicting products made with forced labor destined for the U.S. market.

Reasons for change

The findings would clarify the Committee's policy objectives with regard to authorizing appropriations for FY 1999 for Customs to increase monitoring of products made with forced labor destined for the U.S. market.

Effective date

The provision would be effective upon enactment.

B. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR (SEC 2)

Present law

The statutory basis for the authorizations of appropriations for Customs is section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)). The most recent authorization of appropriations for Customs was included in the Customs and Trade Act of 1990 [P.L. 101-382]. These authorizations expired at the end of FY 1992. Appropriations for Customs for FY

1997 were included in P.L. 104–208, making omnibus consolidated appropriations for the fiscal year ending September 30, 1997.

Section 2 would authorize \$2 million of appropriations for FY 1999 for monitoring by Customs of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) or section 1761, United States Code (18 U.S.C. 1761) relating to crimes and criminal procedures for the transportation or importation of prison-made goods.

Reasons for change

The Committee has historically supported Customs' efforts in identifying and interdicting merchandise made under conditions of forced labor. Customs has in place teams of agents and inspectors on our borders, as well as attachés in our embassies abroad working actively to prevent products made with forced labor from entering the U.S. market. These activities have resulted in specific formal administrative actions, as well as detention orders, seizures, fines, and criminal proceedings. H.R. 2195, as amended, would authorize additional resources for Customs to investigate and obtain the verification necessary to identify and interdict products made with forced labor. The Committee feels that these resources are necessary to support a more effective policy for Customs' enforcement of provisions relating to forced labor in existing statutes.

Effective date

The provision would be effective upon enactment.

C. REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET (SEC. 3)

Present law

Customs currently has no specific statutory Congressional reporting requirements concerning its activities in enforcing the law with regard to products made with forced labor destined for the U.S. market.

Explanation of provision

Section 3 would require that, not later than one year after the date of enactment, the Commissioner of Customs transmits to Congress a report on products made with forced labor that are destined for the U.S. market. The report would contain information including: the extent of the use of forced labor in manufacturing products destined for the U.S. market; the volume of such imports seized by Customs under section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code; and, Customs' progress in identifying and interdicting products made with forced labor that are destined for the U.S. market.

Reason for change

The reporting requirements would provide the Committee with information in the future for evaluating Customs' use of the resources authorized by this bill.

Effective date

The provision would be effective upon enactment.

D. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED
LABOR (SEC. 4)

Present law

No provision.

Explanation of provision

Section 4 of H.R. 2195, as amended, would outline the sense of the Congress that the President should determine whether any country with which the U.S. has a memorandum of understanding (MOU) with respect to reciprocal trade involving goods made with forced labor is frustrating implementation of the MOU. Should an affirmative determination be made, it would be the sense of the Congress that the President should immediately begin negotiations to replace the current MOU with one providing for effective procedures for monitoring products made with forced labor, including improved procedures to request investigations of suspected prison labor facilities by international monitors.

Reason for change

The Committee feels that the President should undertake a determination as to whether any country with which the U.S. has an MOU with respect to trade in forced labor products is implementing the terms of the MOU. The Committee also feels that, should a determination be made that a country is frustrating the implementation of the MOU, the President should renegotiate that MOU to improve procedures for monitoring forced labor products and requesting investigations of suspected prison labor facilities by international monitors.

Effective date

The provision would be effective upon enactment.

E. DEFINITION OF FORCED LABOR (SEC. 5)

Present law

Section 307 of the Tariff Act of 1930 prohibits the importation of all goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions. The provision does not apply to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced or manufactured in such quantities in the United States as to meet the consumptive demands of the United States. "Forced labor" is specifically defined in the statute to mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

Explanation of provision

Section 5 would clarify that the term “forced labor” as used in this Act means convict labor, forced labor, and indentured labor as used in section 307 of the Tariff Act of 1930, and does not amend the terms or definitions used in that section.

Reason for change

The Committee feels that this clarification is necessary to ensure that H.R. 2195, as amended, would not be construed as changing the meaning of the terms and definitions used in section 307 of the Tariff Act of 1930, and is coextensive with the coverage of that Act.

Effective date

The provision would be effective upon enactment.

III. VOTE OF THE COMMITTEE

In compliance with clause 2(1)(2)(B) of the Rules of the House of Representatives, the following statement is made concerning the votes of the Committee in its consideration of the bill H.R. 2195, as amended.

Motion to report the bill

The bill H.R. 2195 was ordered favorably reported, as amended, by voice vote on October 1, 1997, with a quorum present.

IV. BUDGET EFFECTS**A. COMMITTEE ESTIMATE ON BUDGETARY EFFECTS**

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of H.R. 2195, as amended. The Committee agrees with the estimate prepared by the Congressional Budget Office, which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with subdivision (B) of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, the Committee states that the provisions of H.R. 2195, as amended, do not involve any increase or decrease in revenues or tax expenditures, and authorizes an additional \$2 million to the United States Customs Service, subject to appropriation.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with subdivision (C) of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided:

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, October 3, 1997.

Hon. BILL ARCHER,
 Chairman, Committee on Ways and Means,
 Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2195, a bill to provide for certain measures to increase monitoring of products that are made with forced labor.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director*.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to subdivision (A) of clause 2(1)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's oversight activities concerning the budget authorizations for Customs, that the Committee concluded that it is appropriate to enact the provisions contained in the bill.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to subdivision (D) of clause 2(1)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform and Oversight with respect to the provisions contained in this bill.

C. CONSTITUTIONAL AUTHORITY STATEMENT

H.R. 2195—A bill to provide for certain measures to increase monitoring of products that are made with forced labor

Summary: H.R. 2195 would authorize the appropriation of \$2 million for fiscal year 1999 for the United States Customs Service to monitor the importation of products made with forced labor. The bill also would require the Customs Service to prepare a report on products made with forced labor that are destined for the U.S. market.

Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 2195 would result in additional discretionary spending of \$2 million over fiscal years 1999 and 2000. This legislation would not affect direct spending and receipts, so pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: For the purposes of this estimate, CBO assumes that the amount authorized in H.R. 2195 would be appropriated by the start of fiscal year 1999 and that estimated outlays would follow the historical spending pattern for the authorized activities. We estimate that completing the report required by the bill would have no significant cost. The estimated budgetary impact of H.R. 2195 is shown in the following table.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION					
Authorization level		2.0			
Estimated outlays		1.8	0.2		

The costs of this legislation fall within budget function 750 (administration of justice).

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 2195 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Mark Grabowicz.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

VI. LETTER FROM COMMITTEE ON INTERNATIONAL RELATIONS

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 30, 1997.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
Washington, DC.

DEAR MR. CHAIRMAN: I write with respect to tomorrow's scheduled mark up by the Committee on Ways and Means of H.R. 2195, the Laogai Slave Labor Products Act of 1997.

The amendment in the nature of a substitute to be considered by your Committee makes modifications to the provisions included in the introduced version of H.R. 2195 which are within the exclusive jurisdiction of the Committee on International Relations. I have agreed to those modifications, however, and accordingly do not object to the Committee on Ways and Means proceeding with consideration of an amendment in the nature of a substitute.

My agreement to the consideration by your Committee of these modification is, of course, without prejudice to the jurisdiction of

this Committee as set forth in Rule X of the Rules of the House of Representatives.

I appreciated your assistance in this matter and look forward to working with you in the Committee on Rules and on the House floor to pass legislation regarding China.

With best wishes,
Sincerely,

BENJAMIN A. GILMAN, *Chairman.*

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