

105TH CONGRESS
1ST SESSION

H. R. 1328

To prohibit the importation of goods produced abroad with child labor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1997

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Ways and Means, 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 prohibit the importation of goods produced abroad with child labor, and for other purposes.

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 “Child Labor Deter-
5 rence Act of 1997”.

6 **SEC. 2. FINDINGS, PURPOSE, AND POLICY.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Principle 9 of the Declaration of the Rights
9 of the Child proclaimed by the General Assembly of

1 the United Nations on November 20, 1959, states
2 that “. . . the child shall not be admitted to employ-
3 ment before an appropriate minimum age; he shall
4 in no case be caused or permitted to engage in any
5 occupation or employment which would prejudice his
6 health or education, or interfere with his physical,
7 mental, or moral development . . .”.

8 (2) Article 2 of the International Labor Con-
9 vention No. 138 Concerning Minimum Age For Ad-
10 mission to Employment states that, “The minimum
11 age specified in pursuance of paragraph 1 of this ar-
12 ticle shall not be less than the age of compulsory
13 schooling and, in any case, shall not be less than 15
14 years.”.

15 (3) According to the International Labor Orga-
16 nization, worldwide an estimated 200,000,000 chil-
17 dren under the age of 15 are working, many of them
18 in dangerous industries like mining and fireworks.

19 (4) Children under the age of 15 constitute ap-
20 proximately 11 percent of the workforce in some
21 Asian countries, 17 percent in parts of Africa, and
22 a reported 12 to 26 percent in many countries in
23 Latin America.

24 (5) The number of children under the age of 15
25 who are working, and the scale of their suffering, in-

1 crease every year, despite the existence of more than
2 20 International Labor Organization conventions on
3 child labor and laws in many countries which pur-
4 portedly prohibit the employment of underage chil-
5 dren.

6 (6) In many countries, children under the age
7 of 15 lack either the legal standing or means to pro-
8 tect themselves from exploitation in the workplace.

9 (7) The prevalence of child labor in many devel-
10 oping countries is rooted in widespread poverty that
11 is attributable to unemployment and underem-
12 ployment, precarious incomes, low living standards,
13 and insufficient education and training opportunities
14 among adult workers.

15 (8) The employment of children under the age
16 of 15 commonly deprives the children of the oppor-
17 tunity for basic education and also denies gainful
18 employment to millions of adults.

19 (9) The employment of children under the age
20 of 15, often at pitifully low wages, undermines the
21 stability of families and ignores the importance of
22 increasing jobs, aggregated demand, and purchasing
23 power among adults as a catalyst to the development
24 of internal markets and the achievement of broad-

1 based, self-reliant economic development in many de-
2 veloping countries.

3 (b) PURPOSE.—The purpose of this Act is to curtail
4 the employment of children under the age of 15 in the
5 production of goods for export by—

6 (1) eliminating the role of the United States in
7 providing a market for foreign products made by un-
8 derage children;

9 (2) supporting activities and programs to ex-
10 tend primary education, rehabilitation, and alter-
11 native skills training to underage child workers, to
12 improve birth registration, and to improve the scope
13 and quality of statistical information and research
14 on the commercial exploitation of children in the
15 workplace; and

16 (3) encouraging other nations to join in a ban
17 on trade in products described in paragraph (1) and
18 to support those activities and programs described in
19 paragraph (2).

20 (c) POLICY.—It is the policy of the United States—

21 (1) to discourage actively the employment of
22 children under the age of 15 in the production of
23 goods for export or domestic consumption;

24 (2) to strengthen and supplement international
25 trading rules with a view to renouncing the use of

1 underage children in production as a means of com-
2 peting in international trade;

3 (3) to prohibit the entry into the United States
4 of products resulting from the labor of underage
5 children; and

6 (4) to offer assistance to foreign countries to
7 improve the enforcement of national laws prohibiting
8 the employment of children under the age of 15 and
9 to increase assistance to alleviate the underlying
10 poverty that is often the cause of the commercial ex-
11 ploitation of children under the age of 15.

12 **SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTER-**
13 **NATIONAL TRADE IN PRODUCTS OF CHILD**
14 **LABOR.**

15 In pursuit of the policy set forth in this Act, the
16 President is urged to seek an agreement with governments
17 that conduct trade with the United States for the purpose
18 of securing an international ban on trade in the products
19 of child labor.

20 **SEC. 4. IDENTIFICATION OF FOREIGN INDUSTRIES AND**
21 **THEIR RESPECTIVE HOST COUNTRIES THAT**
22 **UTILIZE CHILD LABOR IN EXPORT OF GOODS.**

23 (a) IDENTIFICATION OF INDUSTRIES AND HOST
24 COUNTRIES.—The Secretary of Labor (hereafter in this
25 section referred to as the “Secretary”) shall undertake

1 periodic reviews using all available information, including
2 information made available by the International Labor Or-
3 ganization and human rights organizations (the first such
4 review to be undertaken not later than 180 days after the
5 date of the enactment of the Act), to identify any foreign
6 industry that—

7 (1) does not comply with the applicable national
8 laws prohibiting child labor in the workplace;

9 (2) utilizes child labor in the export of products;
10 and

11 (3) has on a continuing basis exported to the
12 United States manufactured articles that are prod-
13 ucts of child labor.

14 For purposes of this Act, the identification of a foreign
15 industry shall be treated as also being an identification
16 of the host country in which the foreign industry is lo-
17 cated.

18 (b) PETITIONS REQUESTING IDENTIFICATION.—

19 (1) FILING.—Any person may file a petition
20 with the Secretary requesting that a particular for-
21 eign industry and its host country be identified
22 under subsection (a). The petition must set forth the
23 allegations in support of the request.

1 (2) ACTION ON RECEIPT OF PETITION.—Not
2 later than 180 days after receiving a petition under
3 paragraph (1), the Secretary shall—

4 (A) decide whether or not the allegations
5 in the petition warrant further action by the
6 Secretary in regard to the foreign industry and
7 its host country under subsection (a); and

8 (B) notify the petitioner of the decision
9 under subparagraph (A) and the facts and rea-
10 sons supporting the decision.

11 (c) CONSULTATION AND COMMENT.—Prior to identi-
12 fying a foreign industry and its host country under sub-
13 section (a), the Secretary shall—

14 (1) consult with the United States Trade Rep-
15 resentative, the Secretary of State, the Secretary of
16 Commerce, and the Secretary of the Treasury re-
17 garding such action;

18 (2) hold at least 1 public hearing within a rea-
19 sonable time for the receipt of oral comment from
20 the public regarding such a proposed identification;

21 (3) publish notice in the Federal Register—

22 (A) that such an identification is being
23 considered;

24 (B) of the time and place of the hearing
25 scheduled under paragraph (2); and

1 (C) inviting the submission within a rea-
2 sonable time of written comment from the pub-
3 lic; and

4 (4) take into account the information obtained
5 under paragraphs (1), (2), and (3).

6 (d) REVOCATION OF IDENTIFICATION.—

7 (1) IN GENERAL.—Subject to paragraph (2),
8 the Secretary may revoke the identification of any
9 foreign industry and its host country under sub-
10 section (a) if information available to the Secretary
11 indicates that such action is appropriate.

12 (2) REPORT OF SECRETARY.—No revocation
13 under paragraph (1) may take effect earlier than the
14 60th day after the date on which the Secretary sub-
15 mits to the Congress a written report—

16 (A) stating that in the opinion of the Sec-
17 retary the foreign industry and host country
18 concerned do not utilize child labor in the ex-
19 port of products; and

20 (B) stating the facts on which such opinion
21 is based and any other reason why the Sec-
22 retary considers the revocation appropriate.

23 (3) PROCEDURE.—No revocation under para-
24 graph (1) may take effect unless the Secretary—

1 (A) publishes notice in the Federal Reg-
2 ister that such a revocation is under consider-
3 ation and inviting the submission within a rea-
4 sonable time of oral and written comments from
5 the public on the revocation; and

6 (B) takes into account the information re-
7 ceived under subparagraph (A) before preparing
8 the report required under paragraph (2).

9 (e) PUBLICATION.—The Secretary shall—

10 (1) promptly publish in the Federal Register—

11 (A) the name of each foreign industry and
12 its host country identified under subsection (a);

13 (B) the text of each decision made under
14 subsection (b)(2)(A) and a statement of the
15 facts and reasons supporting the decision; and

16 (C) the name of each foreign industry and
17 its host country with respect to which an identi-
18 fication has been revoked under subsection (d);
19 and

20 (2) maintain in the Federal Register a current
21 list of all foreign industries and their respective host
22 countries identified under subsection (a).

23 **SEC. 5. PROHIBITION ON ENTRY.**

24 (a) PROHIBITION.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), during the effective identification period
3 for a foreign industry and its host country the Sec-
4 retary may not permit the entry of any manufac-
5 tured article that is a product of that foreign indus-
6 try.

7 (2) EXCEPTION.—Paragraph (1) shall not
8 apply to the entry of a manufactured article—

9 (A) for which a certification that meets the
10 requirements of subsection (b) is provided and
11 the article, or the packaging in which it is of-
12 fered for sale, contains, in accordance with reg-
13 ulations prescribed by the Secretary, a label
14 stating that the article is not a product of child
15 labor;

16 (B) that is entered under any subheading
17 in subchapter IV or VI of chapter 98 (relating
18 to personal exemptions) of the Harmonized
19 Tariff Schedule of the United States; or

20 (C) that was exported from the foreign in-
21 dustry and its host country and was en route
22 to the United States before the first day of the
23 effective identification period for such industry
24 and its host country.

1 (b) CERTIFICATION THAT ARTICLE IS NOT A PROD-
2 UCT OF CHILD LABOR.—

3 (1) FORM AND CONTENT.—The Secretary shall
4 prescribe the form and content of documentation, for
5 submission in connection with the entry of a manu-
6 factured article, that satisfies the Secretary that the
7 exporter of the article in the host country, and the
8 importer of the article into the customs territory of
9 the United States, have undertaken reasonable steps
10 to ensure, to the extent practicable, that the article
11 is not a product of child labor.

12 (2) REASONABLE STEPS.—For purposes of
13 paragraph (1), “reasonable steps” include—

14 (A) in the case of the exporter of an article
15 in the host country—

16 (i) having entered into a contract with
17 an organization described in paragraph (4)
18 in that country for allowing inspections for
19 the purpose of certifying that the article is
20 not a product of child labor, and that a
21 label, protected under the copyright or
22 trademark laws of the host country, that
23 contains such certification is affixed to the
24 article; and

1 (ii) having affixed to the article a
2 label described in clause (i); and

3 (B) in the case of the importer of an arti-
4 cle into the customs territory of the United
5 States, having required the certification and
6 label described in subparagraph (A) in the
7 agreement setting forth the terms and condi-
8 tions of the acquisition or provision of the im-
9 ported article.

10 (3) WRITTEN EVIDENCE.—The documentation
11 required by the Secretary under paragraph (1) shall
12 include written evidence that the reasonable steps
13 set forth in paragraph (2) have been taken.

14 (4) CERTIFYING ORGANIZATIONS.—The Sec-
15 retary shall compile and maintain a list of independ-
16 ent professional, internationally credible organiza-
17 tions, in any host country identified under section 4,
18 that have been established for the purpose of con-
19 ducting inspections, certifying, and labelling that
20 manufactured articles to be exported from that
21 country are not products of child labor. Each such
22 organization may consist of, but not be limited to,
23 representatives of nongovernmental child welfare or-
24 ganizations, manufacturers, exporters, national gov-
25 ernments, and neutral international organizations.

1 **SEC. 6. PENALTIES.**

2 (a) UNLAWFUL ACTS.—It is unlawful—

3 (1) during the effective identification period ap-
4 plicable to a foreign industry and its host country,
5 to attempt to enter any manufactured article that is
6 a product of that industry if the entry is prohibited
7 under section 5(a)(1); or

8 (2) to violate any regulation prescribed under
9 section 7.

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

13 (c) CRIMINAL PENALTY.—In addition to being liable
14 for a civil penalty under subsection (b), any person who
15 intentionally commits any unlawful act set forth in sub-
16 section (a) shall be fined in an amount of not less than
17 \$10,000 and not more than \$35,000, or imprisoned for
18 not more than 1 year, or both.

19 (d) CONSTRUCTION.—The violations set forth in sub-
20 section (a) shall be treated as violations of the customs
21 laws for purposes of applying the enforcement provisions
22 of the Tariff Act of 1930, including—

23 (1) the search, seizure, and forfeiture provi-
24 sions;

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

1 (3) section 619 (relating to compensation to in-
2 formers).

3 **SEC. 7. REGULATIONS.**

4 The Secretary shall prescribe such regulations as are
5 necessary or appropriate to carry out this Act.

6 **SEC. 8. DEFINITIONS.**

7 For the purposes of this Act:

8 (1) **MANUFACTURED ARTICLE.**—A manufac-
9 tured article shall be treated as being a product of
10 child labor if the article—

11 (A) was fabricated, assembled, or proc-
12 essed, in whole or part,

13 (B) contains any part that was fabricated,
14 assembled, or processed, in whole or in part, or

15 (C) was mined, quarried, pumped, or oth-
16 erwise extracted,

17 by one or more children who engaged in the fabrica-
18 tion, assembly, processing, or extraction—

19 (i) in exchange for remuneration (regard-
20 less of to whom paid), subsistence, goods or
21 services, or any combination of the foregoing;

22 (ii) under circumstances tantamount to in-
23 voluntary servitude; or

1 (iii) under exposure to toxic substances or
2 working conditions otherwise posing serious
3 health hazards.

4 (2) CHILD.—The term “child” means—

5 (A) an individual who has not attained the
6 age of 15, as measured by the Julian calendar;
7 or

8 (B) an individual who has not attained the
9 age of 14, as measured by the Julian calendar,
10 in the case of a host country identified under
11 section 4 whose national laws define a child as
12 such an individual.

13 (3) EFFECTIVE IDENTIFICATION PERIOD.—The
14 term “effective identification period” means, with re-
15 spect to a foreign industry or country, the period
16 that—

17 (A) begins on the date of that issue of the
18 Federal Register in which the identification of
19 the foreign industry or country is published
20 under section 4(e)(1)(A); and

21 (B) terminates on the date of that issue on
22 the Federal Register in which the revocation of
23 the identification referred to in subparagraph
24 (A) is published under section 4(e)(1)(C).

1 (4) ENTRY; ENTERED.—The terms “entry” and
2 “entered” mean entry or entered, or withdrawal or
3 withdrawn from warehouse for consumption, in the
4 customs territory of the United States.

5 (5) FOREIGN INDUSTRY.—The term “foreign
6 industry” includes any entity that produces a manu-
7 factured article in a host country.

8 (6) HOST COUNTRY.—The term “host country”
9 means any foreign country and any possession or
10 territory of a foreign country that is administered
11 separately for customs purposes (and includes any
12 designated zone within such country, possession, or
13 territory) in which a foreign industry is located.

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

1 (8) SECRETARY.—The term “Secretary”, except
2 for purposes of section 4, means the Secretary of the
3 Treasury.

4 **SEC. 9. UNITED STATES SUPPORT FOR DEVELOPMENTAL**
5 **ALTERNATIVES FOR UNDERAGE CHILD**
6 **WORKERS.**

7 In order to carry out section 2(c)(4), there is author-
8 ized to be appropriated to the President the sum of—

9 (1) \$10,000,000 for each of fiscal years 1998
10 through 2002 for a United States contribution to
11 the International Labor Organization for the activi-
12 ties of the International Program on the Elimination
13 of Child Labor; and

14 (2) \$100,000 for fiscal year 1998 for a United
15 States contribution to the United Nations Commis-
16 sion on Human Rights for those activities relating to
17 bonded child labor that are carried out by the Sub-
18 committee and Working Group on Contemporary
19 Forms of Slavery.

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