

105TH CONGRESS
1ST SESSION

S. 340

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 1997

Mr. HARKIN (for himself, Mr. CONRAD, Mr. KENNEDY, Mr. DORGAN, Ms. MIKULSKI, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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.—Congress makes the following find-
8 ings:

9 (1) Principle 9 of the Declaration of the Rights
10 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 of the workforce in parts
22 of Africa, and a reported 12–26 percent of the
23 workforce in many countries in Latin America.

1 (5) The number of children under the age of 15
 2 who are working, and the scale of their suffering, in-
 3 crease every year, despite the existence of more than
 4 20 International Labor Organization conventions on
 5 child labor and laws in many countries which pur-
 6 portedly prohibit the employment of under age chil-
 7 dren.

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

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

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

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

1 of internal markets and the achievement of
2 broadbased, self-reliant economic development in
3 many developing countries.

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

7 (1) eliminating the role of the United States in
8 providing a market for foreign products made by
9 under age children;

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

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

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

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

1 (2) to strengthen and supplement international
2 trading rules with a view to renouncing the use of
3 under age children in production as a means of com-
4 peting in international trade;

5 (3) to amend United States law to prohibit the
6 entry into commerce of products resulting from the
7 labor of under age children; and

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

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

17 In pursuit of the policy set forth in this Act, the
18 President is urged to seek an agreement with the govern-
19 ment of each country that conducts trade with the United
20 States for the purpose of securing an international ban
21 on trade in products of child labor.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

24 (1) CHILD.—The term “child” means—

1 (A) an individual who has not attained the
2 age of 15, as measured by the Julian calendar;
3 or

4 (B) an individual who has not attained the
5 age of 14, as measured by the Julian calendar,
6 in the case of a country identified under section
7 5 whose national laws define a child as such an
8 individual.

9 (2) EFFECTIVE IDENTIFICATION PERIOD.—The
10 term “effective identification period” means, with re-
11 spect to a foreign industry or host country, the pe-
12 riod that—

13 (A) begins on the date of that issue of the
14 Federal Register in which the identification of
15 the foreign industry or host country is pub-
16 lished under section 5(e)(1)(A); and

17 (B) terminates on the date of that issue of
18 the Federal Register in which the revocation of
19 the identification referred to in subparagraph
20 (A) is published under section 5(e)(1)(B).

21 (3) ENTERED.—The term “entered” means en-
22 tered, or withdrawn from warehouse for consump-
23 tion, in the customs territory of the United States.

1 (4) EXTRACTION.—The term “extraction” in-
2 cludes mining, quarrying, pumping, and other means
3 of extraction.

4 (5) FOREIGN INDUSTRY.—The term “foreign
5 industry” includes any entity that produces, manu-
6 factures, assembles, processes, or extracts an article
7 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) PRODUCTS OF CHILD LABOR.—An article
2 shall be treated as being a product of child labor—

3 (A) if, with respect to the article, a child
4 was engaged in the manufacture, fabrication,
5 assembly, processing, or extraction, in whole or
6 in part; and

7 (B) if the labor was performed—

8 (i) in exchange for remuneration (re-
9 gardless to whom paid), subsistence, goods,
10 or services, or any combination of the fore-
11 going;

12 (ii) under circumstances tantamount
13 to involuntary servitude; or

14 (iii) under exposure to toxic sub-
15 stances or working conditions otherwise
16 posing serious health hazards.

17 (9) SECRETARY.—The term “Secretary”, except
18 for purposes of section 5, means the Secretary of the
19 Treasury.

20 **SEC. 5. 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.—

1 (1) IN GENERAL.—The Secretary of Labor (in
2 this section referred to as the “Secretary”) shall un-
3 dertake periodic reviews using all available informa-
4 tion, including information made available by the
5 International Labor Organization and human rights
6 organizations (the first such review to be undertaken
7 not later than 180 days after the date of enactment
8 of this Act), to identify any foreign industry that—

9 (A) does not comply with applicable na-
10 tional laws prohibiting child labor in the work-
11 place;

12 (B) utilizes child labor in connection with
13 products that are exported; and

14 (C) has on a continuing basis exported
15 products of child labor to the United States.

16 (2) TREATMENT OF IDENTIFICATION.—For
17 purposes of this Act, the identification of a foreign
18 industry shall be treated as also being an identifica-
19 tion of the host country.

20 (b) PETITIONS REQUESTING IDENTIFICATION.—

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

1 (2) ACTION ON RECEIPT OF PETITION.—Not
2 later than 90 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.—Before identify-
12 ing 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 connec-
19 tion with products that are exported; 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 the 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 and publish in the Federal Reg-
 21 ister a current list of all foreign industries and their
 22 respective host countries identified under subsection
 23 (a).

24 **SEC. 6. PROHIBITION ON ENTRY.**

25 (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 no article
4 that is a product of that foreign industry may be en-
5 tered into the customs territory of the United
6 States.

7 (2) EXCEPTION.—Paragraph (1) shall not
8 apply to the entry of an 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 of the
18 Harmonized Tariff Schedule of the United
19 States (relating to personal exemptions); 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 an arti-
 6 cle, that satisfies the Secretary that the exporter of
 7 the article in the host country, and the importer of
 8 the article into the customs territory of the United
 9 States, have undertaken reasonable steps to ensure,
 10 to the extent practicable, that the article is not a
 11 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,
 17 with an organization described in para-
 18 graph (4) in that country, providing for
 19 the inspection of the foreign industry’s fa-
 20 cilities for the purpose of certifying that
 21 the article is not a product of child labor,
 22 and affixing a label, protected under the
 23 copyright or trademark laws of the host
 24 country, that contains such certification;
 25 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) and setting
7 forth the terms and conditions of the acquisi-
8 tion or provision of the imported article.

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

13 (4) CERTIFYING ORGANIZATIONS.—

14 (A) IN GENERAL.—The Secretary shall
15 compile and maintain a list of independent,
16 internationally credible organizations, in each
17 host country identified under section 5, that
18 have been established for the purpose of—

19 (i) conducting inspections of foreign
20 industries,

21 (ii) certifying that articles to be ex-
22 ported from that country are not products
23 of child labor, and

24 (iii) labeling the articles in accordance
25 with paragraph (2)(A).

1 (B) ORGANIZATION.—Each certifying or-
2 ganization shall consist of representatives of
3 nongovernmental child welfare organizations,
4 manufacturers, exporters, and neutral inter-
5 national organizations.

6 **SEC. 7. PENALTIES.**

7 (a) UNLAWFUL ACTS.—It shall be unlawful, during
8 the effective identification period applicable to a foreign
9 industry and its host country—

10 (1) to attempt to enter any article that is a
11 product of that industry if the entry is prohibited
12 under section 6(a)(1); or

13 (2) to violate any regulation prescribed under
14 section 8.

15 (b) CIVIL PENALTY.—Any person who commits an
16 unlawful act set forth in subsection (a) shall be liable for
17 a civil penalty not to exceed \$25,000.

18 (c) CRIMINAL PENALTY.—In addition to being liable
19 for a civil penalty under subsection (b), any person who
20 intentionally commits an unlawful act set forth in sub-
21 section (a) shall be, upon conviction, liable for a fine of
22 not less than \$10,000 and not more than \$35,000, or im-
23 prisonment for 1 year, or both.

24 (d) CONSTRUCTION.—The violations set forth in sub-
25 section (a) shall be treated as violations of the customs

1 laws for purposes of applying the enforcement provisions
 2 of the Tariff Act of 1930, including—

3 (1) the search, seizure, and forfeiture provi-
 4 sions;

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

7 (3) section 619 (relating to compensation to in-
 8 formers).

9 **SEC. 8. REGULATIONS.**

10 The Secretary shall prescribe regulations to carry out
 11 the provisions of this Act.

12 **SEC. 9. UNITED STATES SUPPORT FOR DEVELOPMENTAL**
 13 **ALTERNATIVES FOR UNDER AGE CHILD**
 14 **WORKERS.**

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

17 (1) \$10,000,000 for each of fiscal years 1998
 18 through 2002 for the United States contribution to
 19 the International Labor Organization for the activi-
 20 ties of the International Program on the Elimination
 21 of Child Labor; and

22 (2) \$100,000 for fiscal year 1998 for the Unit-
 23 ed States contribution to the United Nations Com-
 24 mission on Human Rights for those activities relat-
 25 ing to bonded child labor that are carried out by the

- 1 Subcommittee and Working Group on Contemporary
- 2 Forms of Slavery.

