

107TH CONGRESS
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H. R. 2782

To require nationals of the United States that employ more than 20 persons in a foreign country to implement a Corporate Code of Conduct with respect to the employment of those persons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Ms. MCKINNEY (for herself, Mr. STARK, Mr. EVANS, Ms. KAPTUR, Mr. FILNER, Mr. McGOVERN, Mr. SANDERS, Mr. HILLIARD, Mr. PHELPS, Mr. KUCINICH, Mr. CONYERS, Mr. DEFAZIO, Mr. HINCHEY, Ms. WOOLSEY, Mr. THOMPSON of Mississippi, Ms. CARSON of Indiana, Ms. LEE, Mr. ABERCROMBIE, Mr. JACKSON of Illinois, Mr. CUMMINGS, Mr. WATT of North Carolina, Ms. SOLIS, Mr. DAVIS of Illinois, Mr. BROWN of Ohio, and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Government Reform, 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 require nationals of the United States that employ more than 20 persons in a foreign country to implement a Corporate Code of Conduct with respect to the employment of those persons, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Corporate Code of
3 Conduct Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) On January 31, 1999, at the World Eco-
7 nomic Forum, United Nations Secretary General
8 Kofi Annan challenged world business leaders, in
9 their individual corporate practices and by sup-
10 porting appropriate public policies, to “embrace and
11 enact” the Global Compact, an agreement that asks
12 corporations to protect human rights, labor rights,
13 and the environment.

14 (2)(A) On November 16, 1999, the Program on
15 International Policy Attitudes (PIPA) issued a re-
16 port that contained the results of a poll of 1,826
17 randomly selected adults, weighted to be demo-
18 graphically representative, conducted from October
19 21–29, 1999, relating to international agreements
20 on environmental and labor standards.

21 (B) In the poll, 93 percent of the respondents
22 stated that “countries that are part of international
23 trade agreements should be required to maintain
24 minimum standards for working conditions”, 77 per-
25 cent of the respondents believed (of which, 48 per-
26 cent strongly believed) that there should be more

1 international agreements on environmental stand-
2 ards, and 88 percent of the respondents agreed (of
3 which, 67 percent strongly agreed) that “American
4 companies that operate in other countries should be
5 expected to abide by [United States] environmental
6 standards.”.

7 (3) The European Parliament has passed a Eu-
8 ropean Code of Conduct calling for European busi-
9 nesses to abide by European Union laws in oper-
10 ations outside of Europe.

11 (4) The protests in 2000 against the World
12 Trade Organization (WTO) in Seattle, Washington,
13 and the World Bank and International Monetary
14 Fund (IMF) in Washington, D.C., demonstrate a
15 growing constituency against the unregulated expan-
16 sion of globalization.

17 (5) Unfortunately, too many United States
18 businesses with operations abroad are notorious for
19 their blatant disregard for the well being of the citi-
20 zens of their host nations who are employees of the
21 businesses.

22 (6) Many United States businesses recklessly
23 pollute the local environment of foreign countries,
24 pose serious health risks to local citizens, and
25 threaten the cultural heritage of local citizens.

1 (7) 70 percent of workers in United States pro-
2 duction factories abroad are women. Many of these
3 women face mandatory pregnancy testing on a
4 monthly basis and are forced to take birth control
5 provided by their employer.

11 (9) At the same time, public concern is growing
12 regarding the increasing concentration of unaccount-
13 able corporate power and the declining corporate re-
14 sponsibility across national borders.

15 (10) Yet every year the United States Govern-
16 ment provides a wide array of taxpayer-financed
17 services and financial subsidies as well as special tax
18 breaks as assistance to United States-based multi-
19 national corporations, especially to enable such cor-
20 porations to invest overseas, to create jobs in foreign
21 countries, and to expand their access to foreign mar-
22 kets.

1 SEC. 3. RESPONSIBLE BUSINESS PRACTICES OF UNITED
2 STATES NATIONALS IN FOREIGN COUNTRIES.

3 (a) REQUIREMENT.—A national of the United States
4 that employs more than 20 persons in a foreign country,
5 either directly or through subsidiaries, subcontractors, af-
6 filiates, joint ventures, partners, or licensees (including
7 any security forces of the national), shall take the nec-
8 essary steps to implement the Corporate Code of Conduct
9 described in subsection (b) with respect to the employment
10 of those persons.

11 (b) CORPORATE CODE OF CONDUCT.—The Corporate
12 Code of Conduct described in this subsection is as follows:

13 (1) Provide a safe and healthy workplace.

14 (2)(A) Ensure fair employment, including the
15 prohibition of the use of child and forced labor, the
16 prohibition of discrimination based upon race, gen-
17 der, national origin, or religious beliefs, respect for
18 freedom of association and the right to organize
19 independently and bargain collectively, and the pay-
20 ment of a living wage to all workers, including, at
21 a minimum, a living wage that would meet the basic
22 needs of an average-size family and provide some
23 discretionary income for an average-size family.

24 (B) Prohibit mandatory overtime work by em-
25 ployees under the age of 18.

10 (3) Promote good governance and good business
11 practices, including prohibiting illicit payments, en-
12 suring fair competition, and revocation of corporate
13 charters when corporations fail to serve the public
14 good and general welfare.

24 (B) In addition, comply with internationally
25 recognized worker rights and core labor standards.

24 (8) Implement and monitor compliance with the
25 principles described in paragraphs (1) through (7)

1 through a self-financing program internal to the
2 business that is designed to prevent and detect con-
3 duct that is not in compliance with such principles
4 by any employee of the national of the United
5 States, or any employee of the partner, supplier, or
6 subcontractor of the national, and that includes—

7 (A) standards for ethical conduct of such
8 employees which refer to the principles;

9 (B) procedures for assignment of appro-
10 priately qualified personnel at the management
11 level to monitor and enforce compliance with
12 the principles;

13 (C) procedures for reporting violations of
14 the principles by such employees;

15 (D) procedures for disciplinary action in
16 response to violations of the principles;

17 (E) procedures designed to ensure that, in
18 cases in which a violation of the principles has
19 been detected, reasonable steps are taken to
20 correct the violation and prevent similar vi-
21 olations from occurring;

22 (F) procedures for providing educational
23 and employment-related counseling to any em-
24 ployee in violation of the principles; and

1 (G) communication of all standards and
2 procedures with respect to the principles to
3 every employee—

4 (i) by requiring the employee to par-
5 ticipate in a training program; or

6 (ii) by disseminating information in
7 writing in the appropriate local language
8 that explains the standards and proce-
9 dures.

10 (c) DEFINITIONS.—In this section:

11 (1) BASIC NEEDS OF AN AVERAGE-SIZE FAM-
12 ILY.—The term “basic needs of an average-size
13 family”—

14 (A) means nutritious food, clothing, health
15 care, education, potable water, child care, trans-
16 portation, housing, and energy; and

17 (B) shall be determined by wage studies
18 that measure the purchasing power necessary to
19 provide for the needs described in subparagraph
20 (A).

25 (A) mitigation of global climate change;

1 (B) reduction in the consumption and pro-
2 duction of ozone-depleting substances;

3 (C) reduction in ship pollution of the
4 oceans from such sources as oil, noxious bulk
5 liquids, hazardous freight, sewage, and garbage;

6 (D) the ban on international ocean dump-
7 ing of high-level radioactive waste, chemical
8 warfare agents, and hazardous substances;

9 (E) government control of the
10 transboundary movement of hazardous waste
11 materials and their disposal for the purpose of
12 reducing global pollution due to such materials;

13 (F) preservation of endangered species;

14 (G) conservation of biological diversity;

15 (H) promotion of biodiversity; and

16 (I) preparation of oil-spill contingency
17 plans.

1 grading Treatment or Punishment, the Convention
2 on the Prevention and Punishment of the Crime of
3 Genocide, the Slavery Convention, the Supple-
4 mentary Convention on the Abolition of Slavery, the
5 Slave Trade and Institutions and Practices Similar
6 to Slavery, and the International Convention on the
7 Elimination of All Forms of Racial Discrimination.

8 (4) INTERNATIONALLY RECOGNIZED WORKER
9 RIGHTS AND CORE LABOR STANDARDS.—The term
10 “internationally recognized worker rights and core
11 labor standards” means standards contained in the
12 following International Labor Organization (ILO)
13 conventions:

14 (A) Freedom of Association and Protection
15 of the Right to Organize Convention (No. 87).

16 (B) Right to Organize and Collective Bar-
17 gaining Convention (No. 98).

18 (C) Forced Labour Convention (No. 29).

19 (D) Abolition of Forced Labour Conven-
20 tion (No. 105).

21 (E) Discrimination (Employment and Oc-
22 cupation) Convention (No. 111).

23 (F) Equal Remuneration Convention (No.
24 100).

25 (G) Minimum Age Convention (No. 138).

(H) Occupational Safety and Health (No. 155).

(B) a corporation, partnership, or other business association that is organized under the laws of the United States.

18 SEC. 4. PREFERENCE IN AWARD OF CONTRACTS AND PRO-
19 VISION OF CERTAIN FOREIGN TRADE AND IN-
20 VESTMENT ASSISTANCE.

21 (a) PREFERENCE IN AWARD OF CONTRACTS.—

22 (1) IN GENERAL.—In entering into contracts
23 with entities described in subsection (c) to procure
24 goods or services, the head of an executive agency
25 shall give a preference to contracting with entities

1 that have adopted and are enforcing the Corporate
2 Code of Conduct described in section 3(b).

3 (2) STANDARDS.—The Federal Acquisition
4 Regulations shall include standards with respect to
5 the preference required by this subsection.

6 (b) PREFERENCE IN PROVIDING CERTAIN FOREIGN
7 TRADE AND INVESTMENT ASSISTANCE.—

8 (1) DEPARTMENT OF COMMERCE.—

9 (A) IN GENERAL.—In providing entities
10 described in subsection (c) that are also United
11 States exporters with introduction to contacts
12 in foreign countries pursuant to section
13 2301(b)(4) of the Omnibus Trade and Competi-
14 tiveness Act of 1988 (15 U.S.C. 4721(b)(4)),
15 and in coordinating trade missions with entities
16 described in subsection (c), the Secretary of
17 Commerce shall give preference to entities that
18 have adopted the Corporate Code of Conduct
19 set forth in section 3(b).

20 (B) REGULATIONS.—The Secretary of
21 Commerce shall promulgate regulations con-
22 taining standards with respect to the preference
23 required by this paragraph.

24 (2) OVERSEAS PRIVATE INVESTMENT CORPORA-
25 TION.—

10 (B) REGULATIONS.—The Board of Direc-
11 tors of the Overseas Private Investment Cor-
12 porations shall promulgate regulations con-
13 taining standards with respect to the preference
14 required by this paragraph.

15 (3) TRADE AND DEVELOPMENT AGENCY.—

16 (A) IN GENERAL.—In providing assistance
17 to entities described in subsection (e) under sec-
18 tion 661 of the Foreign Assistance Act of 1961
19 (22 U.S.C. 2421(b)), the Trade and Develop-
20 ment Agency shall give preference to entities
21 that have adopted the Corporate Code of Con-
22 duct set forth in section 3(b).

23 (B) REGULATIONS.—The Director of the
24 Trade and Development Agency shall promul-
25 gate regulations containing standards with re-

1 spect to the preference required by this para-
2 graph.

5 (A) IN GENERAL.—In providing guarantees,
6 insurance, and credit, and in participating
7 in extensions of credit, for entities described in
8 subsection (c), the Export-Import Bank of the
9 United States shall give preference to entities
10 that have adopted the Corporate Code of Con-
11 duct set forth in section 3(b).

12 (B) REGULATIONS.—The Board of Direc-
13 tors of the Export-Import Bank shall promul-
14 gate regulations containing standards with re-
15 spect to the preference required by this para-
16 graph.

17 (c) ENTITIES DESCRIBED.—The entities described in
18 this subsection are nationals of the United States that em-
19 ploy more than 20 persons in a foreign country, either
20 directly or through subsidiaries, subcontractors, affiliates,
21 joint ventures, partners, or licensees (including any secu-
22 rity forces of the national).

1 SEC. 5. INVESTIGATIONS OF COMPLIANCE WITH COR-

2 PORATE CODE OF CONDUCT.

3 (a) DEFINITION.—In this section, the term “appropriate Federal official” means the Secretary of Commerce, 4 the Secretary of Labor, the Secretary of State, or the Administrator of the Environmental Protection Agency, 5 6

7 (b) PETITIONS.—

8 (1) IN GENERAL.—Any person may at any time 9 file a petition with the appropriate Federal official 10 requesting that action be taken under section 6 and 11 setting forth the allegations in support of the request. A petition alleging the failure of an entity to 12 comply with the Corporate Code of Conduct adopted 13 by the entity pursuant to section 3 may seek— 14

15 (A) the termination of a contract awarded 16 or of assistance provided to an entity that received 17 a preference under section 4 in the award of a contract or in the provision of assistance; 18 19

20 (B) the withdrawal, suspension, or limitation 21 of the eligibility of an entity for a preference under section 6; or 22

23 (C) action under both subparagraphs (A) 24 and (B).

25 (2) REVIEW; DETERMINATION TO INITIATE IN- 26 VESTIGATION.—The appropriate Federal official

1 shall review the allegations in any petition filed
2 under paragraph (1) and, not later than 45 days
3 after the date on which the petition is received, shall
4 initiate an investigation unless the petition is dis-
5 missed under paragraph (3).

6 (3) DETERMINATION NOT TO INITIATE INVES-
7 TIGATION.—

8 (A) IN GENERAL.—The appropriate Fed-
9 eral official may determine not to initiate an in-
10 vestigation with respect to a petition filed under
11 paragraph (1) only upon issuing a finding that
12 the petition is frivolous. This finding shall be
13 made without regard to whether similar allega-
14 tions were made in a previously reviewed peti-
15 tion and shall focus exclusively on whether the
16 facts alleged in a petition, if true, would fail to
17 establish a prima facie case for noncompliance
18 with the Corporate Code of Conduct set forth in
19 section 3. Only if the facts alleged in a petition,
20 if true, fail to make out a prima facie case, or
21 if a petition contains only conclusory allegations
22 with no allegation of supporting facts, shall a
23 petition be dismissed as frivolous.

24 (B) NOTIFICATION.—If the appropriate
25 Federal official finds a petition to be frivolous,

1 such official shall issue a written decision indi-
2 cating the specific reasons therefor and shall
3 publish notice of the determination, together
4 with a summary of such reasons, in the Federal
5 Register. A copy of the decision shall be sent to
6 the petitioner and shall be made available for
7 public review.

8 (4) SPECIAL COMMITTEES.—The Secretary of
9 Commerce, the Secretary of Labor, the Secretary of
10 State, and the Administrator of the Environmental
11 Protection Agency may establish one or more special
12 committees to review petitions filed under paragraph
13 (1) that are under investigation and make written
14 recommendations with respect to each petition. The
15 written recommendations shall be available to the
16 public. The members of the special committees may
17 be drawn from other agencies within the executive
18 branch, and each member shall have the necessary
19 expertise relevant to the issues raised in any peti-
20 tions to be considered.

21 (5) INVESTIGATIONS.—

22 (A) IN GENERAL.—In initiating an inves-
23 tigation of a petition under this subsection, the
24 appropriate Federal official shall publish a sum-
25 mary of the petition in the Federal Register,

1 along with a request for any person to submit
2 information relevant to the petition. Following
3 such publication, such official shall conduct an
4 independent investigation and gather informa-
5 tion from all available resources. As part of the
6 review process, the appropriate Federal official
7 shall, as soon as practicable, and in no event
8 later than 90 days after the date on which the
9 petition is filed, provide opportunity for the
10 presentation of information concerning the
11 issues involved, including a public hearing at
12 which all interested parties may participate.

13 (B) PETITIONS ALLEGING NONCOMPLI-
14 ANCE.—With respect to any petition alleging
15 noncompliance, the appropriate Federal official
16 shall determine whether such violations have oc-
17 curred or are occurring. Such official in the
18 preceding sentence shall provide written rec-
19 ommendations regarding the disposition of the
20 allegations that shall be entered in the record of
21 the investigation. The appropriate Federal offi-
22 cial, or any member of any special committee
23 established under paragraph (4), may also seek
24 advice from experts in the fields of human
25 rights, worker rights, environmental protection,

1 and equal opportunity employment. The advice
2 may be in writing or taken as oral testimony at
3 a public hearing and shall be entered in the
4 record of the investigation.

5 (6) DECISIONS.—After completion of the inves-
6 tigation, and in no event later than 270 days after
7 the date on which the petition was filed, the appro-
8 priate Federal official shall issue a decision whether
9 to grant the relief requested in the petition. The de-
10 cision shall be in writing and clearly reference the
11 issues presented, the factual findings regarding the
12 allegations, and the standard applied in determining
13 whether the facts as found required action under
14 section 6. A copy of the decision shall be provided
15 to the petitioner, the entity involved in the petition,
16 and any other party that submitted information rel-
17 evant to the petition, and shall be made available for
18 public review. A summary of the decision shall be
19 published in the Federal Register.

20 (c) INITIATION OF INVESTIGATION BY MEANS OTHER
21 THAN PETITION.—If the appropriate Federal official de-
22 termines that an investigation should be initiated with re-
23 spect to any matter in order to determine whether the
24 matter requires action under section 6, such official shall
25 publish such determination in the Federal Register and

1 shall initiate such investigation using the procedures of
2 paragraphs (5) and (6) of subsection (b), to the extent
3 appropriate.

4 (d) PROMULGATION OF REGULATIONS.—The Sec-
5 retary of Commerce shall promulgate regulations to imple-
6 ment this section. The regulations may include—

7 (1) procedures for the creation of special com-
8 mittees under subsection (b)(4);

9 (2) coordinating investigations with other agen-
10 cies;

11 (3) consolidating multiple petitions concerning
12 the same contract or entity; and

13 (4) holding hearings on similar petitions at the
14 same time in order to efficiently gather information.

15 (e) JUDICIAL REVIEW OF DETERMINATIONS.—Any
16 final decision dismissing or denying a petition requesting
17 action under section 6, or any final decision that results
18 in an action against an entity under section 6, may be
19 appealed by the petitioner or the entity to the appropriate
20 United States Court of Appeals for review. The decision
21 shall be reviewed as a final agency action.

1 **SEC. 6. TERMINATION OF CONTRACTS OR ASSISTANCE AND**
2 **WITHDRAWAL, SUSPENSION, OR LIMITATION**
3 **OF PREFERENCE.**

4 (a) **TERMINATION OF CONTRACT OR ASSISTANCE.—**
5 Based upon a determination from an investigation initi-
6 ated under section 5 and notwithstanding any other provi-
7 sion of law, the Secretary of Commerce, the Secretary of
8 Labor, the Secretary of State, or the Administrator of the
9 Environmental Protection Agency shall terminate a con-
10 tract entered into by the executive agency involved with
11 an entity described in section 4(c) for the procurement of
12 goods or services by the agency, and the appropriate Fed-
13 eral official or entity described in paragraph (1), (2), (3),
14 or (4) of section 4(b) shall terminate foreign trade and
15 investment assistance from the United States Government
16 (as described in section 4(b)) provided to an entity de-
17 scribed in section 4(c), if the entity or contractor or other
18 recipient of the assistance is not in compliance with the
19 Corporate Code of Conduct described in section 3(b).

20 (b) **WITHDRAWAL, SUSPENSION, OR LIMITATION OF**
21 **PREFERENCE.—**The designation of an entity as eligible to
22 receive a preference under section 4 shall be withdrawn,
23 suspended, or limited if the entity is no longer in complete
24 compliance with the Corporate Code of Conduct described
25 in section 3(b).

1 **SEC. 7. REPORTING REQUIREMENTS.**

2 (a) REPORTS TO CERTAIN FEDERAL DEPARTMENTS
3 AND AGENCIES.—Each entity described in section 4(c)
4 that enters into a contract with an executive agency for
5 the procurement of goods or services by the agency, and
6 each entity described in section 4(c) that receives certain
7 foreign trade and investment assistance from the United
8 States Government (as described in section 4(b)), shall
9 prepare and submit to the Secretary of Commerce, the
10 Secretary of Labor, the Secretary of State, and the Ad-
11 ministrator of the Environmental Protection Agency an
12 annual report, which shall be made available to the public,
13 that contains a description of the monitoring program es-
14 tablished and carried out by the entity pursuant to section
15 3(b)(8) and any progress made toward full compliance
16 with the principles described in paragraphs (1) through
17 (7) of section 3(b) by the individuals described in section
18 3(b)(8).

19 (b) REPORTS TO CONGRESS.—The Secretary of Com-
20 merce, the Secretary of Labor, the Secretary of State, and
21 the Administrator of the Environmental Protection Agen-
22 cy shall jointly prepare and submit to the Congress, at
23 the same time the annual Department of State Country
24 Reports on Human Rights Practices is submitted, an an-
25 nual report, which shall be made available to the public,
26 that contains a compilation of the reports received from

1 each entity under subsection (a) for the prior year (includ-
2 ing a compilation of the petitions submitted to the appro-
3 priate Federal officials under section 5 for the prior year)
4 and that contains an analysis of the extent to which each
5 such entity is in compliance with the Corporate Code of
6 Conduct described in section 3(b).

7 **SEC. 8. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.**

8 (a) **REGULATORY AUTHORITY.**—The President shall
9 issue such rules, regulations, licenses, and orders as are
10 necessary to carry out the provisions of this Act.

11 (b) **ENFORCEMENT AND PENALTIES.**—

12 (1) **IN GENERAL.**—The President, with respect
13 to his authorities under subsection (a), shall take the
14 necessary steps to ensure compliance (including the
15 monitoring of compliance) with the provisions of this
16 Act and any rules, regulations, licenses, and orders
17 issued to carry out this Act.

18 (2) **LIABILITY.**—Beginning 2 years after the
19 date of the enactment of this Act, any person who
20 is in violation of any provision of this Act (or any
21 rule, regulation, license, or order issued to carry out
22 this Act) shall be liable for damages in a civil cause
23 of action initiated in an appropriate United States
24 district court to any individual aggrieved by the act
25 or omission of the person in question, or to the

1 heirs, estate, or other legal representative of the in-
2 dividual.

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