

103^D CONGRESS
1ST SESSION

H. R. 1446

To provide for the multilateral negotiation of Western Hemisphere environmental, labor, and agricultural standards, to implement as United States negotiating objectives in any free trade area negotiations pursuant to the Enterprise for the Americas Initiative certain threshold protections regarding worker rights, agricultural standards, and environmental quality, and to implement a corresponding, comprehensive multilateral dispute resolution mechanism to investigate, adjudicate, and render binding, enforceable judgments against any unfair trade practices arising within the Western Hemisphere free trade area, including those involving the systematic denial or practical negation of certain threshold protections of worker rights, agricultural standards, and environmental quality.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1993

Mr. BROWN of California (for himself, Mr. GLICKMAN, Mr. HINCHEY, Mr. WALSH, Ms. WOOLSEY, Mr. SPRATT, Mr. KANJORSKI, Mr. McCLOSKEY, Mr. BLACKWELL, and Mr. LAFALCE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for the multilateral negotiation of Western Hemisphere environmental, labor, and agricultural standards, to implement as United States negotiating objectives in any free trade area negotiations pursuant to the Enterprise for the Americas Initiative certain threshold protections regarding worker rights, agricultural standards, and environmental quality, and to implement a corresponding, comprehensive multilateral dispute resolution mechanism to investigate, adjudicate, and render bind-

ing, enforceable judgments against any unfair trade practices arising within the Western Hemisphere free trade area, including those involving the systematic denial or practical negation of certain threshold protections of worker rights, agricultural standards, and environmental quality.

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 “Western Hemisphere
5 Environmental, Labor, and Agricultural Standards Act of
6 1993”.

7 **SEC. 2. PRINCIPAL NEGOTIATING OBJECTIVES OF THE**
8 **UNITED STATES.**

9 In addition to the overall and principal trade nego-
10 tiating objectives of the United States set forth in section
11 1101 of the Omnibus Trade and Competitiveness Act of
12 1988, the purposes, policies, and objectives of title I of
13 such Act of 1988 that are applicable with respect to any
14 free-trade area trade agreement negotiated under the au-
15 thority of such title I in furtherance of the Enterprise for
16 the Americas Initiative with any country in the Western
17 Hemisphere outside North America (hereinafter referred
18 to as the “EAFTA”) include the achievement of the fol-
19 lowing principal negotiating objectives:

1 (1) WORKER RIGHTS AND STANDARDS AND
2 PROTECTION.—With a view to establishing open, ex-
3 panding mutually-beneficial trade among the coun-
4 tries of the Western Hemisphere, to spreading the
5 benefits of such trade as widely as possible, to pro-
6 tecting citizens interests, and to enhancing respect
7 for human rights throughout the Western Hemi-
8 sphere, the principal negotiating objectives of the
9 United States with respect to worker rights and
10 standards, and the protection thereof, in the conduct
11 of international trade, commerce, and finance are—

12 (A) to ensure freedom of association and
13 to affirm the vital role that free and independ-
14 ent unions play in democratic governance;

15 (B) to ensure the rights of working people
16 to organize, to bargain collectively, and to
17 strike, and to ensure the right of workers' rep-
18 resentatives to legal protection in the free exer-
19 cise of their duties and fundamental human
20 rights;

21 (C) to establish a minimum age for the
22 employment of children—

23 (i) at 14 years if the employment will
24 not result in the neglect of their education

1 and will not harm their health and well-
2 being, and

3 (ii) at 18 years if the employment in-
4 volves the use of, or exposure to, hazard-
5 ous equipment or toxic chemical sub-
6 stances, but only if the use or exposure will
7 not pose long-term risks to their health
8 and safety;

9 (D) to ensure the right to health at the
10 workplace and to a healthy working environ-
11 ment, including freedom from exposure to toxic
12 substances;

13 (E) to guarantee the right of all workers to
14 equal protection, including freedom from dis-
15 crimination in wages or working conditions, re-
16 gardless of their nationality, race, religion, age,
17 or sex; and

18 (F) to guarantee humane standards of
19 wages and hours of work that take into account
20 different levels of national economic develop-
21 ment, but provide for improvement concurrently
22 with gains in productivity.

23 (2) ENVIRONMENTAL QUALITY AND PROTEC-
24 TION.—In recognition of the shared responsibility of
25 the countries of the Western Hemisphere as stew-

1 ards responsible for, and our common interest in,
2 preserving and sustaining the Western Hemisphere's
3 natural habitat and resources over time, the prin-
4 cipal negotiating objectives of the United States with
5 respect to environmental quality and protection
6 are—

7 (A) the protection of environmental quality
8 and of the integrity of ecosystems, as well as
9 the maintenance of scarce biological and phys-
10 ical resources, in the conduct of international
11 trade, commerce, and finance;

12 (B) the establishment of a process for the
13 full and public disclosure of the kinds, quan-
14 tities, and risks associated with toxic chemical
15 and hazardous substance discharges into the
16 air, water, and land;

17 (C) the prevention of the export of toxic
18 and hazardous substances and products, such
19 as carcinogens and unsafe drugs, that are
20 banned in the country of origin;

21 (D) the prevention of the export of prod-
22 ucts (unless remediation or repatriation con-
23 tracts already exist) manufactured, extracted,
24 harvested, or grown under environmental condi-
25 tions or workplace safety and health conditions

1 that undermine counterpart standards, particu-
2 larly those applicable to the counterpart indus-
3 try in the importing country or the counterpart
4 standards, in general, in the importing country;
5 and

6 (E) to require that industries within their
7 national borders reduce the amount and toxicity
8 of hazardous substances that they use, mini-
9 mize the amount and toxicity of wastes they
10 generate, and demonstrate publicly their use of
11 best available technology for pollution abate-
12 ment in their production processes.

13 (3) UNFAIR TRADE PRACTICES.—In acknowl-
14 edging different, evolving comparative advantages
15 among trading nations, but with a view to distin-
16 guishing between acceptable and unacceptable means
17 of competition among trading nations, the principal
18 negotiating objectives of the United States with re-
19 spect to unfair trade practices shall include the
20 adoption, as a principle, that the systematic denial
21 or practical negation of the protections accorded
22 worker rights and standards and environmental
23 quality (within the context of paragraphs (1) and
24 (2)) as a means for any country or its industries to
25 gain competitive advantage in international trade,

1 commerce, and finance is an actionable unfair trade
2 practice.

3 (4) COMPREHENSIVE DISPUTE RESOLUTION.—

4 The principal negotiating objectives of the United
5 States are to achieve a process for the settlement of
6 disputes that arise between or among the signatories
7 with respect to unfair trade practices, including not
8 only those involving commonly identified unfair
9 trade barriers, but unfair practices, within the con-
10 text of the negotiating objectives listed in para-
11 graphs (1), (2), and (3) involving the systematic de-
12 nial or practical negation of worker rights and
13 standards and failure to apply or enforce standards
14 relating to environmental quality or protection, re-
15 sulting in distortions to international trade, com-
16 merce, and finance. Such a process shall include—

17 (A) notification by each signatory nation to
18 the other signatories regarding changes in law
19 or practice that will materially affect the agree-
20 ment;

21 (B) provision, on a sequential basis and
22 subject to reasonable time limits, for consulta-
23 tion between or among signatories, for medi-
24 ation, and, if necessary, for binding arbitration;

1 (C) the establishment of a multilateral
2 commission, with authority to investigate, adju-
3 dicate, and issue binding judgments in a timely
4 manner regarding the issues in dispute pursu-
5 ant to subparagraph (B)—

6 (i) that consists of equal numbers of
7 experts from the signatory nations (with
8 United States experts being subject to the
9 advice and consent of the United States
10 Senate), and

11 (ii) the chairmanship of which will be
12 filled by individuals who—

13 (I) are citizens of the respective
14 signatories,

15 (II) serve on a rotational basis
16 among the signatories for 2-year
17 terms, but no individual may serve in
18 such office for more than one term,
19 and

20 (III) are appointed to such office
21 by the respective chief executive offi-
22 cers of the signatories (and any chair-
23 person appointed from the United
24 States is subject to the advice and
25 consent of the United States); and

1 (D) provision for the multilateral commis-
2 sion, in its proceedings and deliberations, to
3 consult with a wide array of representative or-
4 ganizations, in addition to government agencies,
5 with expertise in labor, environmental, agricul-
6 tural, and scientific matters in each of the sig-
7 natory nations;

8 (E) provision for the multilateral commis-
9 sion to enforce its judgments, as appropriate,
10 by authorizing an aggrieved signatory nation
11 to—

12 (i) suspend, withdraw, or prevent the
13 application of, the benefits of trade agree-
14 ment concessions to carry out the EAF TA
15 with the offending signatory nation,

16 (ii) impose proportionate duties on
17 specific products, companies, or industries,
18 or other offsetting import restrictions on
19 the goods of, and offsetting fees or restric-
20 tions on the services of, the offending sig-
21 natory nation for such time as the multi-
22 lateral commission determines, or

23 (iii) enter into binding agreements
24 with the offending signatory nation that
25 commit such nation to—

1 (I) eliminate, or phase out, the
2 act, policy, or practice that constitutes
3 an unfair trade practice and that is
4 the subject of the action to be taken
5 under clause (i) or (ii),

6 (II) eliminate any burden or re-
7 striction on Western Hemisphere
8 trade, as defined in the EAFTA, re-
9 sulting from such unfair trade prac-
10 tice,

11 (III) provide the aggrieved signa-
12 tory nation with compensatory trade
13 benefits that are satisfactory to the
14 multilateral commission and meet the
15 requirements of subparagraph (F), or

16 (IV) enter into debt-for-science
17 exchanges, or similar arrangements,
18 as appropriate, that are satisfactory
19 to the multilateral commission and
20 that serve, as potential funding
21 sources for remedies recommended
22 under paragraph (5), to ameliorate
23 the issues in dispute pursuant to sub-
24 paragraph (B);

1 (F) provision that any binding agreement
2 described in subparagraph (E)(iii)(III) provide
3 compensatory trade benefits (including, but not
4 limited to, appropriate fees on trans-border
5 movements of products, services, or capital)
6 that benefit the economic sector which includes
7 the domestic industry in the aggrieved signatory
8 nation that would benefit from the elimination
9 of the act, policy, or practice that constitutes an
10 unfair trade practice and that is the subject of
11 the action to be taken under subparagraph (E),
12 or benefit the economic sector within the ag-
13 grievied signatory nation as closely related as
14 possible to such sector, unless—

15 (i) the provision of such trade benefits
16 is not feasible, or

17 (ii) trade benefits that benefit any
18 other economic sector within the aggrieved
19 signatory nation would be clearly and sub-
20 stantially more satisfactory than such
21 trade benefits;

22 (G) provision for the trinational commis-
23 sion, in taking action against unfair trade prac-
24 tices, as defined in the EAF'FTA, to avoid dimin-
25 ishing higher protections accorded worker rights

1 and standards and environmental quality and
2 protection and to give preference to the prompt
3 elimination of the act, policy, or practice at
4 issue over—

5 (i) the imposition of duties or other
6 offsetting import restrictions or compen-
7 satory trade benefits, or

8 (ii) the entering into of debt relief ar-
9 rangements described in subparagraph
10 (E)(iii)(IV);

11 (H) provision for the government of any
12 signatory nation or any informed person within
13 a signatory nation to file a petition requesting
14 the multilateral commission to take action
15 under subparagraph (E) against any unfair
16 trade practice, including the systematic denial
17 or practical negation of worker rights and
18 standards and failure to apply or enforce stand-
19 ards relating to environmental quality or pro-
20 tection (referred to in paragraphs (1) and (2)),
21 and setting forth the allegations in support of
22 the request in public hearings and written testi-
23 mony; and

24 (I) provision for the proceedings, record,
25 and decisions (along with the supporting ration-

1 ale) of the multilateral commission to be made
2 public information.

3 (5) TECHNICAL ADVICE AND RECOMMENDA-
4 TIONS.—

5 (A) INTERAGENCY COMMITTEE.—The Di-
6 rector of the Office of Science and Technology
7 shall establish, through the Federal Coordinat-
8 ing Council on Science, Engineering, and Tech-
9 nology, an interagency committee to provide
10 technical assistance, advice, and recommenda-
11 tions to United States experts on the multilat-
12 eral commission. The interagency committee
13 shall include one representative from each of
14 the following agencies:

15 (i) The National Science Foundation.

16 (ii) The Environmental Protection
17 Agency.

18 (iii) The Department of Labor.

19 (iv) The Department of the Interior.

20 (v) The Department of Agriculture.

21 (vi) The Department of Energy.

22 (vii) The National Institute of Stand-
23 ards and Technology.

24 (viii) The Department of Justice.

1 (B) SPECIFIC FUNCTIONS.—In addition to
2 the general functions referred to in subpara-
3 graph (A), the interagency committee shall
4 evaluate the scientific and technological aspects
5 of certain disputes brought before the multilat-
6 eral commission that pertain to environmental
7 quality and protection and to workplace safety
8 and health, and shall determine if violations re-
9 lated to the disputes reflect—

10 (i) inadequate or insufficient applica-
11 tion of known technologies and techniques
12 for mitigation of the violations, or

13 (ii) need for additional research on,
14 and the development of, new technologies
15 and techniques for mitigation of the viola-
16 tions.

17 Consistent with paragraph (4)(G), and after
18 consultations with State and local government
19 officials and a wide array of representative or-
20 ganizations with expertise in environmental,
21 labor, agricultural and scientific matters, the
22 interagency committee will recommend to the
23 United States experts on the multilateral com-
24 mission, when appropriate, specific techno-
25 logical remedies to eliminate violations or fur-

- 1 ther research that is needed to develop scientific
- 2 and technological remedies.

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