

104TH CONGRESS
2D SESSION

H. R. 4291

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 Free Trade Agreement for the Americas certain threshold protections regarding enforceable 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 nullification of certain threshold protections of worker rights, agricultural standards, and environmental quality.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1996

Mr. BROWN of California 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 Free Trade Agreement for the Americas certain threshold protections regarding enforceable worker rights, agricultural standards, and environmental quality, and to implement a corresponding, comprehensive multilateral dispute reso-

lution 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 nullification 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 “Fair International
 5 Standards in Trade for the Americas Act of 1995”.

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

8 The purposes, policies, and objectives that are appli-
 9 cable with respect to any free-trade area trade agreement
 10 negotiated under the authority of such title I in further-
 11 ance of the Free Trade Agreement for the Americas, as
 12 proposed at the Summit of the Americas that was held
 13 in December, 1994, in Miami, Florida with any country
 14 in the Western Hemisphere outside North America (here-
 15 after in this Act referred to as the “FTAA”) include the
 16 achievement of the overall and principal trade negotiating
 17 objectives of the United States set forth in section 1101
 18 of the Omnibus Trade and Competitiveness Act of 1988,
 19 and the following 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 at 14 years if the em-
23 ployment will not result in the neglect of their
24 education and will not harm their health and
25 well-being;

1 (D) to ensure the right to health at the
2 workplace and to a healthy working environ-
3 ment, including freedom from exposure to toxic
4 substances;

5 (E) to guarantee the right of all workers to
6 equal protection, including freedom from dis-
7 crimination in wages or working conditions, re-
8 gardless of their nationality, race, religion, age,
9 or sex; and

10 (F) to guarantee humane standards of
11 wages and hours of work that take into account
12 different levels of national economic develop-
13 ment, but provide for improvement concurrently
14 with gains in productivity.

15 (2) ENVIRONMENTAL QUALITY AND PROTEC-
16 TION.—In recognition of the shared responsibility of
17 the countries of the Western Hemisphere as stew-
18 ards responsible for, and their common interest in,
19 preserving and sustaining the Western Hemisphere’s
20 natural habitat and resources over time, the prin-
21 cipal negotiating objectives of the United States with
22 respect to environmental quality and protection
23 are—

24 (A) the protection of environmental quality
25 and of the integrity of ecosystems, as well as

1 the maintenance of scarce biological and phys-
2 ical resources, in the conduct of international
3 trade, commerce, and finance;

4 (B) the establishment of a process for the
5 full and public disclosure of the kinds, quan-
6 tities, and risks associated with toxic chemical
7 and hazardous substance discharges into the
8 air, water, and land;

9 (C) the prevention of the export of toxic
10 and hazardous substances and products, such
11 as carcinogens and unsafe drugs, that are
12 banned in the country of origin;

13 (D) the prevention of the export of prod-
14 ucts (except to the extent of remediation or re-
15 patriation contracts that already exist) manu-
16 factured, extracted, harvested, or grown under
17 environmental conditions or workplace safety
18 and health conditions that undermine counter-
19 part standards, particularly those applicable to
20 the counterpart industry in the importing coun-
21 try or the counterpart standards, in general, in
22 the importing country; and

23 (E) to require that industries within their
24 national borders reduce the amount and toxicity
25 of hazardous substances that they use, mini-

1 mize the amount and toxicity of wastes they
2 generate, and demonstrate publicly their use of
3 best available technology for pollution abate-
4 ment in their production processes.

5 (3) UNFAIR TRADE PRACTICES.—In acknowl-
6 edging different, evolving comparative advantages
7 among trading nations, but with a view to distin-
8 guishing between acceptable and unacceptable means
9 of competition among trading nations, the principal
10 negotiating objectives of the United States with re-
11 spect to unfair trade practices shall include the
12 adoption, as a principle, and in enforcement action
13 that the systematic denial or practical nullification
14 of the protections accorded worker rights and stand-
15 ards and environmental quality (within the context
16 of paragraphs (1) and (2)) as a means for any coun-
17 try or its industries to gain competitive advantage
18 in international trade, commerce, and finance is an
19 actionable unfair trade practice.

20 (4) COMPREHENSIVE DISPUTE RESOLUTION.—
21 The principal negotiating objectives of the United
22 States are to achieve a process for the settlement of
23 disputes that arise between or among the signatories
24 with respect to unfair trade practices, including not
25 only those involving commonly identified unfair

1 trade barriers, but unfair practices, within the con-
2 text of the negotiating objectives listed in para-
3 graphs (1), (2), and (3) involving the systematic de-
4 nial or practical nullification of worker rights and
5 standards and failure to apply or enforce standards
6 relating to environmental quality or protection, re-
7 sulting in distortions to international trade, com-
8 merce, and finance. Such a process shall include—

9 (A) notification by each signatory nation to
10 the other signatories regarding changes in law
11 or practice that will materially affect the agree-
12 ment;

13 (B) provision, on a sequential basis and
14 subject to reasonable time limits, for consulta-
15 tion between or among signatories, for medi-
16 ation, and, if necessary, for binding arbitration;

17 (C) the establishment of a multilateral
18 commission, with authority to investigate, adju-
19 dicate, issue binding judgments, and take en-
20 forcement action, in a timely manner regarding
21 the issues in dispute pursuant to subparagraph
22 (B)—

23 (i) that consists of equal numbers of
24 experts from the signatory nations (with
25 United States experts being subject to the

1 advice and consent of the United States
2 Senate), and

3 (ii) the chairmanship of which will be
4 filled by individuals who—

5 (I) are citizens of the respective
6 signatories,

7 (II) serve on a rotational basis
8 among the signatories for 2-year
9 terms, except that no individual may
10 serve in such office for more than one
11 term, and

12 (III) are appointed to such office
13 by the respective chief executive offi-
14 cers of the signatories (and any chair-
15 person appointed from the United
16 States is subject to the advice and
17 consent of the United States);

18 (D) provision for the multilateral commis-
19 sion, in its proceedings and deliberations, to
20 consult with a wide array of representative or-
21 ganizations, in addition to government agencies,
22 with expertise in labor, environmental, agricul-
23 tural, and scientific matters in each of the sig-
24 natory nations;

1 (E) provision for the multilateral commis-
2 sion to enforce its judgments, as appropriate,
3 by authorizing an aggrieved signatory nation
4 to—

5 (i) suspend, withdraw, or prevent the
6 application of the benefits of trade agree-
7 ment concessions to carry out any trade
8 agreement entered into pursuant to the
9 FTAA with the offending signatory nation,

10 (ii) impose proportionate duties on
11 specific products, companies, or industries,
12 or other offsetting import restrictions on
13 the goods of, and offsetting fees or restric-
14 tions on the services of, the offending sig-
15 natory nation for such time as the multi-
16 lateral commission determines, or

17 (iii) enter into binding agreements
18 with the offending signatory nation that
19 commit such nation to—

20 (I) eliminate, or phase out, the
21 act, policy, or practice that constitutes
22 an unfair trade practice and that is
23 the subject of the action to be taken
24 under clause (i) or (ii),

1 (II) eliminate any burden or re-
2 striction on Western Hemisphere
3 trade, as defined in the FTAA, result-
4 ing from such unfair trade practice,

5 (III) provide the aggrieved signa-
6 tory nation with compensatory trade
7 benefits that are satisfactory to the
8 multilateral commission and meet the
9 requirements of subparagraph (F), or

10 (IV) enter into debt-for-science
11 exchanges, or similar arrangements,
12 as appropriate, that are satisfactory
13 to the multilateral commission and
14 that serve, as potential funding
15 sources for remedies recommended
16 under paragraph (5), to ameliorate
17 the issues in dispute pursuant to sub-
18 paragraph (B);

19 (F) provision that any binding agreement
20 described in subparagraph (E)(iii)(III) provide
21 compensatory trade benefits (including, but not
22 limited to, appropriate fees on trans-border
23 movements of products, services, or capital)
24 that benefit the economic sector which includes
25 the domestic industry in the aggrieved signatory

1 nation that would benefit from the elimination
2 of the act, policy, or practice that constitutes an
3 unfair trade practice and that is the subject of
4 the action to be taken under subparagraph (E),
5 or benefit the economic sector within the ag-
6 grievied signatory nation as closely related as
7 possible to such sector, unless—

8 (i) the provision of such trade benefits
9 is not feasible, or

10 (ii) trade benefits that benefit any
11 other economic sector within the aggrieved
12 signatory nation would be clearly and sub-
13 stantially more satisfactory than such
14 trade benefits;

15 (G) provision for the multilateral commis-
16 sion, in taking action against unfair trade prac-
17 tices, as defined in the FTAA, to avoid dimin-
18 ishing higher protections accorded worker rights
19 and standards and environmental quality and
20 protection and to give preference to the prompt
21 elimination of the act, policy, or practice at
22 issue over—

23 (i) the imposition of duties or other
24 offsetting import restrictions or compen-
25 satory trade benefits, or

1 (ii) the entering into of debt relief ar-
2 rangements described in subparagraph
3 (E)(iii)(IV);

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

17 (I) provision for the proceedings, record,
18 and decisions (along with the supporting ration-
19 ale) of the multilateral commission to be made
20 public information.

21 **SEC. 3. INTERAGENCY COMMITTEE.**

22 (a) ESTABLISHMENT.—In the event of the establish-
23 ment of a multilateral Commission described in paragraph
24 (4) of section 2, the Director of the Office of Science and
25 Technology Policy shall establish, through the Federal Co-

1 ordinating Council for Science, Engineering, and Tech-
2 nology, an interagency committee to provide technical as-
3 sistance, advice, and recommendations to United States
4 experts on the multilateral commission. The interagency
5 committee shall include one representative from each of
6 the following agencies:

- 7 (1) The National Science Foundation.
- 8 (2) The Environmental Protection Agency.
- 9 (3) Department of Labor.
- 10 (4) The Department of the Interior.
- 11 (5) The Department of Agriculture.
- 12 (6) The Department of Energy.
- 13 (7) The National Institute of Standards and
14 Technology.
- 15 (8) The Department of Justice.

16 (b) SPECIFIC FUNCTIONS.—In addition to the gen-
17 eral functions referred to in subsection (a), the inter-
18 agency committee established under such subsection shall
19 evaluate the scientific and technological aspects of certain
20 disputes brought before the multilateral commission that
21 pertain to environmental quality and protection and to
22 workplace safety and health, and shall determine if viola-
23 tions related to the disputes reflect—

1 (1) inadequate or insufficient application of
2 known technologies and techniques for mitigation of
3 the violations, or

4 (2) need for additional research on, and the de-
5 velopment of, new technologies and techniques for
6 mitigation of the violations.

7 Consistent with paragraph (4)(G) of section 2, and after
8 consultations with State and local government officials
9 and a wide array of representative organizations with ex-
10 pertise in environmental, labor, agricultural, and scientific
11 matters, the interagency committee shall recommend to
12 the United States experts on the multilateral commission,
13 when appropriate, specific technological remedies to elimi-
14 nate violations or further research that is needed to de-
15 velop scientific and technological remedies.

16 **SEC. 4. REQUIREMENTS FOR FUTURE TRADE AGREEMENTS**
17 **PURSUANT TO THE FREE TRADE AGREEMENT**
18 **FOR THE AMERICAS AND ANY INTERIM**
19 **AGREEMENTS.**

20 The authority of the President to enter into any trade
21 agreement under subsection (b) or (c) of section 1102 of
22 the Omnibus Trade and Competitiveness Act of 1988 (19
23 U.S.C. 2902) after January 1, 1995, or other authority
24 provided by statute to enter into trade agreements de-
25 scribed in such subsections, may be exercised only if the

1 trade agreement contains provisions that require each
2 party to the agreement to—

3 (1) adopt and enforce laws to afford to workers
4 in that country (including any designated zone in
5 that country) worker rights and standards described
6 in paragraph (1) of section 2;

7 (2) adopt and enforce laws to promote respect
8 for environmental quality and protection in that
9 country (including any designated zone in that coun-
10 try) described in paragraph (2) of section 2;

11 (3) treat as actionable unfair trade practices
12 the systematic or practical nullification of the pro-
13 tection accorded worker rights and standards and
14 environmental quality (within the context of para-
15 graphs (1) and (2) of section 2) as a means for any
16 country or its industries to gain competitive advan-
17 tage in international trade, commerce, or finance;
18 and

19 (4) comply with the procedures, binding rulings,
20 and enforcement actions of the dispute resolution
21 mechanism developed pursuant to paragraph (4) of
22 section 2.

○