

BOX 1.  
PROVISIONS FOR WORKER RIGHTS IN U.S. LAW

**McKinley Tariff Act of 1890**, chapter 1244, section 51—prohibits imports of goods made by convict labor.

**White Phosphorus Match Act of 1912**, chapter 75—prohibits imports and exports of white phosphorus matches; taxes their domestic production.

**Smoot-Hawley Tariff Act of 1930**, chapter 497, section 307—prohibits imports of goods made by convict, forced, or indentured labor under penal sanction (unless required for domestic consumption).

**National Industrial Recovery Act of 1933**, chapter 90 (Found unconstitutional in 1935)—restricts imports of goods that impair codes of fair competition, including the right to organize and bargain collectively, the right to join, organize, or assist a labor organization, and compliance with maximum hours of work and minimum rates of pay.

**Trade Act of 1974**—Seeks “the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT [General Agreement on Tariffs and Trade].”

**Caribbean Basin Economic Recovery Act of 1983** (commonly referred to as the Caribbean Basin Initiative)—establishes discretionary worker-rights criteria for determining eligibility and benefits for the Caribbean Basin Initiative (CBI).

**Generalized System of Preferences Renewal Act of 1984**—defines “internationally recognized worker rights”; establishes mandatory and discretionary worker-rights criteria for determining eligibility and benefits for the Generalized System of Preferences; requires country reports on worker rights and eligibility reviews.

**Overseas Private Investment Corporation Amendments Act of 1985**—establishes mandatory worker-rights criteria for activities of the Overseas Private Investment Corporation (OPIC); requires public hearings.

**Comprehensive Anti-Apartheid Act of 1986**—codifies the Sullivan Principles for U.S. firms operating in South Africa.

**Foreign Operations, Export Financing, and Related Programs Appropriations Act for Fiscal Year 1988**—restricts U.S. contributions to the Multilateral Investment Guarantee Agency.

**Omnibus Trade and Competitiveness Act of 1988**—establishes discretionary worker-rights criteria for market access (section 301 of the Trade Act of 1974); establishes additional provisions for OPIC activities in China; cites worker rights as a “principle negotiating objective” for the United States in the GATT; requires country reports on economic and trade policy, including worker rights.

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**Caribbean Basin Economic Recovery Expansion Act of 1990**—establishes mandatory and discretionary worker-rights criteria for CBI eligibility and benefits.

**Andean Trade Preference Act of 1991**—establishes mandatory and discretionary worker-rights criteria for determining eligibility and benefits for Andean trade preferences.

**Jobs Through Exports Act of 1992**—establishes additional provisions for OPIC (concerning the responsibility of investors to observe worker rights).

**Foreign Operations, Export Financing, and Related Programs Appropriations Acts for Fiscal Years 1993, 1994, 1995, 1996, and 1997**—restrict appropriations for foreign assistance. The act for fiscal year 1995 also encourages fair labor practices in countries borrowing from international financial institutions.

**North American Free Trade Implementation Act of 1993**—enacts the North American Agreement on Labor Cooperation between the United States, Mexico, and Canada.

**Uruguay Round Agreements Act of 1994**—seeks to establish a working party for worker rights in the World Trade Organization.

**Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996**—defines a “transition government” as one that makes a public commitment to, and is making demonstrable progress toward, allowing the establishment of independent trade unions, as set forth in ILO conventions 87 and 98.

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SOURCE: Congressional Budget Office based in part on Asad Alam, “Labor Standards and Comparative Advantage” (Ph.D. dissertation, Columbia University, 1992), p. 25.

### Preferential Programs and Foreign Assistance

The Trade Act of 1974 (as amended in 1984) defined internationally recognized worker rights for the purposes of the GSP program; other U.S. programs, such as the CBI, the ATPA, and OPIC, have adopted the definition.<sup>37</sup> The GSP program gives preferential treatment to goods from developing countries that are not internationally competitive, while retaining some protection for domestic industries that are sensitive

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37. The provisions for worker rights in the CBI predate the provisions in the GSP program but were later revised to mirror those in the GSP program. For more information on the CBI provisions, see Steve Charnovitz, “Caribbean Basin Initiative: Setting Labor Standards,” *Monthly Labor Review* (November 1984); and Jorge F. Perez-Lopez, “Worker Rights in the U.S. Omnibus Trade and Competitiveness Act,” *Labor Law Journal* (April 1990).

**BOX 2.**  
**OBJECTIVES AND GUIDING PRINCIPLES OF THE  
NORTH AMERICAN AGREEMENT ON LABOR COOPERATION**

The 1993 North American Agreement on Labor Cooperation, a side agreement to the North American Free Trade Agreement, specified seven objectives for its signatories:

- o to improve working conditions and living standards in each party's territory;
- o to promote, to the maximum extent possible, the labor principles set out in Annex 1 (see the discussion below);
- o to encourage cooperation in order to promote innovations and rising levels of productivity and quality;
- o to encourage publication and exchange of information, data development and coordination, and joint studies to enhance mutually beneficial understanding of the laws and institutions governing labor in each party's territory;
- o to pursue cooperative labor-related activities on the basis of mutual benefit;
- o to promote compliance with, and effective enforcement by each party of, its labor law; and
- o to foster transparency in the administration of labor law.

Annex 1 of the agreement specified certain guiding principles with explanatory notes: "The following are guiding principles that the parties are committed to promote, subject to each party's domestic law, but do not establish common minimum standards for their domestic law. They indicate broad areas of concern where the parties have developed, each in its own way, laws, regulations, procedures and practices that protect the rights and interests of their respective workforces."

- o *Freedom of association and protection of the right to organize:* the right of workers, exercised freely and without impediment, to establish and join organizations of their own choosing to further and defend their interests.
- o *The right to bargain collectively:* the protection of the right of organized workers to engage freely in collectively bargaining on matters concerning the terms and conditions of employment.
- o *The right to strike:* the protection of the right of workers to strike in order to defend their collective interests.
- o *Prohibition of forced labor:* the prohibition and suppression of all forms of forced or compulsory labor, except for types of compulsory work generally considered acceptable by the parties, such as compulsory military service, certain civic obligations, prison labor not for private purposes, and work exacted in cases of emergency.

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- o *Labor protections for children and young persons:* the establishment of restrictions on the employment of children and young persons that may vary taking into consideration relevant factors likely to jeopardize the full physical, mental, and moral development of young persons, including schooling and safety requirements.
- o *Minimum employment standards:* the establishment of minimum employment standards such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements.
- o *Elimination of employment discrimination:* elimination of employment discrimination on such grounds as race, religion, age, sex or other grounds, subject to certain reasonable exceptions, such as, where applicable, bona fide occupational requirements or qualifications and established practices or rules governing retirement ages, and special measures of protection or assistance for particular groups designed to take into account the effects of discrimination.
- o *Equal pay for women and men:* equal wages for women and men by applying the principle of equal pay for equal work in the same establishment.
- o *Prevention of occupational injuries and illnesses:* prescribing and implementing standards to minimize the causes of occupational injuries and illnesses.
- o *Compensation in cases of occupational injuries and illnesses:* the establishment of a system providing benefits and compensation to workers or their dependents in cases of occupational injuries, accidents or fatalities arising out of, linked with, or occurring in the course of employment.
- o *Protection of migrant workers:* providing migrant workers in a party's territory with the same legal protection as the party's nationals in respect to working conditions.

to imports. Under the program, eligible goods from countries designated as "beneficiary developing countries" are imported duty-free. Other industrial countries administer their own GSP-type programs. The CBI and ATPA provide special preferences for developing countries in the Caribbean and Andean regions, respectively. OPIC encourages U.S. private investment in developing countries and emerging-market economies.<sup>38</sup> Its primary noncredit program is political risk insurance against losses resulting from expropriation, inconvertibility of currencies, and damage from political violence. Its primary credit program is investment financing through loans and loan guarantees.

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38. See *Budget of the United States Government, Fiscal Year 1995: Appendix*, pp. 90-95.

Besides providing a definition, the Trade Act also established criteria for worker rights in the GSP program. In particular, “the President shall not designate any country a beneficiary developing country under this section . . . if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).”<sup>39</sup>

The CBI, the ATPA, and OPIC have adopted similar criteria, with some modifications. The Overseas Private Investment Corporation differs from the other programs because it places the burden of responsibility on the private sector as well as the beneficiary country. Specifically, OPIC requires that countries take steps to promote worker rights, but it also requires that participating investors not “take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor.”<sup>40</sup>

The mechanism for assessing worker rights in the GSP program consists primarily of a process of petition and review. The process begins when an interested party files a petition seeking a review of the labor policies of a beneficiary developing country. An interagency committee of the executive branch uses information from public hearings, U.S. embassies, and annual reports on labor practices and human rights to establish whether the country has, in fact, failed to satisfy the worker-rights criteria. The findings of the committee affect the country's status under the GSP and other preferential programs. To date, 12 countries have been removed or suspended from the GSP program because of the worker-rights criteria. (See Appendix C for a summary of findings under the GSP reviews.) Some countries that participate in OPIC but not the GSP program require separate assessments. To date, five countries have been suspended by OPIC.<sup>41</sup>

The worker-rights criteria for foreign aid programs are somewhat different, focusing on specific projects and activities. Section 599 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act for Fiscal Year 1993 specified that none of the funds appropriated by the act could be used to provide

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39. Generalized System of Preferences Renewal Act of 1984, section 503(b)(6)—19 U.S.C. 2462(b)(7), 98 Stat. 3019—amending the Trade Act of 1974, section 502(b)(7). The GSP Renewal Act of 1996 designates that provision as section 502(b)(2)(6). Under section 502(b) of the Trade Act, as amended, the President may waive the worker-rights condition and some others.

40. Jobs Through Exports Act of 1992, section 102—22 U.S.C. 2191a(a), 106 Stat. 3651—amending the Foreign Assistance Act of 1961, section 231A(a)(1).

41. Those countries were Ethiopia (1987), South Korea (1991), Qatar (1995), Saudia Arabia (1995), and the United Arab Emirates (1995). OPIC reopened the Ethiopia program in 1992.

assistance for any projects or activities that contribute to the violation of internationally recognized worker rights in the recipient country, including any designated zones or areas in the country. Those criteria have been repeated in subsequent acts.<sup>42</sup>

### General Provisions

Section 301 of the Trade Act (as amended in 1988) authorizes action, on a discretionary basis, if “an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce.”<sup>43</sup> Such action includes imposing duties or other import restrictions; suspending or withdrawing concessions made in trade agreements; and agreeing with the foreign country either to eliminate the act, policy, or practice, to eliminate the burden or restriction on U.S. commerce, or to provide the United States with compensatory trade benefits. Section 301 defines “unreasonable” as including any act, policy, or practice that constitutes a persistent pattern of conduct that denies or violates worker rights.<sup>44</sup> To date, that provision has not been invoked.

### Multilateral Forums

Besides U.S. programs, multilateral bodies such as international trade organizations and financial institutions have provided another forum for U.S. policymakers seeking to promote worker rights. In 1974, the Congress sought “the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT.”<sup>45</sup> And in 1988, the Omnibus Trade and Competitiveness Act included worker rights among the “principal trade negotiating objectives” of the United States. In particular, that act established a three-step goal:

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42. See the Foreign Operations, Export Financing, and Related Programs Appropriations Acts for fiscal years 1994, 1995, 1996, and 1997, sections 547, 545, 539, and 538, respectively.

43. Omnibus Trade and Competitiveness Act of 1988, section 1301—19 U.S.C. 2411(b)(1), 102 Stat. 1165—amending the Trade Act of 1974, section 301(b).

44. Omnibus Trade and Competitiveness Act of 1988, section 1301—19 U.S.C. 2411(d)(3), 102 Stat. 1167—amending the Trade Act of 1974, section 301(d).

45. Trade Act of 1974, section 121(a)(4); P.L. 93-618, 88 Stat. 1986.

- o “To promote respect for worker rights;
- o “To secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and
- o “To adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.”<sup>46</sup>

The Uruguay Round Agreements Act of 1994 directed the President to seek the establishment of a working party in the World Trade Organization to explore the relationship between worker rights and international trade (see Box 3). Worker rights were not placed on the WTO’s agenda, but the issue was taken up by the OECD and raised during the first official meeting of the WTO. The World Trade Organization’s Singapore Declaration of December 1996 included a short statement on core labor standards:

We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization . . . is the competent body to set and deal with these standards and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration.<sup>47</sup>

Regarding international financial institutions, the Foreign Operations, Export Financing, and Related Programs Appropriations Act for Fiscal Year 1988 instructed the U.S. director of the Multilateral Investment Guarantee Agency to seek the adoption of policies and procedures that would prevent issuing loan guarantees “in any country which has not taken or is not taking steps to afford internationally

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46. Omnibus Trade and Competitiveness Act of 1988, section 1101(b)(14); 19 U.S.C. 2901(b)(14), 102 Stat. 1125. The GATT contains one explicit provision for worker rights, inasmuch as Article XX permits restrictive measures relating to the products of prison labor.

47. See “Final Singapore Declaration,” *Inside U.S. Trade*, Special Report (December 16, 1996), p. S-3.

BOX 3.  
THE URUGUAY ROUND AGREEMENTS ACT:  
THE PROPOSAL FOR A WORKING PARTY ON WORKER RIGHTS

The Uruguay Round Agreements Act of 1994—the law to approve and carry out the trade agreements concluded in the Uruguay Round of multilateral trade negotiations—contains provisions to seek the establishment of a working party to examine the relationship between internationally recognized worker rights and both the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO).<sup>1</sup> The provisions are specified in section 131, titled “Working Party on Worker Rights”:

(a) **IN GENERAL.**—The President shall seek the establishment in the GATT 1947, and, upon entry into force of the WTO Agreement with respect to the United States, in the WTO, of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to the articles, objectives, and related instruments of the GATT 1947 and of the WTO, respectively.<sup>2</sup>

(b) **OBJECTIVES OF THE WORKING PARTY.**—The objectives of the United States for the working party described in subsection (a) are to—

(1) explore the linkage between international trade and internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, taking into account differences in the level of development among countries;

(2) examine the effects on international trade of systematic denial of such rights;

(3) consider ways to address such effects; and

(4) develop methods to coordinate the work program of the working party with the International Labor Organization.

(c) **REPORT TO CONGRESS.**—The President shall report to the Congress, not later than 1 year after the date of the enactment of this Act, on the progress made in establishing the working party under this section, and on United States objectives with respect to the working party’s work program.<sup>3</sup>

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1 In addition, section 102(a)(2) ensures that nothing in the act shall be construed “(A) to amend or modify any law of the United States including any law relating to (i) the protection of human, animal, or plant life or health, (ii) the protection of the environment, or (iii) worker safety, or (B) to limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974, unless specifically provided for in this Act.”

2 Section 2 defines GATT 1947 as “the General Agreement on Tariffs and Trade, dated October 30, 1947. . . as subsequently rectified, amended, or modified . . . before the date of entry of the WTO Agreement.” It defines the WTO Agreement as “the Agreement Establishing the World Trade Organization entered into on April 15, 1994.”

3. 19 U.S.C. 3551, 108 Stat. 4839.

recognized rights to workers in that country.”<sup>48</sup> More recently, the International Financial Institutions Act (as amended in 1994) directed the Department of the Treasury and the U.S. executive directors of the institutions to work to establish a process for evaluating member countries’ adherence to internationally recognized worker rights and to make the issue an integral part of the institutions’ policy dialogue with each borrowing country (see Box 4).<sup>49</sup> The Treasury must report annually to the Congress on the progress toward those two goals. The first such report found that, “as a general matter, the institutions have not specifically integrated ILO worker rights standards into their operational procedures.”<sup>50</sup>

Any discussion of U.S. efforts to promote worker rights in multilateral forums leads inevitably to the issue of U.S. participation in the International Labor Organization. The United States has fallen about \$25 million behind in its payments to the ILO and has ratified only one major convention (Convention 105 on the abolition of forced labor).<sup>51</sup> It has endorsed the ILO’s International Program for the Elimination of Child Labor, with contributions of \$1.5 million in both fiscal years 1996 and 1997, and clearly abides by the spirit of other major conventions. But the failure to make payments on arrears and to ratify the major conventions, even as a symbolic gesture, has detracted from U.S. efforts to promote worker rights in other multilateral forums. Some key sticking points that have held up U.S. ratification include concerns about national sovereignty and states’ rights.<sup>52</sup>

### Voluntary Efforts by the Private Sector

Besides initiatives of the federal government, U.S. policymakers have tried to encourage the private sector to make voluntary efforts to improve labor standards, such as establishing corporate codes of conduct and labeling programs. Recent progress in those areas may spring from firms’ concerns about working conditions in developing countries or their concerns about corporate image. Observers posit that

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48. Section 405 of H.R. 3750, as enacted in P.L. 100-202, 101 Stat. 1329-132. For more information on the Multilateral Investment Guarantee Agency, see Perez-Lopez, “Worker Rights in the U.S. Omnibus Trade and Competitiveness Act.”

49. Department of the Treasury, *1995 Annual Report to the Congress on Labor Issues and International Financial Institutions* (1995), p. 1.

50. *Ibid.*, p. 2.

51. For more information on U.S. payments to the ILO, see Lois McHugh, *The International Labor Organization and International Labor Issues in the 104th Congress*, CRS Report for Congress 96-836 F (Congressional Research Service, October 17, 1996).

52. See Vita Bite, *Human Rights Treaties: Some Issues for U.S. Ratification*, CRS Report for Congress 96-736 F (Congressional Research Service, August 23, 1996).

BOX 4.  
FAIR LABOR PRACTICES AND  
INTERNATIONAL FINANCIAL INSTITUTIONS

Section 526(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act for Fiscal Year 1995 amended title XVI of the International Financial Institutions Act by adding section 1621, titled "Encouragement of Fair Labor Practices."<sup>1</sup> That section directs the U.S. executive directors of the institutions to use the influence of the United States to urge the institutions to take steps to encourage fair labor practices in borrowing countries. It states:

(a) The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions . . . to use the voice and vote of the United States to urge the respective institution—

(1) to adopt policies to encourage borrowing countries to guarantee internationally recognized worker rights . . . and to include the status of such rights as an integral part of the institution's policy dialogue with each borrowing country;

(2) in developing the policies referred to in paragraph (1), to use the relevant conventions of the International Labor Organization, which have set forth, among other things, the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, and certain minimum labor standards that take into account differences in development levels among nations including a minimum age for the employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; and

(3) to establish formal procedures to screen projects and programs funded by the institution for any negative impact in a borrowing country on the rights referred to in paragraph (1).

The section also requires the Secretary of the Treasury to provide the House Committee on Banking, Finance and Urban Affairs and the Senate Committee on Foreign Relations with an annual report detailing the extent to which each borrowing country guarantees internationally recognized worker rights to its labor force and the progress toward achieving each of the goals described in subsection (a).

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<sup>1</sup> Section 1701(c)(2) of the International Financial Institutions Act, as amended, defines "international financial institutions" as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation.

such efforts may say as much about the effect of negative publicity and the profitability of self-promotion as they do about altruism.

In the tradition of the Sullivan Principles for foreign businesses operating in South Africa and other voluntary guidelines for multinational corporations, the Clinton Administration has proposed five “model business principles” for U.S. firms operating overseas (see Box 5 on page 30).<sup>53</sup> The principles address labor, environmental, and other business practices. Along similar lines, Representative Lane Evans introduced legislation in the 104th Congress that would have required the Secretary of State to establish a set of voluntary guidelines to promote socially responsible business practices for U.S. businesses operating in foreign countries. Some U.S. companies, such as Levi Strauss and Nike, have already publicized and adopted their own codes of conduct.<sup>54</sup>

Proposals for new labeling programs have also come to the fore. In general, such programs are intended to tap into consumers’ preferences for products made under “good” working conditions. One such program that is already up and running was founded in South Asia by the Rugmark Foundation, a group consisting of non-governmental organizations in the region, industry representatives, and international organizations. By using a special trademark—a carpet with a smiling face—to indicate that a rug has been made without child labor, the foundation has sought to discourage the use of child labor in developing countries. Manufacturers must sign a licensing agreement to obtain the trademark, after which they are legally obligated to adhere to the conditions of its use.

During the past year, attention has been drawn to the issue of child labor because of publicity alleging that clothing and sports equipment sold under celebrity endorsements were made by children working in sweatshops. In a particularly visible case, U.S. talk show host Kathie Lee Gifford testified before the Congress on the use of child labor among subcontractors producing “Kathie Lee” garments. Public pressure on firms accused of profiting from exploitative practices has led them to act voluntarily to engage third-party investigators or other independent groups in order to certify that the working conditions in their plants, and those of their subcontractors, in developing countries are not exploitative.

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53. The Reverend Leon Sullivan introduced the Sullivan Principles in the 1970s as a private voluntary effort. They were adopted by more than 100 U.S. businesses operating in South Africa and were later codified in the Comprehensive Anti-Apartheid Act of 1986. The Organization for Economic Cooperation and Development introduced “Guidelines for Multinational Enterprises,” and the International Labor Organization introduced the “Tripartite Declaration of the Principles Concerning Multilateral Enterprises and Social Policies,” in 1976 and 1977, respectively. For more information on other codes of conduct, see Jorge F. Perez-Lopez, “Promoting International Respect for Worker Rights Through Business Codes of Conduct,” *Fordham International Law Journal*, vol. 17, no. 1 (1993), pp. 1-47.

54. For a list of such firms, see Department of Labor, Bureau of International Labor Affairs, *The Apparel Industry and Codes of Conduct: A Solution to the International Child Labor Problem* (1996), Appendix C.

As this memorandum was being completed, representatives of U.S. apparel and shoe manufacturers reached a voluntary agreement on a code of conduct for their factories, both at home and abroad.<sup>55</sup> The code was developed under a Presidential task force to address alleged sweatshop conditions in those industries. The Workplace Code of Conduct prohibits forced labor, the employment of young children, and physical, sexual, or psychological abuse or harassment. It also requires contractors to pay a minimum wage, establish maximum working hours, and recognize the right of employees to associate freely and bargain collectively. Independent monitors will inspect factories worldwide. Companies adhering to the code will feature “No Sweat” labels on their products.

In another recent campaign, major sporting goods manufacturers, the ILO, and child-advocacy organizations (including Save the Children and UNICEF) have joined together in an effort to eliminate child labor in the production of Pakistani soccer balls. At present, an estimated 10,000 Pakistani children between the ages of 6 and 14 work up to 10 hours a day stitching the leather balls, for the equivalent of about \$1.20 a day. Pakistan produces 75 percent of the world’s hand-stitched soccer balls. The program was spurred by embarrassing news reports of child labor, a letter-writing and petitioning campaign, a GSP finding, and ultimately the refusal of FIFA (the international soccer federation) to endorse soccer balls unless manufacturers certified that they were not made by children. The program established a \$1 million fund for paying independent monitors to inspect ball-making sites, educating children, and attempting to offset some of the income that families will lose when their children stop working.<sup>56</sup>

## KEY ISSUES FOR THE CONGRESS

The Congress is most likely to consider the issue of worker rights in the context of new legislation for authority to negotiate trade agreements under “fast-track” procedures. In the past, such legislation, which authorizes the President to negotiate trade agreements and binds the Congress to a simple up-or-down vote, has been accompanied by a statement of goals. Whether worker rights should be explicitly included among those goals, and thus covered under the fast-track procedures, or specifically excluded will be a major issue surrounding the passage of new legislation.

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55. Paul Blustein, “Apparel Industry Reaches Agreement to End Sweatshops in U.S. and Abroad,” *Washington Post*, April 14, 1997, p. A10; and Bob Herbert, “A Good Start,” *New York Times*, April 14, 1997, p. A25.

56. Steven Greenhouse, “Sporting Goods Firms to Fight Sale of Soccer Balls Made by Children,” *New York Times*, February 14, 1997, p. A12.

BOX 5.  
VOLUNTARY CODES OF CONDUCT FOR CORPORATIONS

In 1995, the Clinton Administration circulated "model business principles" for U.S. firms operating overseas. The principles arose from concerns about human rights and labor practices in the Peoples Republic of China, but the draft did not name China specifically. (The Administration formally delinked China's trade status from its human rights record in May 1994 but promised to address China's human rights performance in the future.) The principles cover working conditions, human rights, and environmental concerns. The model business principles state:

Recognizing the positive role of U.S. business in upholding and promoting adherence to universal standards of human rights, the Administration encourages all businesses to adopt and implement voluntary codes of conduct for doing business around the world that cover at least the following areas:

1. Provision of a safe and healthy workplace.
2. Fair employment practices, including avoidance of child and forced labor and avoidance of discrimination based on race, gender, national origin or religious beliefs; and respect for the right of association and the right to organize and bargain collectively.
3. Responsible environmental protection and environmental practices.
4. Compliance with U.S. and local laws promoting good business practices, including laws prohibiting illicit payments and ensuring fair competition.
5. Maintenance, through leadership at all levels, of a corporate culture that respects free expression consistent with legitimate business concerns, and does not condone political coercion in the workplace; that encourages good corporate citizenship and makes a positive contribution to the communities in which the company operates; and where ethical conduct is recognized, valued and exemplified by all employees.

In adopting voluntary codes of conduct that reflect these principles, U.S. companies should serve as models, encouraging similar behavior by their partners, suppliers, and subcontractors.

Adoption of codes of conduct reflecting these principles is voluntary. Companies are encouraged to develop their own codes of conduct appropriate to their particular circumstances. Many companies already apply statements or codes that incorporate these principles. Companies should find appropriate means to inform their shareholders and the public

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of actions undertaken in connection with these principles. Nothing in the principles is intended to require a company to act in violation of host country or U.S. law. This statement of principles is not intended for legislation.

Although the draft says U.S. companies should serve as role models and encourage similar standings for their partners, suppliers, and subcontractors, the prospect of a voluntary code has raised concerns that U.S. companies will lose ground in competitive international markets.<sup>1</sup>

When the proposal was circulated, its critics fell into two camps. On one side, some critics suggested that the proposal represented the “camel’s nose”—that is, the first step toward establishing the principles in U.S. law.<sup>2</sup> Such concerns have some historical basis. The Sullivan Principles, which began as voluntary principles for firms operating in South Africa, were later codified in U.S. law as part of the Comprehensive Anti-Apartheid Act of 1986. On the other side, some critics argued that the Administration’s model principles were too soft.<sup>3</sup> Compared with some narrower provisions in current law, the voluntary principles are less restrictive. In particular, U.S. law requires stronger commitments from private investors seeking guarantees from the Overseas Private Investment Corporation.

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1 See David E. Sanger, “Clinton to Urge a Rights Code for Businesses Dealing Abroad,” *New York Times*, March 27, 1995, pp. D1 and D5.

2 See “U.S. Firms Divided Over Response to Administration Business Principles,” *Inside U.S. Trade* (March 31, 1995), pp. 8-9; Sanger, “Clinton to Urge a Rights Code.”

3 See “U.S. Firms Divided Over Response to Administration Business Principles”; A. M. Rosenthal, “The Limp Noodle,” *New York Times*, March 28, 1995, p. A19; Sanger, “Clinton to Urge a Rights Code”; and Frank Swoboda, “White House Unveils Code for U.S. Businesses Abroad,” *Washington Post*, May 27, 1995, pp. F1-F2.

The Congress may also turn its attention to the criteria in preferential and nonpreferential programs and to more targeted measures aimed at U.S. multinational companies and countries that do not prohibit slavery or child labor. Specifically, the issue of whether to extend most-favored-nation (MFN) trade status to China will involve a review of China's record on human rights, and most likely on worker rights as well. In view of the findings of the Treasury Department's report on labor issues and the international financial institutions—as well as other recent statements, such as the Singapore Declaration—it seems unlikely that multilateral organizations will adopt a social clause in the near future.

### The Debate on Fast-Track Authority

The Administration has indicated its desire to obtain new fast-track authority to negotiate trade agreements with other countries. With such authority, the President

can submit a trade agreement to the Congress with the guarantee of a simple up-or-down vote within 90 days. Fast-track authority is considered necessary to assure foreign negotiators that the deals they make with U.S. negotiators will not be changed by Congressional amendments.

In the wake of NAFTA, which included side agreements on labor and the environment, the scope of issues covered under fast-track authority has become the subject of controversy. Over the past decade, U.S. law has addressed worker-rights goals as among the “principal trade negotiating objectives” of the United States. But until NAFTA, those goals had little tangible recognition in the agreements that were reached. Following NAFTA, a rift has developed between those U.S. policymakers who adamantly insist that new fast-track authority should not cover labor or the environment—to the point that they are seeking a specific exclusion—and those who just as adamantly insist that it should cover both issues.<sup>57</sup>

### Trade Relations with China

Although the domestic policies of most U.S. trading partners in the developing world are unlikely to directly affect the United States economically, China stands out as a possible exception. It accounts for a substantial portion of world trade in some goods, and it has a record of significant human rights and worker-rights abuses. Those factors taken together mean that China’s domestic policies might affect U.S. markets.

Under current law, U.S. extension of nondiscriminatory tariff treatment to China (most-favored-nation status) is subject to annual renewal, usually in late spring. Accordingly, the Congress is likely to review China’s trade status this year. Past reviews have included consideration of China’s human rights policy and alleged unfair trade practices. Some legislators have argued that China should be denied MFN treatment for human rights or other policy reasons, whereas others have argued that trade relations should not be conditioned on humanitarian or political concerns.

Legislation to change China’s trade status permanently and end the requirement for annual MFN renewal may also come before the 105th Congress. Such legislation could provide a vehicle for efforts to influence China’s human rights and labor policies. Other, more narrowly targeted bills may also address labor issues in China. One bill—the Chinese Slave Labor Act (H.R. 320)—already introduced in the 105th Congress by Representative Gerald Solomon, would prohibit the importation of articles produced in China by forced labor.

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57. See Vladimir N. Pregelj, *Fast-Track Implementation of Trade Agreements: History, Status, and Other Options*, CRS Report for Congress 97-41 E (Congressional Research Service, December 27, 1996).

### Other Proposals That Would Impose Sanctions

The Congress may consider legislation to deal with specific international labor issues that have gained recent attention, such as child labor and slavery. Observers expect much of the legislation introduced in the 104th Congress that dealt with child labor abuses to be reintroduced in the 105th Congress. Among those bills are the International Child Labor Elimination Act, the Working Children's Human Rights Act, and the Child Labor Deterrence Act. In general, such legislation would impose economic sanctions on countries that allow child labor by prohibiting the United States from importing any article produced by such labor. Some bills would place additional restrictions on U.S. bilateral and multilateral assistance.

### Reviewing Preferential Trade and Investment Programs

The 105th Congress is likely to consider proposals to renew the authority of existing trade and investment programs—in particular, the Generalized System of Preferences and the Overseas Private Investment Corporation. In addition, the Congress may examine the special tariff treatment that the United States provides to Caribbean Basin countries. As noted in the previous section, each of those programs includes criteria for adherence by participating countries to international worker rights.

Although the GSP and OPIC have provided a forum for publicizing concerns about a country's labor practices, and countries have been denied benefits because of negative findings, the direct economic value of those programs to many recipient countries is not compelling. For many recipient countries, including those that have been denied benefits, the two programs account for a small share of their total trade and investment, and an even smaller share of their national income. (For some industries, however, the programs account for larger shares of trade and investment.)

Whatever economic leverage those programs may have had in the past is waning, for at least two reasons. First, the United States' nonpreferential tariff rates are declining, so the GSP program has become less important in influencing which countries become U.S. trading partners and how those countries behave. Second, increased budgetary pressures and, more generally, the expectation of closer Congressional scrutiny of the GSP and OPIC programs means that they face uncertain futures and cannot be counted on as policy levers in the future. The GSP program has lapsed three times in the past five years and will expire again in May 1997. And OPIC, which came under fire in the 104th Congress, has received little support in the 105th Congress.

Despite their declining economic importance, however, the overall leverage of those programs may still be significant. One reason is that negative publicity

about labor practices in a recipient country can deter firms in the United States and elsewhere from doing business there, which gives that country an economic incentive to improve its labor standards. In addition, such publicity may have other, non-economic consequences. As the ILO has found over the past 75 years, many nations respond to the spotlight of public information even in the absence of an economic penalty. Countries tend to value their reputation for more than its importance to trade and investment.

### Encouraging Private Voluntary Programs

The spotlight of public information may encourage other countries to change their domestic policies, but U.S. policy also shines that spotlight on U.S. firms in order to persuade them to change their business practices. In some cases, negative publicity—or the fear of it—prompts U.S. companies to participate in programs to promote worker rights, adopt higher standards in their overseas operations, or take action against offending subcontractors.

Noting that some U.S. multinational corporations have already adopted voluntary codes of conduct, Representative Lane Evans introduced legislation in the previous Congress to require the Secretary of State to establish a set of voluntary guidelines that U.S. companies operating in foreign countries could follow to promote socially responsible business practices. At a minimum, the guidelines would be based on principles contained in the OECD's "Guidelines for Multinational Enterprises," the ILO's "Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy" and its child-labor standards, the standards on prison labor contained in article XX of the GATT, the Sullivan Principles, the MacBride Principles, and similar codes of conduct.