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# The Tibetan Policy Act of 2002: Background and Implementation

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November 5, 2014

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R43781

## Summary

The Tibetan Policy Act of 2002 (TPA) is a core legislative measure guiding U.S. policy toward Tibet. Its stated purpose is “to support the aspirations of the Tibetan people to safeguard their distinct identity.” Among other provisions, the TPA establishes in statute the State Department position of Special Coordinator for Tibetan Issues and defines the Special Coordinator’s “central objective” as being “to promote substantive dialogue” between the government of the People’s Republic of China and Tibet’s exiled spiritual leader, the Dalai Lama, or his representatives. The Special Coordinator is also required, among other duties, to “coordinate United States Government policies, programs, and projects concerning Tibet”; “vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet”; and press for “improved respect for human rights.”

While the Special Coordinator coordinates Tibet-related U.S. government programs, congressional mandates and earmarked appropriations for most such programs are contained in legislation other than the TPA. The programs include assistance for nongovernmental organizations to work in Tibetan communities in China; an educational and cultural exchange program with “the people of Tibet”; Voice of America and Radio Free Asia Tibetan-language broadcasting into Tibet; assistance for Tibetan refugees in South Asia; a scholarship program for Tibetans outside Tibet; and National Endowment for Democracy programs relating to Tibet.

Congress has shown a strong interest in Tibet since the 1980s, passing dozens of laws and resolutions related to Tibet, speaking out about conditions in Tibet, and welcoming visits by the Dalai Lama and, more recently, the political head of the India-based Central Tibetan Administration. Such actions have long been a source of friction in the U.S.-China relationship. China charges that they amount to support for challenges to Chinese rule in Tibet.

Since passage of the TPA, three bills seeking to update it have passed the House of Representatives. In the 113<sup>th</sup> Congress, H.R. 4194, the House-passed Government Reports Elimination Act of 2014, would eliminate a report required by the TPA: the provision was removed in the Senate-passed bill. H.R. 2410 in the 111<sup>th</sup> Congress and H.R. 2601 in the 109<sup>th</sup> Congress both included substantial revisions to the TPA, but the Senate did not act on either bill.

If Congress again considers amending the TPA, questions it may wish to consider include:

- To what degree, if any, should policy toward Tibet be considered in the context of relations with China?
- Should Congress clarify its position on Tibet’s political status? In the early 1990s, Congress passed legislation declaring Tibet to be an “occupied country,” but subsequent legislation has often implied congressional acceptance of a status for Tibet as part of China.
- What should be the balance between U.S. programs, activities, and policies focused on the 6 million Tibetans living under Chinese Communist Party rule and those focused on the approximately 130,000-strong Tibetan diaspora?
- With dialogue between the Chinese government and the Dalai Lama’s representatives stalled since January 2010, should the TPA continue to define promotion of such dialogue as the Special Coordinator’s “central objective”?

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## Introduction

The Tibetan Policy Act of 2002 (TPA) is among the primary legislative measures guiding U.S. policy toward Tibet and the Tibetan people. Enacted into law on September 30, 2002, as part of the Foreign Relations Authorization Act, FY2003 (P.L. 107-228), it lists its “purpose” as being “to support the aspirations of the Tibetan people to safeguard their distinct identity.”<sup>1</sup> The act establishes in statute the State Department position of United States Special Coordinator for Tibetan Issues and states that the Special Coordinator’s “central objective” is “to promote substantive dialogue between the Government of the People’s Republic of China and the Dalai Lama or his representatives.”

The first of the Special Coordinator’s duties and responsibilities, according to the TPA, is to “coordinate United States Government policies, programs, and projects concerning Tibet.” Many of those policies, programs, and projects are mandated in other legislation. They include U.S. government assistance for nongovernmental organizations to work in Tibetan communities in China; an educational and cultural exchange program with “the people of Tibet”; Voice of America and Radio Free Asia Tibetan-language broadcasting into Tibet; assistance for Tibetan refugees in South Asia; a scholarship program for Tibetans living outside Tibet; and National Endowment for Democracy human rights and democracy programs relating to Tibet. The Special Coordinator is also required to “vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet” and press for “improved respect for human rights.”

Among the TPA’s other provisions are requirements that the President and the Secretary of State encourage dialogue between the Chinese government and the Dalai Lama or his representatives “leading to a negotiated agreement on Tibet,” and that in meetings with Chinese government representatives, they raise the issue of political and religious prisoners in Tibet. Specifically, they are required to request the “immediate and unconditional” release of such prisoners, seek access for international humanitarian organizations to prisoners in Tibet, and seek medical parole for Tibetan prisoners known to be in ill health. The Secretary of State is also required to “make best efforts to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet.” These and other provisions of the TPA are discussed in detail below.

Actions of the U.S. Congress on issues related to Tibet and Tibetans, including the Tibetan Policy Act of 2002, have long been a source of friction in the U.S. relationship with China. China charges that many congressional actions amount to support for challenges to Chinese rule in Tibet and thus threaten Chinese sovereignty and territorial integrity. Congress has shown consistent support for Tibet’s exiled spiritual leader, the 14<sup>th</sup> Dalai Lama; China considers him to be a separatist, although since 1988 he has sought autonomy for Tibet within the People’s Republic of China.<sup>2</sup> In March 2014, after Members of Congress met the 14<sup>th</sup> Dalai Lama, a Chinese Foreign

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<sup>1</sup> The authorization measure, H.R. 1646, was introduced on April 27, 2001, by Representative Henry Hyde. It became P.L. 107-228, including the Tibetan Policy Act of 2002, at Title VI, Subtitle B. The Tibet language is codified at 22 U.S.C. §2901 note.

<sup>2</sup> After President Obama met the Dalai Lama in February 2014, China’s Executive Vice Foreign Minister Zhang Yesui summoned the U.S. Charge D’affaires in Beijing to object to the meeting. Speaking to the Charge, Zhang described the Dalai Lama as the “chief head of the secessionist group seeking ‘Tibet independence.’” “China Expresses ‘Strong Indignation, Firm Opposition’ Against Obama-Dalai Lama Meeting,” Xinhua News Agency, February 22, 2014, [http://news.xinhuanet.com/english/china/2014-02/22/c\\_133134386.htm](http://news.xinhuanet.com/english/china/2014-02/22/c_133134386.htm). In his 1988 Strasbourg Proposal, in which he outlined what came to be known as his “Middle Way Approach,” the Dalai Lama called for the whole of historic Tibet, (continued...)

Ministry spokesperson said, “China urges the U.S. Congress to honor the commitment the U.S. side has made of recognizing Tibet as one part of China and not supporting ‘Tibet independence,’ stop interfering in China’s internal affairs with Tibet-related affairs, cease to connive at and support anti-China separatist activities by ‘Tibet independence’ forces, and do more things that promote friendship between the two peoples and bilateral relations rather than the opposite.”<sup>3</sup>

The purpose of this report is to offer background on the Tibetan Policy Act of 2002, including discussion of other U.S. legislation related to Tibet, and examine implementation of the act. In recent years, three bills seeking to update the Tibetan Policy Act of 2002 have passed the House. In the 113<sup>th</sup> Congress, H.R. 4194, the Government Reports Elimination Act of 2014 passed the House with a provision that would eliminate a report required by the TPA: the provision was removed in the Senate-passed bill. H.R. 2410 in the 111<sup>th</sup> Congress and H.R. 2601 in the 109<sup>th</sup> Congress both included substantial revisions to the TPA, although neither bill was acted on by the Senate. This report concludes with a list of questions that Congress may wish to consider if it again seeks to update the TPA.

## **The Leadership of Tibet and the Tibetan Exile Movement Since 1949**

The Chinese Communist Party declared the establishment of the People’s Republic of China (PRC) in October 1949. In 1950, it sent its People’s Liberation Army (PLA) into eastern Tibet. In May 1951, the Chinese central government in Beijing signed a 17-point agreement with a delegation from Tibet establishing principles for PRC rule of Tibet. Tibet’s temporal and spiritual leader, the then-teenaged 14<sup>th</sup> Dalai Lama, Tenzin Gyatso, did not personally sign the agreement. He did, however, agree to cooperate with the new PRC government. In March 1959, after a failed Tibetan uprising against Chinese rule, the Dalai Lama fled Tibet and settled with fellow Tibetan exiles in the Indian hill town of Dharamsala, where he has been based since.<sup>4</sup> The Dalai Lama is believed by Tibetan Buddhists to be a manifestation of enlightened being, the bodhisattva of compassion, Avalokitesvara, and heads the Gelugpa sect of Tibetan Buddhism, also known as the “Yellow Hat” order.<sup>5</sup>

After nine years of preparation, Beijing formally established the Tibet Autonomous Region (TAR) in 1965. The last of five province-level ethnic minority regions established in China, it encompasses just under half the geographic area that Tibetan exile organizations consider to constitute “Tibet.” The rest of the area that Tibetan exile organizations consider to be “Tibet” overlaps with China’s Qinghai Province and parts of Sichuan, Yunnan, and Gansu Provinces.

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(...continued)

including Tibetan areas in several Chinese provinces, to become “a self-governing democratic political entity ... in association with the People’s Republic of China.” He said that China “could remain responsible for Tibet’s foreign policy.” His Holiness the 14<sup>th</sup> Dalai Lama of Tibet, *Address to the Members of the European Parliament*, Strasbourg, France, June 15, 1988, <http://www.dalailama.com/messages/tibet/strasbourg-proposal-1988>.

<sup>3</sup> Ministry of Foreign Affairs of the People’s Republic of China, “Foreign Ministry Spokesperson Qin Gang’s Regular Press Conference on March 7, 2014,” March 8, 2013, [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2535\\_665405/t1135204.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/t1135204.shtml).

<sup>4</sup> For discussion of this history, see Melvyn C. Goldstein, *The Snow Lion and the Dragon: China, Tibet, and the Dalai Lama* (Berkeley, CA: University of California Press, 1997).

<sup>5</sup> For more information, see the website of the 14<sup>th</sup> Dalai Lama, <http://www.dalailama.com>.

Qinghai, Sichuan, and Yunnan border the TAR, while Gansu borders Qinghai. The Chinese government has designated nine prefectures and two counties in those provinces as “Tibetan autonomous.”<sup>6</sup> In areas of China that the Chinese government has designated as “autonomous,” members of the dominant ethnic group in China, Han Chinese, usually head the powerful local Communist Party Committee, while ethnic minority officials head the government, which implements the Communist Party’s policies.<sup>7</sup> The current Party Secretary of the TAR is Chen Quanguo, an ethnic Han Chinese. The current Chairman of the TAR People’s Government is Losang Jamcan, an ethnic Tibetan. According to official Chinese figures, in 2010, about 2.7 million of the 6 million ethnic Tibetans in China lived in the TAR.<sup>8</sup> Most of China’s remaining Tibetan population lived in Tibetan “autonomous” prefectures and counties outside the TAR.

Over 80,000 Tibetans followed the Dalai Lama into exile in 1959. In Dharamsala, India, the Dalai Lama established an exile government, now known formally as the Central Tibetan Administration (CTA). According to a demographic survey undertaken by the CTA in 2009, the Tibetan diaspora then numbered 128,000, including 94,000 Tibetans in India, 14,000 in Nepal, 1,300 in Bhutan, and 19,000 in other countries.<sup>9</sup> The State Department’s Bureau of Population, Refugees, and Migration, which provides assistance to Tibetan refugees in India and Nepal, estimates that Tibetan refugees in India currently number 110,000, and that Tibetan refugees in Nepal currently number 15,000 to 20,000.<sup>10</sup> The numbers include new arrivals from Tibet in the decades since the Dalai Lama’s flight. Tibetans in South Asia are concentrated in 58 Tibetan refugee settlements administered by the CTA.<sup>11</sup>

In March 2011, the Dalai Lama devolved political leadership of the Tibetan exile movement to the head of the CTA cabinet. Dr. Lobsang Sangay was elected to this post for a five-year term in April 2011 with 55% of more than 49,000 votes cast by the Tibetan diaspora. He is now referred

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<sup>6</sup> The prefectures and counties that the Chinese government has designated “Tibetan Autonomous,” listed by their Tibetan names, with their Chinese names in parentheses, are as follows. Gansu Province: Kanlho (Gannan) Tibetan Autonomous Prefecture; Pari (Tianzhu) Tibetan Autonomous County. Qinghai Province: Tsonub (Haixi) Mongolian and Tibetan Autonomous Prefecture; Tsojang (Haibei) Tibetan Autonomous Prefecture; Malho (Huangnan) Tibetan Autonomous Prefecture; Yulshul (Yushu) Tibetan Autonomous Prefecture; Golog (Guoluo) Tibetan Autonomous Prefecture. Sichuan Province: Garze (Ganzi) Tibetan Autonomous Prefecture; Ngawa (Aba) Tibetan and Qiang Tibetan Autonomous Prefecture; Muli (Mili) Tibetan Autonomous County. Yunnan Province: Dechen (Diqing) Tibetan Autonomous Prefecture. For information on the exile government’s view of what geographic area constitutes “Tibet,” see Central Tibetan Administration, “Tibet at a Glance,” <http://tibet.net/about-tibet/tibet-at-a-glance/>.

<sup>7</sup> Article 114 of China’s 1982 State Constitution requires that, “The administrative head of an autonomous region, prefecture or county shall be a citizen of the nationality, or one of the nationalities, exercising regional autonomy in the area concerned.” Article 4 of the constitution states that, “All the national autonomous areas are inalienable parts of the People’s Republic of China. The people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs.” China is often accused of failing to honor the latter provision. *Constitution of the People’s Republic of China*, accessed at <http://english.people.com.cn/constitution/constitution.html>.

<sup>8</sup> National Bureau of Statistics of the People’s Republic of China, *西藏自治区2010年第六次全国人口普查主要数据公报 (Public Notice of Important Statistics from the 2010 Sixth National Census in the Tibet Autonomous Region)* (in Chinese), February 28, 2012, [http://www.stats.gov.cn/tjsj/tjgb/rkpcgb/dfrkpcgb/201202/t20120228\\_30406.html](http://www.stats.gov.cn/tjsj/tjgb/rkpcgb/dfrkpcgb/201202/t20120228_30406.html).

<sup>9</sup> Planning Commission of Central Tibetan Administration, *Demographic Survey of Tibetans in Exile, 2009, 2010*, “Tibet in Exile,” <http://tibet.net/about-cta/tibet-in-exile/>.

<sup>10</sup> Figures provided to CRS by the State Department’s Bureau of Population, Refugees and Migration, November 4, 2014.

<sup>11</sup> Central Tibetan Administration, “List of Tibetan Settlements” and “Kalon’s Message,” <http://tibet.net/home/about-us/settlements-in-india/>.

to as Sikyong, or “political leader.” By the terms of its revised “Charter of the Tibetans-in-Exile,” the Tibetan exile community has deemed that the Dalai Lama should continue to serve as “the supreme leader, the symbol of Tibetan identity and unity, and the voice of the whole Tibetan people.”<sup>12</sup> The CTA operates “foreign missions” in 11 cities around the world, including Washington, DC, and Taipei, the capital of Taiwan. The Tibetan exile community is also represented by a 44-member Dharamsala, India-based Tibetan Parliament-in-Exile.<sup>13</sup>

As the Dalai Lama approaches the age of 80 in 2015, observers have speculated about the fate of Tibet and the exile movement after his death. In a 2011 statement on reincarnation, the Dalai Lama said he had heard that China’s Communist leaders “are waiting for my death and will recognize a Fifteenth Dalai Lama of their choice.” In response, he asserted that, “the person who reincarnates has sole legitimate authority over where and how he or she takes rebirth and how that reincarnation is to be recognized.” He also said that when he is “about ninety” he will “re-evaluate whether the institution of the Dalai Lama should continue or not.” If he determines that a 15<sup>th</sup> Dalai Lama is needed, he instructed that, “no recognition or acceptance should be given to a candidate chosen by political means by anyone, including those in the People’s Republic of China.”<sup>14</sup> A Chinese Foreign Ministry spokesperson in September 2014 declared that the Dalai Lama has no right to end the institution of the Dalai Lama, stating, “The title of Dalai Lama is conferred by the Central Government” in Beijing.<sup>15</sup>

## The U.S. Congress and Tibet

The 14<sup>th</sup> Dalai Lama first visited the United States in 1979, the same year that the United States normalized diplomatic relations with China and the U.S. Congress passed the Taiwan Relations Act (P.L. 96-8) governing unofficial U.S. relations with Taiwan. Relationships that the Dalai Lama built with Members of Congress and their staff on that 1979 trip and subsequent visits contributed to increased congressional interest in Tibet.<sup>16</sup> In July 1985, 91 Members of the House and Senate signed a letter to visiting Chinese President Li Xiannian calling on China’s leaders to enter into direct talks with representatives of the Dalai Lama and urging China “to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every

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<sup>12</sup> The CTA Election Commissioner said almost 83,400 Tibetan exiles were eligible to vote in the election. “Lobsang Sangay Elected Tibetan Exile Leader,” BBC News, April 27, 2011, <http://www.bbc.com/news/world-asia-pacific-13205481>; The Central Tibetan Administration, “Charter Drafting Committee Issues Draft Preamble and Related Article,” May 29, 2011.

<sup>13</sup> Central Tibetan Administration, “Tibet in Exile,” <http://tibet.net/about-cta/tibet-in-exile/>.

<sup>14</sup> His Holiness the 14<sup>th</sup> Dalai Lama of Tibet, “Reincarnation,” September 24, 2011, <http://www.dalailama.com/biography/reincarnation>.

<sup>15</sup> “China Tells Dalai Lama Again to Respect Reincarnation,” *Reuters*, September 10, 2014, <http://www.reuters.com/article/2014/09/10/us-china-tibet-idUSKBN0H50ST20140910>.

<sup>16</sup> One of the Dalai Lama’s congressional supporters, Congressman Charlie Rose of North Carolina, reportedly first met the Dalai Lama in 1979 “when he was asked to host a Capitol Hill reception after learning that then-President Carter was afraid to receive the spiritual leader at the White House for fear of damaging U.S. relations with China.” Jo-Ann Moriarty, “Charlie Rose Is More Than a Congressman to Many People,” States News Service via *Sunday Star-News* (Wilmington, North Carolina), November 22, 1987. According to the Dalai Lama’s website, in the 1980s, the Dalai Lama returned to the United States in 1980, 1981, 1984, 1987, and in 1989, when he made three visits in a single year. See <http://www.dalailama.com/biography/travels/1980—1989>.



consideration.”<sup>17</sup> In 1986, Congress listed “Tibet” as a separate country from “People’s Republic of China” in the Export-Import Bank Act Amendments of 1986 (P.L. 99-472).

Congress’ engagement with Tibet deepened in 1987. On September 21, 1987, the Dalai Lama made his first public political speech in the United States, in the form of an address to the U.S. Congressional Human Rights Caucus. In the address, the Dalai Lama denounced “China’s illegal occupation of Tibet,” which he blamed for inflicting a “holocaust” on the Tibetan people. For the first time he also presented a five-point “peace plan.” The plan called for the withdrawal of Chinese troops and military installations from Tibet, an end to the Chinese government’s alleged policy of “population transfer of Chinese civilians into Tibet,” respect for human rights and democratic freedoms in Tibet, restoration of Tibet’s natural environment, a ban on the production of nuclear weapons or the dumping of nuclear waste in Tibet, and the start of “earnest negotiations on the future status of Tibet and of relations between the Tibetan and Chinese peoples.”<sup>18</sup>

The Dalai Lama’s address on Capitol Hill sparked pro-independence demonstrations in the Tibetan capital, Lhasa. To quell an October 1, 1987, demonstration, Chinese police fired into crowds of Tibetans. The official Xinhua News Agency reported six people killed and 19 policemen seriously hurt. The news agency declared the unrest “a direct outcome of Dalai’s activities to split the motherland as an exile engaged in political activities,”<sup>19</sup> a reference to his speech to the U.S. Congressional Human Rights Caucus.

Two months later, Congress passed the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (P.L. 100-204) with extensive provisions related to Tibet, including provisions directly inspired by the events of September and October. President Ronald Reagan signed it into law on December 22, 1987. Among the legislation’s provisions were:

- Non-binding “sense of the Congress” language stating, among other provisions, that, “The United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People’s Republic of China.”
- A requirement that in any transfers of defense articles or services to China, the U.S. government take into account the extent to which “China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.”
- A non-binding sense of the Congress statement that, “the United States should urge the Government of the People’s Republic of China to actively reciprocate the Dalai Lama’s efforts to establish a constructive dialogue on the future of Tibet.”
- A requirement that the Secretary of State determine whether the needs of displaced Tibetans were similar to those of other displaced peoples. If he found them to be so, the legislation earmarked funds to assist Tibetan refugees.

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<sup>17</sup> Cited in P.L. 100-204. The letter was organized by Congressman Charlie Rose and Senator Claiborne Pell. B. Raman, “Sino-Tibetan Contacts to Resume,” Chennai Center for Chinese Studies, Paper No. 151, May 2, 2008, <http://www.c3sindia.org/tibet/240>.

<sup>18</sup> His Holiness the 14<sup>th</sup> Dalai Lama of Tibet, “Five Point Peace Plan: Address to the U.S. Congressional Human Rights Caucus,” September 21, 1987, <http://www.dalailama.com/messages/tibet/five-point-peace-plan>.

<sup>19</sup> Edward A. Gargan, “Tibetan Protest for Independence Becomes Violent,” *New York Times*, October 3, 1987, <http://www.nytimes.com/1987/10/03/world/tibetan-protest-for-independence-becomes-violent.html>.

- A requirement that the U.S. Information Agency make available to Tibetans outside Tibet 15 scholarships for study in the United States.

The United States has not transferred defense articles or services to China since 1989, and the U.S. Information Agency was integrated into the State Department in 1999, but otherwise the provisions listed above continue to inform U.S. policy on Tibet.

Events in 1989 further increased congressional support for Tibet and the Dalai Lama and hardened congressional attitudes toward China. After major protests broke out in Tibet on March 5, 1989, days before the 30<sup>th</sup> anniversary of the 1959 Tibetan uprising that led to the Dalai Lama's flight into exile, Chinese authorities imposed martial law in Tibet. On June 4, 1989, the Chinese military opened fire on unarmed student-led protestors in the Chinese capital, Beijing. On October 5, 1989, the Norwegian Nobel Committee awarded the Nobel Peace Prize to the Dalai Lama.

Throughout the 1990s, the annual renewal of China's Most Favored Nation trading status ensured regular congressional scrutiny of China's human rights record, including its policies toward Tibet. In 2000, when Congress granted China permanent normal trade relations treatment in P.L. 106-286, it established the Congressional-Executive Commission on the People's Republic of China to provide for ongoing monitoring of China's "compliance with or violation of human rights" and its development of the rule of law, and to compile and maintain lists of those imprisoned or detained in China due to their pursuit of civil and political rights. The legislation required the Commission to "cooperate with the Special Coordinator for Tibetan Issues in the Department of State." Congress has continued to legislate, hold hearings, and speak out about Tibet in the years since. Since the enactment of P.L. 100-204, Congress has enacted 27 additional laws and passed 35 simple resolutions with provisions related to Tibet and Tibetans. Of the resolutions, 18 were passed in the Senate and 17 in the House.<sup>20</sup> The Dalai Lama continues to be a regular visitor to the U.S. Congress, as does his successor as political leader of the Central Tibetan Administration, Lobsang Sangay.

The 113<sup>th</sup> Congress has passed one law and two simple resolutions with provisions related to Tibet. Like previous appropriations legislation, the Consolidated Appropriations Act, 2014 (P.L. 113-76) includes provisions directing the United States to support international financial institutions' projects in Tibet only if they meet certain principles and making available Economic Support Fund assistance for Tibetan communities in China. H.Res. 599 (Smith), which passed the House on May 28, 2014, notes in "whereas clauses" that the Chinese government suppresses dissent by imprisoning a range of people, including "individuals in Xinjiang and Tibet who seek to express their political or religious views or their ethnic identity in a peaceful manner"; "restricts severely the religious activity of Protestants, Catholics, Tibetan Buddhists, and Uyghur Muslims"; and "publicly vilifies, and refuses to negotiate with, the Dalai Lama over Tibetan issues." S.Res. 361 (Cardin), agreed in the Senate on April 8, 2014, notes in a "whereas" clause that Chinese state media censorship "blocks free and open coverage of key issues including Tibet."

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<sup>20</sup> Statistics from the Congress.gov database.

## The U.S. Congress and the Question of Tibet's Political Status

The Obama Administration says that it considers Tibet to be a part of China, and that this has always been the U.S. government's position. After President Obama's most recent meeting with the Dalai Lama, in February 2014, a White House statement said the President "reiterated the U.S. position that Tibet is part of the People's Republic of China and that the United States does not support Tibet independence."<sup>21</sup> The U.S. Congress has legislated inconsistently on the question of Tibet's political status, however, at times treating Tibet as an "occupied country" and at times appearing to accept it as part of the People's Republic of China. The inconsistency may have fed suspicion among some Chinese officials and observers about Congress' motives in its statements and actions related to Tibet.

As noted above, in 1986, Congress listed "Tibet" separately from "People's Republic of China" in the Export-Import Bank Act Amendments of 1986 (P.L. 99-472); it listed both China and Tibet as "Marxist-Leninist countries" for which the bank was barred from providing financing. President Ronald Reagan signed the legislation into law, but in a signing statement, a document with no legal effect, he remarked:<sup>22</sup>

I note that Tibet is listed as a country in section 8. The United States recognizes Tibet as part of the People's Republic of China. I interpret Tibet's inclusion as a separate country to be a technical oversight.<sup>23</sup>

In 1989, the International Development and Finance Act of 1989 (P.L. 101-240) again treated Tibet as separate from China, stating that the President could waive the prohibition on Export-Import Bank financing to China if he reported that, "The People's Republic of China has made progress on a program of political reform throughout the country, *as well as in Tibet....*" (CRS emphasis).

In addition to multiple resolutions, other public laws that have taken the position that Tibet is a separate country from China include:

- A Joint Resolution Designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet (P.L. 101-299). The resolution refers to "the current tragedies in China *and* Tibet" (CRS emphasis) and authorizes and requests the President to issue a proclamation designating May 13, 1990 "National Day in Support of Freedom and Human Rights in China *and* Tibet" (CRS emphasis).
- The Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (P.L. 102-138). It declares that Congress considers Tibet "an occupied country." Sec. 355, entitled "China's Illegal Control of Tibet," uses non-binding "sense of the Congress" language to state, among other provisions, that "(1) Tibet, including

<sup>21</sup> The White House Office of the Press Secretary, "Readout of the President's Meeting with His Holiness the XIV Dalai Lama," February 21, 2014, <http://www.whitehouse.gov/the-press-office/2014/02/21/readout-president-s-meeting-his-holiness-xiv-dalai-lama>.

<sup>22</sup> For discussion of the legal effect of signing statements, see the Law Library of Congress' Guide to Presidential Signing Statements at <http://www.loc.gov/law/help/statements.php>.

<sup>23</sup> "Statement on Signing the Export-Import Bank Act Amendments of 1986," October 15, 1986, in *Public Papers of the Presidents of the United States: Ronald Reagan*, Book II, June 28 to December 31, 1986, pp. 1390-1391. Also available at <http://www.presidency.ucsb.edu/ws/index.php?pid=36606>.

those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Qinghai [sic], is an occupied country under the established principles of international law”; “(2) Tibet’s true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people”; “(3) Tibet has maintained through its history a distinctive and sovereign national, cultural, and religious identity separate from that of China and, except during periods of illegal Chinese occupation, has maintained a separate and sovereign political and territorial identity”; and “(7) numerous United States declarations since the Chinese invasion have recognized Tibet’s right to self-determination and the illegality of China’s occupation of Tibet.”

- The Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236), reinforces the position taken in P.L. 102-138. Sec. 536, entitled “Reporting Requirements on Occupied Tibet,” states that it is the sense of the Congress that “the United States should seek to establish a dialogue with those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile....” The legislation also states that it is the sense of the Congress “that whenever a report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.” Finally, the legislation authorizes grants for Radio Free Asia broadcasts to the separate “countries” of China and Tibet.
- The Strom Thurmond National Defense Authorization Act for FY1999 (P.L. 105-261) uses non-binding “sense of the Congress” language to authorize some funds for Radio Free Asia broadcasts being “directed toward broadcasting to China *and* Tibet” (CRS emphasis).
- The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277), the Consolidated Appropriations Act, 2000 (P.L. 106-113), and the Foreign Relations Authorization Act, FY2003 (P.L. 107-228) all appropriate or authorize funds for Tibetan refugees “who have fled Chinese-occupied Tibet.”
- The Consolidated Appropriations Resolution, 2003 (P.L. 108-7), makes funds available for “activities to support democracy, human rights, and the rule of law in the People’s Republic of China, Hong Kong, *and Tibet*” (CRS emphasis).

On the other hand, especially since the late 1990s, other public laws (or, in the case of P.L. 108-7, the same public law) have implied, if not declared, congressional acceptance of a status for Tibet as part of the People’s Republic of China. Such public laws include:

- The Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-246). It states that sanctions imposed on China after the 1989 Tiananmen crackdown will continue unless the President can report “that the People’s Republic of China has made progress on a program of political reform throughout the country, *including Tibet*....” (CRS emphasis).
- The Consolidated Appropriations Act, 2000 (P.L. 106-113). A “findings” section on China, Sec. 871, refers to Tibet and Xinjiang as “minority areas” of China.
- The Kentucky National Forest Land Transfer Act of 2000 (P.L. 106-429). It provides for appropriated funds to be made available to nongovernmental

- organizations (NGOs) “located outside the People’s Republic of China to support activities ... in Tibetan communities *in that country*.”(CRS emphasis.)
- P.L. 108-7 (2003), P.L. 108-199 (2004), P.L. 108-447 (2004), P.L. 109-102 (2005), P.L. 110-161 (2007), P.L. 111-8 (2009), P.L. 111-117 (2009), P.L. 112-74 (2011), and P.L. 113-76 (2014) all appropriate funds to support the work of NGOs “in Tibetan communities in the Tibetan [sic] Autonomous Region and in other Tibetan communities *in China*” (CRS emphasis).
  - The Fourteenth Dalai Lama Congressional Gold Medal Act (P.L. 109-287). A “findings” section states that the Dalai Lama “used his leadership to promote democracy, freedom, and peace for the Tibetan people through a negotiated settlement of the Tibet issue, based on *autonomy within the People’s Republic of China*” (CRS emphasis).
  - The Supplemental Appropriations Act, 2008 (P.L. 110-252) makes up to \$5 million available from appropriations for the Department of State “to establish a United States Consulate in Lhasa, Tibet.” Because the legislation appropriates funds not for a U.S. embassy, as would be appropriate for the capital of a country, but for a consulate, it appears to suggest that a consulate in Tibet would form part of the U.S. mission to China. The legislation also states that the State Department should not approve any new Chinese consulate in the United States “until such time as the People’s Republic of China consents to opening a United States consular post in Lhasa, Tibet,” implying that consent from China is necessary for a consulate in Lhasa because of Chinese sovereignty over Tibet.<sup>24</sup>

## **Congressionally Mandated Programs and Earmarked Appropriations for Tibet and Tibetans**

Separate from the TPA, Congress has established various programs and earmarked appropriations for Tibet and Tibetans. In recent years, such Congressional actions have included the following:

### **Support to Ethnic Tibetans in China**

Congress began earmarking Economic Support Fund (ESF) assistance to Tibetan communities in China in the Consolidated Appropriations Act, 2000 (P.L. 106-113). That legislation stated that ESF funds “shall be made available to nongovernmental organizations located outside of the People’s Republic of China to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities of that country.” The Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (P.L. 107-115) retained the stipulation that funds could only be made available to NGOs located outside China. Starting with the Consolidated Appropriations Resolution, 2003 (P.L. 108-7), appropriations legislation dropped that qualifier, stating only that ESF funds shall “be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan [sic] Autonomous Region and in other Tibetan

<sup>24</sup> Several resolutions also call for establishment of a U.S. consulate in Lhasa. They include H.Res. 1077 (2008; 110<sup>th</sup> Congress), S.Res. 504 (2008; 110<sup>th</sup> Congress), and S.Res. 356 (2012; 112<sup>th</sup> Congress).

communities in China.”<sup>25</sup> The U.S. Agency for International Development (USAID) manages provision of this support out of its office in Bangkok, Thailand. For FY2013, USAID reported that ESF funds for Tibetan communities in China supported “social and economic services and protection for vulnerable populations,” “private sector competitiveness,” “environment,” and “economic opportunity.”<sup>26</sup>

## **Ngawang Choephel Exchange Program**

Congress required the establishment of “programs of educational and cultural exchange between the United States and the people of Tibet,” including opportunities for training, in the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236), and again in the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (P.L. 104-319). In the Consolidated Appropriations Act, 2000 (P.L. 106-113), Congress renamed the program the “Ngawang Choephel Exchange Program,” in honor of an India-based Tibetan ethnomusicologist and former Middlebury College Fulbright Scholar who in 1996 was sentenced to an 18-year prison term in China on espionage charges.<sup>27</sup> The State Department now refers to the program as the “Ngawang Choephel Fellows Program” (dropping the initial “a” from Choephel’s given name and replacing “Exchange” with “Fellows”). The program is managed by the State Department’s Office of Citizen Exchanges, part of the Bureau of Educational and Cultural Affairs. The State Department describes the program as promoting “activities that preserve cultural traditions, enhance sustainable development, expand economic opportunities, and support environmental conservation within Tibetan communities in China.”<sup>28</sup> The program’s theme for FY2014 was “Economic Empowerment,” with the program offering Tibetans living in the TAR or Tibetan areas of China “opportunities to increase their professional business and managerial skills, generate new business ventures, and provide increased employment opportunities within their communities.”<sup>29</sup>

## **Voice of America (VOA) and Radio Free Asia (RFA) Tibetan Language Broadcasts**

VOA Tibetan language programming was first required by Congress in 1990, in the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-246). In 1994, the Foreign Relations Act, Fiscal Years 1994 and 1995 (P.L. 103-236) provided for RFA broadcasting to

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<sup>25</sup> See P.L. 108-119, P.L. 108-447, P.L. 109-102, P.L. 111-8, P.L. 111-117, P.L. 112-74, and P.L. 113-76.

<sup>26</sup> United States Agency for International Development Country Narrative: China, CN #209, September 9, 2014. In 2014, the U.S. Agency for International Development Office in Bangkok, Thailand issued a request for proposals for \$25 million in grants for a five-year program “to promote development of sustainable livelihoods, environmental conservation, and cultural preservation in Tibetan communities in the Tibet Autonomous Region (TAR) and in other Tibetan regions of China.” “Support to Ethnic Tibetans in China,” Federal Grants database, <http://www.federalgrants.com/Support-to-Ethnic-Tibetans-in-China-46072.html>.

<sup>27</sup> Chinese authorities released Ngawang Choephel on medical parole on January 20, 2002, a month before President George W. Bush visited China. Choephel traveled to the United States for medical treatment immediately after his release. DuiHua, “Statement on the Release of Ngawang Choephel,” January 20, 2002, [http://www.duihua.org/media/press/statements/statement\\_on\\_choephel\\_release.htm](http://www.duihua.org/media/press/statements/statement_on_choephel_release.htm).

<sup>28</sup> “Ngawang Choephel Fellows Program,” Federal Grants database, <http://www.federalgrants.com/Ngawang-Choephel-Fellows-Program-44685.html>.

<sup>29</sup> Tribal Grants.info, “Ngawang Choephel Fellows Program,” <http://www.tribalgrants.info/GrantDetails.aspx?gid=34141>.

“countries” including the PRC and Tibet (listed separately). In 1998, the Strom Thurmond National Defense Authorization Act for FY1999 (P.L. 105-261) used non-binding “sense of the Congress” language to state that “a significant amount of the funds” authorized for RFA broadcasts be “directed toward broadcasting to China and Tibet in the appropriate languages and dialects.”

### **Bureau of Population, Refugees, and Migration Programs Benefiting Tibetan Refugees in South Asia**

In the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (P.L. 100-204), Congress required the Secretary of State to “determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world.” The legislation stated that if the Secretary determined the needs of displaced Tibetans to be similar, funds authorized to be appropriated to the Department of State for “Migration and Refugee Assistance” should be provided to them. From FY1998 through FY2001 and in FY2003, congressional earmarks specified that the relevant funds should support “humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet” (P.L. 105-277, P.L. 106-113, and P.L. 107-228).

U.S. assistance programs for Tibetan refugees are managed by the State Department’s Bureau of Population, Refugees, and Migration and implemented primarily by the Tibet Fund, a New York-based nongovernmental organization with close ties to the Dalai Lama and the India-based Central Tibetan Administration. The Tibet Fund works in coordination with the CTA, the United Nations (U.N.) High Commission on Refugees, and host governments.<sup>30</sup> According to the State Department, assistance for the approximately 110,000 Tibetan refugees in India “is focused primarily on health and education services, with an increasing focus on long-term sustainability through livelihoods.” In Nepal, U.S. assistance supports “protection and reception services for safe transit of refugees to India” and “support for infrastructure, livelihoods, education, and water and sanitation for the longer-staying refugee community.”<sup>31</sup>

### **Tibet Education Project**

In 2009, H.Rept. 111-187, accompanying the State, Foreign Operations, and Related Programs Appropriations Bill, 2010 (P.L. 111-187), included a recommendation of \$2.3 million in appropriations “for revitalization of the refugee communities in India, Nepal, and Bhutan with a focus on workforce development and organic agriculture.” This commitment reportedly led to the establishment of the USAID-supported Tibet Education Project, a two-year, \$2 million project “to improve the quality of educational opportunities for Tibetan primary and secondary students, who attend Tibetan schools across settlements in India and Nepal.” The project, active for FY2012 and

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<sup>30</sup> “FY2014 Funding Opportunity Announcement for NGO Programs Benefiting Tibetan Refugees in South Asia,” <http://www.federalgrants.com/FY-2014-Funding-Opportunity-Announcement-for-NGO-Programs-Benefiting-Tibetan-Refugees-in-South-Asia-44922.html>. In FY2013, the Bureau of Population, Refugees, and Migration provided \$2,539,248 in assistance to the Tibet Fund for work with Tibetan refugees in South Asia. U.S. Department of State, “Bureau of Population, Refugees, and Migration FY2013 Summary of Major Activities,” November 12, 2013, <http://www.state.gov/documents/organization/219302.pdf>.

<sup>31</sup> U.S. Department of State, *Congressional Budget Justification FY2015: Foreign Operations; Appendix 2*, <http://www.state.gov/documents/organization/224069.pdf>.

FY2013, was awarded to the Tibet Fund, working with the CTA's Department of Education, the Snow Lion Foundation, and California State University/Fullerton.<sup>32</sup>

### **Tibetan Scholarship Program**

Congress first provided 15 scholarships a year for Tibetans living outside Tibet in the Foreign Relations Authorization Act, FY1988 (P.L. 100-204), and then increased the number of scholarships to 30 annually in the Foreign Relations Authorization Act, FY1990 and 1991 (P.L. 101-246). In the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277), Congress clarified that scholarship recipients should include "individuals active in the preservation of Tibet's unique culture, religion, and language." The scholarship program, akin to the State Department's Fulbright Program for countries, is managed by the Office of Academic Exchanges in the State Department's Bureau of Educational and Cultural Affairs. The Office of Academic Exchanges implements it through a cooperative agreement with the New York-based Tibet Fund, in collaboration with the CTA's Department of Education. The program is open to eligible Tibetan refugees in Bhutan, India, and Nepal who study for two-year master's degrees in the United States.<sup>33</sup> The program's most famous alumnus is Lobsang Sangay, the Sikyong, or "political leader" of the CTA in India.

### **National Endowment for Democracy (NED) Human Rights and Democracy Programs Relating to Tibet**

NED is a private, nonprofit foundation dedicated to the growth and strengthening of democratic institutions around the world. Congress first earmarked funds for NED programs related to Tibet in the Consolidated Appropriations Act, 2005 (P.L. 108-447).<sup>34</sup> In FY2013, NED supported 14 groups to do work related to Tibet, including improving "strategic planning and coordination of worldwide campaigns for human rights and democracy in Tibet," increasing exiled monks' knowledge of "the theory and practice of nonviolent political action," supporting current and former Tibetan political prisoners, and improving "understanding of human rights and democracy-related concerns in Tibet among Chinese, both in China and abroad."<sup>35</sup>

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<sup>32</sup> USAID, "United States Helps Strengthen Learning Outcomes for Tibetan Refugee Youth in India and Nepal," October 12, 2012, <http://www.usaid.gov/india/press-releases/united-states-helps-strengthen-learning-outcomes-tibetan-refugee>; Editorial Board, "Tibet Fund Receives \$2 Million, and Searches for a New Executive Director," *Tibetan Political Review*, October 20, 2012, <https://sites.google.com/site/tibetanpoliticalreview/editorials/tibetfundreceives2millionandsearchesforanewexecutivedirector>.

<sup>33</sup> U.S. Department of State and The Tibet Fund, "Tibetan Scholarship Program (TSP) 2014 Announcement (Bhutan, India and Nepal)," <http://www.tibetfund.org/TSP2014Announcement.pdf>.

<sup>34</sup> FY2013 grants accessed on October 9, 2014, at <http://www.ned.org/where-we-work/asia/china-tibet>.

<sup>35</sup> For a full list of NED's projects in Tibet, see <http://www.ned.org/where-we-work/asia/china-tibet>.



**Table I. Funding for U.S. Government Programs Related to Tibet**  
US\$ in thousands

Program Name	Responsible Office/Agency/Foundation	FY2013	FY2014 (estimated)	FY2015 Presidential budget request
Office of the Special Coordinator for Tibetan Issues	State Department	1,000	1,000 <sup>a</sup>	N/A
Support to Ethnic Tibetans in China	United States Agency for International Development (USAID)	7,032	7,000	4,500
The Ngawang Choephel Exchange Program (for Tibetans in China)	Office of Citizen Exchanges, State Department Bureau of Educational and Cultural Affairs	530	575	558
Radio Free Asia Tibetan Service	Broadcasting Board of Governors	3,752	3,874	4,151
Voice of America Tibetan Service	Broadcasting Board of Governors	3,315	3,273	3,601
NGO Programs Benefiting Tibetan Refugees in South Asia	State Department Bureau of Population, Refugees, and Migration	2,860 <sup>b</sup>	2,880	2,500
Tibet Education Project (for Tibetans in India and Nepal)	USAID	1,000	N/A	N/A
Tibet Health Project (for Tibetans in India)	USAID	None	750 <sup>c</sup>	N/A
Tibetan Scholarship Program (for Tibetans outside Tibet)	Office of Academic Exchanges, State Department Bureau of Educational and Cultural Affairs	574	710	500
National Endowment for Democracy (NED) Programs	National Endowment for Democracy <sup>0</sup>	418	547	N/A
<b>Totals</b>		<b>20,481</b>	<b>20,609</b>	<b>N/A</b>

**Sources:** U.S. Department of State, *Congressional Budget Justification FY2015: Foreign Operations; Appendix 3: Regional Perspectives*, p. 255, <http://www.state.gov/documents/organization/224070.pdf>; U.S. Department of State, *Congressional Budget Justification FY2015: Appendix 1: Department of State Operations*, <http://www.state.gov/documents/organization/223495.pdf>, p. 404; *Broadcasting Board of Governors Fiscal Year 2015 Congressional Budget Request*, <http://www.bbg.gov/wp-content/media/2014/03/FY-2015-BBG-Congressional-Budget-Request-FINAL-21-March-2014.pdf>, pp. 14 and 22.

**Notes:** This table may not include all U.S. programs related to Tibet. It does not, for example, include funding for the Congressional-Executive Commission on China (CECC), whose work, by mandate, includes coverage of Tibet. In addition, not all special appropriations are necessarily obligated fully or obligated during the year in which they are allocated. For more information about U.S. assistance for Tibetan communities in China, see CRS Report RS22663, *U.S. Assistance Programs in China*, by Thomas Lum.

- a. Funding for the Office of the Special Coordinator for Tibetan Issues is not specifically mentioned in the President's budget request. The \$1 million figure for FY2014 is included in "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding the House Amendment to the Senate Amendment on H.R. 3547, Consolidated Appropriations Act, 2014," *Congressional Record*, vol. 160, part No. 9-Book II (January 15, 2014), p. H475.
- b. Funding levels provided to CRS by the State Department Bureau of Population, Refugees, and Migration.
- c. In a September 2014 congressional notification, the United States Agency for International Development reported, "With FY 2014 funding of \$750,000, a new project will increase the capacity of the Central Tibetan Administration to: (1) design and implement sustainable health insurance programs for universal health coverage; (2) provide access to health care services related to secondary and tertiary care, and maternal and child health; (3) strengthen the technical and governance aspects of a newly designed maternal and child health information system; and (4) promote awareness about diseases and health promotion strategies through community outreach and behavior change communication, for the Tibetan communities in India." United States Agency for International Development, *Country Narrative #198: India*, September 2, 2014.
- d. NED's FY2013 grants were accessed on October 9, 2014 at <http://www.ned.org/where-we-work/asia/china-tibet>. FY2014 totals were provided to CRS by NED.

## The Tibetan Policy Act of 2002: Provisions and Implementation

On May 9, 2001, Senator Dianne Feinstein and Representative Tom Lantos each introduced in the Senate and House, respectively, "The Tibetan Policy Act of 2001." The two measures (S. 852 and H.R. 1779) had the stated purpose of supporting "the aspirations of the Tibetan people to safeguard their distinct identity." Although neither bill was acted upon either in Committee or in its respective body, the main components of the measures later were incorporated into H.R. 1646, the Foreign Relations Authorization Act, FY2003 (P.L. 107-228, at Title VI, Subtitle B). The same law also included provisions related to Tibet that were not part of the Tibetan Policy Act. Provisions of the TPA and their implementation are discussed below.

### President George W. Bush's Signing Statement

On September 30, 2002, President George W. Bush signed into law H.R. 1646, the legislation containing the Tibetan Policy Act of 2002. In a signing statement still cited by Chinese commentators, he asserted the right of his Administration not to implement multiple provisions of the law, including several provisions of the TPA.<sup>36</sup> According to the Law Library of Congress, "Unlike vetoes, signing statements are not part of the legislative process as set forth in the Constitution, and have no legal effect. A signed law is still a law regardless of what the President

<sup>36</sup> President George W. Bush, "Statement on Signing the Foreign Relations Authorization Act, Fiscal Year 2003," September 30, 2002, <http://www.presidency.ucsb.edu/ws/?pid=63928>; Liu Ping, "美国依国内法插手西藏问题既霸道也虚伪" ("The United States' Intervention in the 'Tibet Issue' On the Basis of Domestic Law is Both Overbearing and Hypocritical"), *中国青年报* (China Youth Daily), February 27, 2014, [http://zqb.cyol.com/html/2014-02/27/nw.D110000zgqnb\\_20140227\\_2-04.htm#](http://zqb.cyol.com/html/2014-02/27/nw.D110000zgqnb_20140227_2-04.htm#).

says in an accompanying signing statement.”<sup>37</sup> Moreover, although President Bush asserted his Administration’s right not to implement provisions of the TPA, his Administration does not appear to have acted on those assertions.

In his signing statement, echoing language that he used in objecting to hundreds of provisions of law over the course of his presidency,<sup>38</sup> President George W. Bush wrote: “Regrettably, the Act [H.R. 1646] contains a number of provisions that impermissibly interfere with the constitutional functions of the presidency in foreign affairs, including provisions that purport to establish foreign policy that are of significant concern.”

Bush’s statement declared that the executive branch would construe as merely “advisory” Sec. 616 of the Tibetan Policy Act of 2002, on economic development in Tibet, and Sec. 621, which established in statute the position of the United States Special Coordinator for Tibetan Issues. He said such sections:

... purport to direct or burden the conduct of negotiations by the executive branch with foreign governments, international organizations, or other entities abroad or ... purport to direct executive branch officials to use the U.S. voice and vote in international organizations to achieve specified foreign policy objectives. Such provisions, if construed as mandatory rather than advisory, would impermissibly interfere with the President’s constitutional authorities to conduct the Nation’s foreign affairs, participate in international negotiations, and supervise the unitary executive branch.

In addition, President Bush asserted the executive branch’s right to withhold information required in Sec. 613(b) of the TPA, mandating annual reports on the status of negotiations between the PRC and the Dalai Lama or his representatives, and Sec. 615, amending the statute that created the Congressional-Executive Commission on the People’s Republic of China (CECC) to have the CECC’s annual report include additional information related to Tibet. Bush said the executive branch would construe such sections “in a manner consistent with the President’s constitutional authority to withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties.”

Finally, in his signing statement, President Bush stated that his Administration would consider all policy statements in H.R. 1646 to be only “advisory.” He explained:

My approval of the Act does not constitute my adoption of the various statements of policy in the Act as U.S. foreign policy. Given the Constitution’s commitment to the presidency of the authority to conduct the Nation’s foreign affairs, the executive branch shall construe such policy statements as advisory, giving them the due weight that comity between the legislative and executive branches should require, to the extent consistent with U.S. foreign policy.

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<sup>37</sup> Law Library of Congress’ Guide to Presidential Signing Statements, <http://www.loc.gov/law/help/statements.php>.

<sup>38</sup> The Law Library of Congress states that “President George W. Bush objected to over 700 provisions of law, usually on the ground that they infringe on the authority granted to the Executive Branch by the Constitution.” Law Library of Congress’ Guide to Presidential Signing Statements, <http://www.loc.gov/law/help/statements.php>.

## **Appointment of a Special Coordinator for Tibetan Issues (Sec. 621)**

The TPA mandates that a U.S. Special Coordinator for Tibetan Issues be maintained within the Department of State, with the Special Coordinator’s “central objective” being “to promote substantive dialogue between the Government of the People’s Republic of China and the Dalai Lama or his representatives.” The TPA specifies six duties for the Special Coordinator. These are:

- (1) coordinate U.S. Government policies, programs, and projects concerning Tibet;
- (2) vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing [sic] for improved respect for human rights;
- (3) maintain close contact with religious, cultural, and political leaders of the Tibetan people, including regular travel to Tibetan areas of the People’s Republic of China, and to Tibetan refugee settlements in India and Nepal;
- (4) consult with Congress on policies relevant to Tibet and the future and welfare of the Tibetan people;
- (5) make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet; and
- (6) take all appropriate steps to ensure adequate resources, staff, and bureaucratic support to fulfill the duties and responsibilities of the Special Coordinator.

## **Background to Creation of a Special Coordinator Position**

Congress had been considering measures to establish a position of “United States Special Envoy for Tibet” since 1994. Provisions to create a Special Envoy for Tibet also were introduced as sections of authorization bills in the 104<sup>th</sup> and the 105<sup>th</sup> Congresses.<sup>39</sup> In each case, the relevant provision called for the Special Envoy to have ambassadorial rank and to promote substantive negotiations between the Dalai Lama or his representatives and senior members of the Chinese government. Clinton Administration officials opposed these provisions, primarily because of concerns about the political repercussions of creating an ambassadorial rank position for an entity (Tibet) that the United States recognizes as part of China rather than as an independent country.

Although the requirement for a special coordinator had not then been enacted in law, on October 31, 1997, Secretary of State Madeleine Albright designated a “Special Coordinator for Tibetan Issues”—without ambassadorial rank—within the State Department. She named Gregory B. Craig to serve in the position concurrently with his job as Director of Policy Planning. The

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<sup>39</sup> In the 104<sup>th</sup> Congress, that legislation was the American Overseas Interests Act of 1995 (H.R. 1561 (Gilman)) and the Foreign Relations Revitalization Act of 1995 (H.R. 908 (Helms)). President Clinton vetoed H.R. 1561, now titled Foreign Relations Authorization Act, Fiscal Years 1996 and 1997, on April 12, 1996; the House override vote on April 30, 1996 failed to achieve the two-thirds necessary for passage (234-188). Similar legislation in the 105<sup>th</sup> Congress, H.R. 1486, the Foreign Policy Reform Act, was replaced by three separate bills after consideration by the House Rules Committee on June 3, 1997: H.R. 1757, authorizing appropriations for the State Department for FY1998-FY1999 (and containing the Tibet Special Envoy provision); H.R. 1758, the European Security Act (North Atlantic Treaty Organization enlargement); and H.R. 1759, a foreign aid authorization and reform bill. The Special Envoy provision was dropped from this separate legislation before final passage.

appointment came during a trip to the United States by Chinese President Jiang Zemin and may have been intended to signal that closer U.S. ties with China were not coming at the expense of U.S. government concern for human rights.

## Designation of Special Coordinators

Five State Department officials have so far served as Special Coordinator for Tibetan Issues. Three were appointed before passage of the Tibetan Policy Act of 2002 (Gregory B. Craig, Julia V. Taft, and Paula Dobriansky), and two after the TPA made the position a statutory requirement (Maria Otero and Sarah Sewall). For details of Special Coordinators' tenures, see **Table 2** below.

The TPA is silent on the question of the Special Coordinator's rank. The last three Special Coordinators all served concurrently as Under Secretaries of State. The portfolio of the relevant under-secretary position has expanded over time. When Paula Dobriansky served as Special Coordinator in the George W. Bush Administration, her title was initially Under Secretary of State for Global Affairs. "Democracy" was later added to her title, making her Under Secretary of State for Democracy and Global Affairs. During the tenure of her successor, Maria Otero, the position's portfolio was broadened further, so that Otero became Under Secretary of State for Civilian Security, Democracy, and Human Rights, overseeing five State Department bureaus, three offices, and the Open Government Partnership. The current Special Coordinator, Sarah Sewall, inherited Otero's responsibilities.<sup>40</sup> The broad portfolio gives the Special Coordinator opportunities to raise Tibet in multiple contexts within the U.S. government and with Chinese officials and other foreign governments.

**Table 2. Special Coordinators for Tibetan Issues**

The TPA, Signed into Law on September 30, 2002, Made the Position a Statutory Requirement

<b>Name</b>	<b>Dates Served as Special Coordinator</b>	<b>Concurrent State Department Positions</b>	<b>Comments</b>
Gregory B. Craig <sup>a</sup>	October 31, 1997 - September 16, 1998	• Director of Policy Planning (July 10, 1997 - September 16, 1998)	• Designated during Chinese President Jiang Zemin's visit to the United States.
Julia V. Taft	January 20, 1999 - January 19, 2001	• Assistant Secretary of State for Population, Refugees, and Migration (November 10, 1997 - January 19, 2001)	• First Special Coordinator at the Assistant Secretary level.

<sup>40</sup> The State Department currently has six Under Secretaries: Arms Control and International Security; Civilian Security, Democracy, and Human Rights; Economic Growth, Energy, and Environment; Management; Political Affairs; and Public Diplomacy and Public Affairs.

Name	Dates Served as Special Coordinator	Concurrent State Department Positions	Comments
Paula Dobriansky <sup>b</sup>	May 17, 2001 - January 20, 2009	<ul style="list-style-type: none"> <li>Under Secretary of State for Global Affairs (April 30, 2001- July 29, 2005);</li> <li>Under Secretary of State for Democracy and Global Affairs (July 29, 2005 to January 20, 2009);</li> <li>President's Special Envoy on Northern Ireland with the rank of ambassador (February 15, 2007 - January 20, 2009)</li> </ul>	<ul style="list-style-type: none"> <li>First Special Coordinator at the Under Secretary level.</li> <li>Designated Special Coordinator days before President George W. Bush's first meeting at the White House with the 14<sup>th</sup> Dalai Lama on May 23, 2001.</li> </ul>
Maria Otero <sup>c</sup>	October 1, 2009 - February 4, 2013	<ul style="list-style-type: none"> <li>Under Secretary of State for Democracy and Global Affairs (August 7, 2009 - January 5, 2012);</li> <li>Under Secretary of State for Civilian Security, Democracy, and Human Rights (January 5, 2012 - February 4, 2013)</li> </ul>	<ul style="list-style-type: none"> <li>Designated Special Coordinator days before news broke of a White House decision not to have President Obama meet with the 14<sup>th</sup> Dalai Lama during the latter's October 2009 visit to Washington.</li> </ul>
Sarah Sewall <sup>d</sup>	February 21, 2014 - present	<ul style="list-style-type: none"> <li>Under Secretary of State for Civilian Security, Democracy, and Human Rights (February 20, 2014 to present.)</li> </ul>	<ul style="list-style-type: none"> <li>Designated Special Coordinator on the day of President Barack Obama's third meeting at the White House with the 14<sup>th</sup> Dalai Lama.</li> </ul>

**Source:** U.S. Department of State Office of the Historian, Principal Officers and Chiefs of Mission Alphabetical Listing, <http://history.state.gov/departmenthistory/people/by-name>.

**Notes:**

- U.S. Department of State, "China: Special Coordinator for Tibetan Issues," Press Statement by James P. Rubin, Spokesman, October 31, 1997, <http://1997-2001.state.gov/www/briefings/statements/971031a.html>.
- U.S. Department of State Archive, "Biography: Paula J. Dobriansky," <http://2001-2009.state.gov/r/pa/ei/biog/2969.htm>; U.S. Department of State, "Under Secretary Paula Dobriansky Designated Special Envoy on Northern Ireland," January 23, 2007, <http://london.usembassy.gov/ni210.html>.
- U.S. Department of State, "Secretary Clinton Appoints Under Secretary Maria Otero as Special Coordinator for Tibetan Issues," October 1, 2009, <http://www.state.gov/r/pa/prs/ps/2009/oct/130153.htm>.
- U.S. Department of State, "Secretary Kerry Designates Under Secretary Sewall as Special Coordinator for Tibetan Issues," February 21, 2014, <http://www.state.gov/r/pa/prs/ps/2014/02/221899.htm>.

## The Duties of Special Coordinators

The TPA states that the Special Coordinator's "central objective" is to promote dialogue between the Chinese government and the Dalai Lama or his representatives. The Special Coordinator's designated "duties and responsibilities," however, are not specifically related to that central objective. Implementation of each duty and responsibility is discussed below, with a focus on the two most recent Special Coordinators, Maria Otero, who served in the position from 2009 to

2013, and Sarah Sewall, the current Special Coordinator, who was designated on February 21, 2014.

**Sec. 621(d)(1): “coordinate U.S. Government policies, programs, and projects concerning Tibet.”** For details of U.S. government programs and projects related to Tibet, see “Congressionally Mandated Programs and Earmarked Appropriations for Tibet and Tibetans” above. The Special Coordinator coordinates these programs, but none of them is specifically referenced in the TPA. Special Coordinators also have coordinated official statements and talking points related to Tibet and Tibet policy.

The Special Coordinator’s coordination role extends beyond the purview of the State Department, but the TPA does not provide a mechanism for the Special Coordinator formally to “task” non-State Department entities.

**Sec. 621(d)(2): “vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing [sic] for improved respect for human rights.”** During her tenure as Special Coordinator, Maria Otero spoke out about such issues in such formats and settings as public statements issued through the State Department’s Office of the Spokesperson,<sup>41</sup> written congressional testimony,<sup>42</sup> public remarks at a roundtable convened by the Congressional-Executive Commission on China,<sup>43</sup> public remarks before the 19<sup>th</sup> Session of the United Nations Human Rights Council in Geneva in 2012,<sup>44</sup> an interview with the Voice of America’s Tibetan Service,<sup>45</sup> and as a member of the U.S. delegation to sessions of the U.S.-China Human Rights Dialogue.<sup>46</sup>

Although the TPA does not explicitly require the Special Coordinator to speak out about environmental issues, Otero convened a Tibet Environmental Forum in 2011 and discussed Himalayan glacial melt and Tibet during opening remarks at a 2012 forum she hosted on that subject. In her opening remarks at the glacial melt event, she stated, “As the United States Special Coordinator for Tibetan Issues, I have watched with particular concern this shifting landscape on the Tibetan Plateau—and the impact it is having on the people there.”<sup>47</sup>

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<sup>41</sup> See U.S. Department of State, “Statement by Special Coordinator for Tibetan Issues Maria Otero,” December 5, 2012, <http://www.state.gov/r/pa/prs/ps/2012/12/201594.htm>; U.S. Department of State, “Statement by Special Coordinator for Tibetan Issues Maria Otero,” January 24, 2012.

<sup>42</sup> U.S. Department of State, “Congressional –Executive Commission on China: 2011 Annual Report,” written testimony by Maria Otero, November 3, 2011, <http://www.state.gov/j/176611.htm>; U.S. Congress, House Committee on Foreign Affairs, Hearing on Congressional-Executive Commission on China: 2011 Annual Report, 112<sup>th</sup> Cong., 1<sup>st</sup> sess., November 3, 2011, Serial No. 112-85 (Washington, DC: GPO, 2011), <http://www.gpo.gov/fdsys/pkg/CHRG-112hhrg71038/pdf/CHRG-112hhrg71038.pdf>.

<sup>43</sup> U.S. Department of State, “Roundtable on ‘The Dalai Lama: What He Means for Tibetans Today,’” July 13, 2011, <http://www.state.gov/j/168181.htm>.

<sup>44</sup> U.S. Department of State, “Remarks Before the 19<sup>th</sup> Session of the Human Rights Council,” March 2, 2012, <http://www.state.gov/j/185098.htm>.

<sup>45</sup> “U.S. Special Coordinator for Tibetan Issues Talks to VOA Tibetan (English), June 29, 2012, <https://www.youtube.com/watch?v=u2wZbUNl4Hk>; “U.S.: Tibetan Self-Immolations ‘Desperate Acts’ of Protest,” *VOA News*, June 22, 2012, <http://www.voanews.com/content/us-tibetan-self-immolations-desperate-acts-of-protest-against-chinese-rule/1246060.html>.

<sup>46</sup> U.S. Department of State, *Report on Tibet Negotiations*, May 17, 2013, [http://www.savetibet.org/wp-content/uploads/2013/10/051713\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/10/051713_State_Report-on-Tibet-Negotiations.pdf); U.S. Department of State, “Briefing on the U.S.-China Human Rights Dialogue,” May 14, 2010, <http://www.state.gov/r/pa/prs/ps/2010/05/141899.htm>.

<sup>47</sup> U.S. Department of State, Robert O. Blake, Jr., Assistant Secretary, Bureau of South and Central Asian Affairs, (continued...)

In addition, the Office of the Special Coordinator under Otero advocated for State Department actions related to Tibet, including:

- The conferring of a 2013 Secretary of State’s International Women of Courage Award on Tsering Wooser, a Beijing-based Tibetan author, poet, and blogger whom Secretary of State John Kerry described as “a clarion voice of the people,” and who was under house arrest at the time of the awards ceremony.<sup>48</sup>
- In the run-up to World Press Freedom Day in 2012, the decision to highlight on the State Department’s humanrights.gov website and in the Department’s Daily Press Briefing the case of Dhondup Wangchen, a Tibetan filmmaker detained and imprisoned in China.<sup>49</sup>

Sarah Sewall, who was appointed Special Coordinator on February 21, 2014, raised the issue of religious freedom in Tibet in congressional testimony on September 18, 2014.<sup>50</sup>

**Sec. 621(d)(3): “maintain close contact with religious, cultural, and political leaders of the Tibetan people, including regular travel to Tibetan areas of the People’s Republic of China, and to Tibetan refugee settlements in India and Nepal.”**

According to the Obama Administration’s 2013 *Report on Tibet Negotiations*, Special Coordinator Otero met with the Dalai Lama six times during her tenure. In addition, Otero met “regularly and frequently” with the Dalai Lama’s now-retired Special Envoy, leaders of the India-based Central Tibetan Administration, and the Dalai Lama’s representatives on several continents.<sup>51</sup> Special Coordinator Sewall met the Dalai Lama for the first time on the day of her appointment as Special Coordinator, February 21, 2014.<sup>52</sup>

Otero accompanied White House Adviser Valerie Jarrett on a trip to Dharamsala, India to meet the Dalai Lama in September 2009, before she was designated Special Coordinator. After her designation, she visited Tibetan refugee settlements in India and Nepal in 2011 and 2012. In 2011, she became the first Special Coordinator to visit Tibetan refugee settlements in Southern India. She also became the most senior Obama Administration official to visit Bhutan, although the TPA

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“Tibet Environmental Forum,” March 8, 2011, <http://www.state.gov/p/sca/rls/rmks/2011/157912.htm>; U.S. Department of State, “Opening Remarks at the Forum on Himalayan Glacier Melt: Global and Regional Challenges,” January 9, 2012, <http://www.state.gov/j/180651.htm>.

<sup>48</sup> U.S. Department of State, “2013 International Women of Courage Award Winners,” March 4, 2013, <http://www.state.gov/s/gwi/programs/iwoc/2013/bio/> and U.S. Department of State, John Kerry, “Remarks at the International Women of Courage Awards,” March 8, 2013, <http://www.state.gov/secretary/remarks/2013/03/205892.htm>.

<sup>49</sup> U.S. Department of State, “Daily Press Briefing,” April 20, 2012, <http://m.state.gov/md188229.htm>, “U.S. Department of State, “Free the Press: Supporting Journalists Under Duress,” May 31, 2012, <http://www.humanrights.gov/2012/04/18/free-the-press/>.

<sup>50</sup> U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on National Security, *Protecting International Religious Freedom*, 113<sup>th</sup> Cong., 2<sup>nd</sup> sess., September 18, 2014, <http://oversight.house.gov/wp-content/uploads/2014/09/Ms.-Sarah-Sewall-Statement-Bio.pdf>.

<sup>51</sup> U.S. Department of State, *Report on Tibet Negotiations*, May 17, 2013, [http://www.savetibet.org/wp-content/uploads/2013/10/051713\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/10/051713_State_Report-on-Tibet-Negotiations.pdf).

<sup>52</sup> U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on National Security, *Protecting International Religious Freedom*, 113<sup>th</sup> Cong., 2<sup>nd</sup> sess., September 18, 2014, <http://oversight.house.gov/wp-content/uploads/2014/09/Ms.-Sarah-Sewall-Statement-Bio.pdf>.



does not mention travel to the 12 Tibetan refugee settlements in Bhutan.<sup>53</sup> Sewall announced in her September 2014 congressional testimony that she plans to travel in November 2014 to India and Nepal, where she will meet with Tibetans in exile.<sup>54</sup>

Special Coordinators have traveled to China, but China has never permitted them to travel to Tibetan areas. Beijing imposes restrictions on travel by all foreigners to Tibetan areas and refuses to recognize the position of Special Coordinator for Tibetan Issues. Senior staff of the Office of the Special Coordinator have visited Tibetan areas of China.

**Sec. 621(d)(4): “consult with Congress on policies relevant to Tibet and the future and welfare of the Tibetan people.”** As referenced above, Otero submitted written testimony to a 2011 House Committee on Foreign Affairs hearing on the annual report of the Congressional-Executive Commission on China.<sup>55</sup> She also gave formal remarks at a 2011 roundtable convened by the Congressional-Executive Commission on China.<sup>56</sup> She did not testify at a 2011 House Committee on Foreign Affairs hearing on the Tibetan Policy Act of 2002. Daniel Baer, then-Deputy Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor testified on her behalf.<sup>57</sup> A senior official from the Office of the Special Coordinator testified at a 2013 Tom Lantos Human Rights Commission hearing on “Human Rights in Tibet.”<sup>58</sup>

Sewall discussed Tibet during testimony before a September 18, 2014 hearing, “Protecting International Religious Freedom,” convened by the House Committee on Oversight and Government Reform’s Subcommittee on National Security.<sup>59</sup> During their tenures, Special Coordinators Dobriansky and Otero were both appointed by the President to serve on the Congressional-Executive Commission on China (CECC), representing the executive branch.

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<sup>53</sup> U.S. Department of State, “Under Secretary for Democracy and Global Affairs Maria Otero to Travel to India, Bhutan, and Nepal February 8-14, 2011,” February 7, 2011, <http://www.state.gov/r/pa/prs/ps/2011/02/156132.htm>; U.S. Department of State, “Under Secretary of State Maria Otero for Civilian Security, Democracy, and Human Rights to Travel to Bangladesh and Nepal,” November 9, 2012, <http://www.state.gov/r/pa/prs/ps/2012/11/200397.htm>; U.S. Under Secretary Visits Tibetan Refugee Reception Center in Nepal,” *Voice of America*, February 13, 2011, <http://www.voatibetanenglish.com/content/us-under-secretary-visits-nepal—116158879/1265057.html>; U.S. Department of State, *Report on Tibet Negotiations*, April 12, 2011, [http://www.savetibet.org/wp-content/uploads/2013/01/2011-04-12\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/01/2011-04-12_State_Report-on-Tibet-Negotiations.pdf).

<sup>54</sup> U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on National Security, *Protecting International Religious Freedom*, 113<sup>th</sup> Cong., 2<sup>nd</sup> sess., September 18, 2014, <http://oversight.house.gov/wp-content/uploads/2014/09/Ms.-Sarah-Sewall-Statement-Bio.pdf>.

<sup>55</sup> U.S. Department of State, “Congressional –Executive Commission on China: 2011 Annual Report,” written testimony by Maria Otero, November 3, 2011, <http://www.state.gov/j/176611.htm>; U.S. Congress, House Committee on Foreign Affairs, Hearing on Congressional-Executive Commission on China: 2011 Annual Report, 112<sup>th</sup> Cong., 1<sup>st</sup> sess., November 3, 2011, Serial No. 112-85 (Washington: GPO, 2011), <http://www.gpo.gov/fdsys/pkg/CHRG-112hhrg71038/pdf/CHRG-112hhrg71038.pdf>.

<sup>56</sup> U.S. Department of State, “Roundtable on ‘The Dalai Lama: What He Means for Tibetans Today,’” July 13, 2011, <http://www.state.gov/j/168181.htm>.

<sup>57</sup> U.S. Department of State, “Religious Freedom, Democracy and Human Rights in Asia: Status of Implementation of the Tibetan Policy Act of 2002,” Testimony of Daniel Baer, Deputy Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, before the House Foreign Affairs Committee, June 2, 2011, <http://www.state.gov/j/drl/rls/rm/2011/164945.htm>.

<sup>58</sup> Tom Lantos Human Rights Commission hearing, *Human Rights in Tibet*, June 5, 2013, [http://tlhrc.house.gov/hearing\\_notice.asp?id=1248](http://tlhrc.house.gov/hearing_notice.asp?id=1248) and <http://tlhrc.house.gov/media.asp?type=video&id=159>.

<sup>59</sup> U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on National Security, *Protecting International Religious Freedom*, 113<sup>th</sup> Cong., 2<sup>nd</sup> sess., September 18, 2014, <http://oversight.house.gov/wp-content/uploads/2014/09/Ms.-Sarah-Sewall-Statement-Bio.pdf>.

Special Coordinator Sewall is a current CECC Commissioner, appointed by the President and serving alongside House and Senate Members and executive branch colleagues from Departments of State, Commerce, and Labor.<sup>60</sup>

**Sec. 621(d)(5): “make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet.”** The TPA does not address contacts with agencies of foreign governments other than foreign ministries. Nor does it address contacts in multilateral settings. Special Coordinators have coordinated with foreign governments, including foreign ministries, and discussed Tibet in multilateral settings such as the United Nations Human Rights Council in Geneva, Switzerland. Their outreach appears to have been focused not only on promoting dialogue between the Chinese government and the Dalai Lama or his representatives as a means of pursuing “a negotiated settlement for Tibet.” Fulfilling the second of their duties and responsibilities, Special Coordinators also appear to have sought to “vigorously promote” protection of Tibet’s distinct identity and press for “improved respect for human rights.” In addition, they have raised humanitarian conditions for Tibetan refugees in South Asia.<sup>61</sup>

According to the Obama Administration’s Reports on Tibet Negotiations, multilateral fora in which Otero “formally called on China to address the deteriorating human rights conditions in Tibet areas,” included the U.N. Human Rights Council, the European Union, and the European Mission to the United States.<sup>62</sup>

**Sec. 621(d)(6): “take all appropriate measures to ensure adequate resources, staff, and bureaucratic support to fulfill the duties and responsibilities of the Special Coordinator.”** Some observers have suggested that such steps should be the responsibility of the President or the Secretary of State, rather than the Special Coordinator. For FY2014, Congress provided \$1 million for the Office of the Special Coordinator for Tibetan Issues.<sup>63</sup> The office currently has two senior staff.

## **Encouragement of Dialogue Between the PRC and the Dalai Lama or His Representatives (Sec. 613(a) and Sec. 621(c))**

Encouragement of dialogue between the Chinese government and the Dalai Lama or his representatives is a major focus of the TPA. Sec. 613(a) states that the President and the Secretary of State should encourage the PRC government “to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet.” Sec. 621(c) states that, “The central objective of the Special Coordinator is to promote substantive dialogue” between the PRC government and the Dalai Lama or his representatives.

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<sup>60</sup> Congressional-Executive Commission on China, “Commissioners of the 113<sup>th</sup> Congress,” <http://www.cecc.gov/about/commissioners/113th-congress>.

<sup>61</sup> U.S. Under Secretary Visits Tibetan Refugee Reception Center in Nepal,” *Voice of America*, February 13, 2011, <http://www.voatibetanenglish.com/content/us-under-secretary-visits-nepal—116158879/1265057.html>.

<sup>62</sup> U.S. Department of State, *Report on Tibet Negotiations*, May 17, 2013, [http://www.savetibet.org/wp-content/uploads/2013/10/051713\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/10/051713_State_Report-on-Tibet-Negotiations.pdf).

<sup>63</sup> Rep. Hal Rogers, Chairman of the House Committee on Appropriations, “Explanatory Statement Regarding the House Amendment to the Senate Amendment on H.R. 3547, Consolidated Appropriations Act, 2014,” *Congressional Record*, vol. 160, part No. 9 - Book II (January 15, 2014), p. H1161.

The two sides held nine rounds of talks between 2002 and 2010 but failed to come to any agreement. Talks have been stalled since. The Dalai Lama's advanced age – he is now 79 – and changes in his role in the Tibetan exile movement have implications for any continuation of the 2002-2010 dialogue process. As noted above, in 2011 the Dalai Lama announced his decision to transfer political leadership of the exile movement in favor of the elected head of the Central Tibetan Administration. In addition, the Dalai Lama's lead envoys for the dialogue, Lodi Gyari and Kelsang Gyaltzen, both stepped down from their positions effective June 1, 2012. According to the State Department, they did so, “noting the deteriorating situation in Tibetan areas and expressing deep frustration over the lack of positive response from the Chinese side in their nearly 10-year dialogue.”<sup>64</sup>

## **Background on the 2002-2010 Rounds of Dialogue**

The Chinese government and representatives of the Dalai Lama had no formal communication for nine years prior to September 2002. In that month, three weeks before Congress passed the TPA, formal contact between the two sides resumed, with China hosting representatives of the Dalai Lama for a fortnight of meetings and visits in Beijing and the Tibetan capital, Lhasa. The Chinese government and representatives of the Dalai Lama subsequently held eight more rounds of dialogue. The last took place in January 2010.

Over the nine rounds of talks between 2002 and 2010, the India-based CTA portrayed the talks as being about seeking “a mutually acceptable solution to the Tibetan issue.” China said the talks could only be “about things related to the future of the Dalai Lama” and his immediate associates.<sup>65</sup> The Dalai Lama's envoys came to the eighth round of the talks with a proposal entitled, “Memorandum on Genuine Autonomy for All Tibetans.” In it and a follow-up note, the Dalai Lama's envoys argued for “genuine autonomy” for Tibetan districts within the framework of the PRC, an approach the Dalai Lama has long referred to as the “Middle Way.” Under the terms of his envoys' proposal, parts of China that the Chinese government has designated as “Tibetan autonomous” would be administered by a single autonomous government, which would be responsible for “internal public order and security,” with the majority of security personnel being Tibetan. The autonomous government would ensure freedom of religion; “protect, use, and develop” the Tibetan language, while also supporting the learning of Chinese; and control immigration of other ethnic groups into Tibetan areas. The follow-up note presented to Chinese officials at the ninth round of dialogue included the statement, “It should also be emphasized in this context that the Memorandum at no point proposes the withdrawal of the People's Liberation Army (PLA) from Tibetan areas.” The documents stress that the proposal “in no way challenges or brings into question the leadership of the Communist Party in the PRC” or “the socialist system of the PRC.”<sup>66</sup> After the ninth round of talks in January 2010, a senior Chinese official dismissed the proposal as tantamount to a demand for “half independence.”<sup>67</sup> Nearly five years have elapsed without a tenth round of talks being scheduled.

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<sup>64</sup> U.S. Department of State, *Report on Tibet Negotiations*, May 17, 2013, [http://www.savetibet.org/wp-content/uploads/2013/10/051713\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/10/051713_State_Report-on-Tibet-Negotiations.pdf).

<sup>65</sup> Central Tibetan Administration, “An Overview of Sino-Tibetan Dialogue,” <http://tibet.net/important-issues/sino-tibetan-dialogue/an-overview-of-sino-tibetan-dialogue/>; “Press Conference on Central Govt's Contacts with Dalai Lama (Text),” *China Daily*, February 11, 2010, [http://www.chinadaily.com.cn/china/2010-02/11/content\\_9463031.htm](http://www.chinadaily.com.cn/china/2010-02/11/content_9463031.htm).

<sup>66</sup> Central Tibetan Administration, “Memorandum on Genuine Autonomy for the Tibetan People,” October 31, 2008, and “Note on the Memorandum on Genuine Autonomy for the Tibetan People,” January 2010.

<sup>67</sup> Press Conference on Central Govt's Contacts with Dalai Lama (text), *China Daily*, October 31, 2014, (continued...)

In August 2014, a senior Chinese official in Tibet told journalists that Chinese authorities were in touch with “personal envoys” of the Dalai Lama to discuss his possible return from exile. The official, Wu Yingjie, Deputy Secretary of the Tibet Autonomous Region Party Committee, said talks were “ongoing and always smooth, but we are discussing only his future, not Tibet’s.” He added that, “All Tibetans, including the Dalai Lama and the people around him, can return if they accept Tibet and Taiwan as part of China, and give up ‘splittist’ efforts.”<sup>68</sup> (“Splittism” is a term the PRC uses for “separatism.”) In October 2014, the Dalai Lama confirmed to journalists that he had been in informal talks with people the *Washington Post* described as “retired Chinese military official and business leaders,” about his possible return from exile. “It’s not yet finalized, but the plan is there,” he said.<sup>69</sup> On October 8, 2014, a Chinese Foreign Ministry spokesperson appeared to dismiss the idea, saying of the Dalai Lama, “What he needs to do is not make a so-called return to Tibet but give up his position and conduct on splitting China.”<sup>70</sup>

## U.S. Government Advocacy for Dialogue

As required by the TPA, Presidents, Secretaries of State, and Special Coordinators for Tibetan Affairs have all advocated for resumption of dialogue between the Chinese government and the Dalai Lama or his representatives. In all three of his meetings with the Dalai Lama, in 2010, 2011, and 2014, President Obama expressed support for such direct dialogue, according to White House statements released afterward. After President Obama’s February 21, 2014, meeting with the 14<sup>th</sup> Dalai Lama, the White House said that, “The President stressed that he encourages direct dialogue to resolve long-standing differences and that a dialogue that produces results would be positive for China and Tibetans.” The White House added that, “The Dalai Lama stated that he is not seeking independence for Tibet and hopes that dialogue between his representatives and the Chinese government will resume.”<sup>71</sup>

In addition, in a press conference with visiting Chinese President Hu Jintao in 2011, President Obama stated:

And even as we, the United States, recognize that Tibet is part of the People’s Republic of China, the United States continues to support further dialogue between the government of China and the representatives of the Dalai Lama to resolve concerns and differences, including the preservation of the religious and cultural identity of the Tibetan people.<sup>72</sup>

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(...continued)

[http://www.chinadaily.com.cn/china/2010-02/11/content\\_9463031.htm](http://www.chinadaily.com.cn/china/2010-02/11/content_9463031.htm).

<sup>68</sup> Suhasini Haidar, “Dalai Lama in Talks to Return,” *The Hindu*, August 25, 2014, <http://www.thehindu.com/news/international/world/dalai-lama-in-talks-to-return-says-wu-yingjie-deputy-secretary-of-communist-party-committee-for-tibet/article6347847.ece>; “Tibet’s Exile Government Rejects Beijing’s Claim of Dalai Lama Return Talks,” Radio Free Asia, August 31, 2014, <http://www.rfa.org/english/news/tibet/lama-08312014221933.html>; Jayadeva Ranade, “China’s Tibetan Tussle,” *The New Indian Express Online*, September 17, 2014, <http://www.newindianexpress.com/columns/Chinas-Tibetan-Tussle/2014/09/17/article2434296.ece>. Ranade is a member of India’s National Security Advisory Board.

<sup>69</sup> Annie Gowen, “Are There Signs of a Thaw Between China and the Exiled Dalai Lama on Tibet?” *Washington Post*, October 2, 2014, [http://www.washingtonpost.com/world/are-there-signs-of-thaw-between-china-and-the-exiled-dalai-lama-on-tibet/2014/10/02/c3a44ad3-2b58-4e32-876d-ddafaaba5b0b\\_story.html](http://www.washingtonpost.com/world/are-there-signs-of-thaw-between-china-and-the-exiled-dalai-lama-on-tibet/2014/10/02/c3a44ad3-2b58-4e32-876d-ddafaaba5b0b_story.html).

<sup>70</sup> “Beijing Dismisses Possibility of Dalai Lama Return to Tibet,” *Agence France Presse*, October 8, 2014.

<sup>71</sup> The White House, “Readout of the President’s Meeting with His Holiness the XIV Dalai Lama,” February 21, 2014, <http://www.whitehouse.gov/the-press-office/2014/02/21/readout-president-s-meeting-his-holiness-xiv-dalai-lama>.

<sup>72</sup> The White House, “Press Conference with President Obama and President Hu of the People’s Republic of China,” (continued...)

After two of President George W. Bush's three meetings with the Dalai Lama, in 2001 and 2003, White House statements said he also encouraged dialogue and "expressed his hope that the Chinese government would respond favorably."<sup>73</sup>

In a 2011 statement at a roundtable convened by the Congressional-Executive Commission on China, Special Coordinator for Tibetan Issues Maria Otero confirmed that, "The Administration, at all levels, from the President, Secretary, Assistant Secretaries, and myself, has urged the Chinese government to engage in a dialogue with the representatives of the Dalai Lama." She noted that, "The U.S. Government believes that the Dalai Lama can be a constructive partner for China, particularly as it deals with the challenges of resolving continuing tensions in Tibetan areas."<sup>74</sup> The Administration reports to Congress annually on its efforts to promote dialogue in a report mandated by the TPA. (See below.)

## **Reporting Requirements on Tibet (Sec. 613(b), Sec. 614, Sec. 615)**

The TPA establishes several annual reporting requirements on Tibet. As referenced above, in Sec. 613 (b), the act specifies the President should submit an annual report to Congress on steps he and the Secretary of State have taken to encourage dialogue between the PRC and the Dalai Lama or his representatives, and the status of such dialogue. The scope of the report as outlined in the TPA is confined to the dialogue. The TPA does not make provision for the report to discuss implementation of other provisions of the TPA, the activities of the Special Coordinator for Tibetan Affairs, or other U.S. government programs and activities related to Tibet. In practice, however, with the dialogue process stalled since 2010, the annual *Report on Tibet Negotiations* has since 2011 included limited discussion of implementation of some other provisions of the TPA. The *Report on Tibet Negotiations* is drafted by the Office of the Special Coordinator for Tibetan Issues. The first report was due 180 days following enactment, and subsequent reports at 12 month intervals thereafter.

The Administrations of both George W. Bush and Barack Obama have provided Congress with an annual *Report on Tibet Negotiations*. The TPA is silent on whether the report should be made public, stating only the President "shall transmit to the appropriate congressional committees a report." Four of the six reports submitted by the George W. Bush Administration were posted to the State Department website.<sup>75</sup> The Obama Administration does not appear to have posted

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January 19, 2011, <http://www.whitehouse.gov/the-press-office/2011/01/19/press-conference-president-obama-and-president-hu-peoples-republic-china>.

<sup>73</sup> The White House, "President Bush Meets with Dalai Lama at White House: President Said He Supports Dalai Lama's Commitment to Dialogue with China," September 10, 2003, <http://iipdigital.usembassy.gov/st/english/texttrans/2003/09/20030910180627euqcoral0.6531183.html#axzz3DQ3MOglQ>.

<sup>74</sup> Maria Otero, Statement at Roundtable on "The Dalai Lama: What He Means for Tibetans Today," before the Congressional-Executive Commission on China, July 13, 2011, <http://www.gpo.gov/fdsys/pkg/CHRG-112hrg70941/pdf/CHRG-112hrg70941.pdf>.

<sup>75</sup> The reports for 2003, 2004, 2005, and 2007 are available on the page for Bureau of East Asian and Pacific Affairs reports on the website of the U.S. Department of State Archive, containing information released online from January 20, 2001 to January 20, 2009: <http://2001-2009.state.gov/p/eap/rls/rpt/index.htm>. The website indicates that the first *Report on Tibet Negotiations* was posted to the website on May 16, 2003. The White House released a memorandum from the President to the Secretary of State authorizing the report's transmittal to Congress on May 7, 2003. A State Department spokesperson said the report was transmitted on May 8, 2003. The White House Office of the Press Secretary, "Memorandum for the Secretary of State: Subject: Report to the Congress on Tibet Negotiations," May 7, (continued...)

publicly any of the reports it submitted. Reports from 2009-2013 are available, however, on the website of a Washington, DC-based Tibet advocacy group with close ties to the Dalai Lama, the International Campaign for Tibet.<sup>76</sup>

Because the U.S. government did not post many of the reports publicly, it is difficult to evaluate how often they were delivered to Congress by their March 31 deadline. Of the four reports publicly posted by the George W. Bush Administration, all were posted after March 31, with the latest being the 2007 report, posted on July 11. Two of the Obama Administration reports posted on the International Campaign for Tibet website, those for 2011 and 2013, include cover sheets indicating that they were transmitted on April 12 and May 17, respectively. As of the date of this report's publication, the 2014 *Report on Tibet Negotiations* had not yet been transmitted to Congress.

Repeating language from previous reports, the 2013 *Report on Tibet Negotiations* states that the United States continues “to encourage representatives of both the Chinese government and the Dalai Lama to hold direct and substantive discussions, without preconditions, aimed at resolving differences.” It adds, “We are very concerned there has been no dialogue since early 2010 and talks prior to that time have not borne concrete results.”<sup>77</sup>

Section 614 of the TPA requires that Tibet be included as a separate section in any relevant reports submitted in accordance with the Foreign Assistance Act of 1961 (the State Department's annual country reports on human rights) or the International Religious Freedom Act of 1998. Finally, Sec. 615 of the TPA amends P.L. 106-286 to require the Congressional-Executive Commission on China (CECC) also to include in its mandated annual report discussion of the status of Sino-Tibetan negotiations and of any measures to safeguard Tibet's distinct cultural identity.

The State Department has consistently included a separate section on Tibet in its annual Country Report on Human Rights Practices for China and its International Religious Freedom Report for China. Both reports are entitled “China (includes Tibet, Hong Kong, and Macau).” The Congressional-Executive Commission on China has also consistently included in its annual report the required information on the status of Sino-Tibetan negotiations and of measures to safeguard Tibet's distinct cultural identity.

## **Economic Development in Tibet (Sec. 616)**

Sec. 616 of the TPA declares that, “It is the policy of the United States to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet.” It requires the United States to “use its voice and vote” to support projects “that are designed to raise the standard of living for the Tibetan people and assist Tibetans to become self-sufficient,” so long as those projects accord with a set of nine principles

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2003; U.S. Department of State, “Daily Press Briefing for May 13: Philip T. Reeker, Deputy Spokesman,” May 13, 2003.

<sup>76</sup> See <http://www.savetibet.org/policy-center/us-government-and-legislative-advocacy/state-department-annual-reports-on-tibet/>.

<sup>77</sup> U.S. Department of State, *Report on Tibet Negotiations*, May 17, 2013, [http://www.savetibet.org/wp-content/uploads/2013/10/051713\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/10/051713_State_Report-on-Tibet-Negotiations.pdf).

listed in Sec. 616(d). The Secretary of the Treasury is required to instruct the U.S. executive director of each international financial institution to support such projects, and the U.S. Export-Import Bank and the U.S. Trade and Development Agency (TDA) are also instructed to support such projects.

The so-called “Tibet Project Principles” outlined in Sec. 616(d) are that projects in Tibet supported by international financial institutions, other international institutions, NGOs, the Export-Import Bank and U.S. TDA should:

- (1) be implemented only after conducting a thorough assessment of the needs of the Tibetan people through field visits and interviews;
- (2) be preceded by cultural and environmental impact assessments;
- (3) foster self-sufficiency and self-reliance of Tibetans;
- (4) promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages;
- (5) respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques;
- (6) be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits;
- (7) be implemented by development agencies prepared to use Tibetan as the working language of the projects;
- (8) neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and
- (9) neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

In his signing statement for the legislation that included the Tibetan Policy Act of 2002, President Bush identified Sec. 616 as a part of the legislation that he would regard as “advisory” because to treat it as mandatory “would impermissibly interfere with the President’s constitutional authorities to conduct the Nation’s foreign affairs, participate in international negotiations, and supervise the unitary executive branch.”

In practice, none of the multilateral or U.S. institutions covered by Sec. 616—the World Bank, the Asian Development Bank, the Export-Import Bank, or the Trade Development Administration—appears to have pursued projects in Tibet since the passage of the TPA. Several current and former employees of those institutions contacted by CRS indicated that their institutions had avoided projects in Tibet precisely because of fear of falling afoul of the TPA. One former employee highlighted, for example, the difficulty of carrying out projects using Tibetan as the working language. The World Bank appears to have been particularly wary of projects in Tibetan areas of China given the controversy generated in 1999 and 2000 by its proposed support of a poverty alleviation project that would have re-settled nearly 60,000 ethnic Han Chinese farmers from eastern Qinghai Province to a traditionally ethnic Tibetan part of

western Qinghai province. In the face of opposition from its Board of Directors, the World Bank ultimately chose not to support the project, leaving China to finance it on its own.<sup>78</sup>

Despite the fact that international financial institutions have not undertaken projects in Tibet since passage of the TPA, the language in Sec. 616 of the TPA related to international financial institutions has been echoed in appropriations bills in every Congress since the 108<sup>th</sup> Congress. Specifically, appropriations legislation has directed the Secretary of the Treasury to instruct the U.S. executive director of each international financial institution “to use the voice and vote of the United States to support projects in Tibet” that comply with certain principles. The principles as listed in appropriations legislation are that the projects should “not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.” (See P.L. 108-199, P.L. 108-447, P.L. 109-102, P.L. 110-161, P.L. 111-8, P.L. 111-117, P.L. 112-74, P.L. 113-76.)

## **Political Prisoners (Sec. 617)**

The act states that when the President and Secretary of State meet with Chinese government representatives, they should:

- (1) request the immediate and unconditional release of all those held prisoner for expressing their political or religious views in Tibet;
- (2) seek access for international humanitarian organizations to prisoners in Tibet to ensure that prisoners are not being mistreated and are receiving necessary medical care; and
- (3) seek immediate medical parole of Tibetan prisoners known to be in serious ill health.

The public record does not recount all details of the President’s and the Secretary of State’s conversations with Chinese officials. Both President Obama and Secretary Kerry have discussed Tibet with Chinese officials, but readouts of the meetings have referred in general terms to their expression of U.S. concern about human rights in Tibetan areas, and have not noted whether either man specifically called for the release of political or religious prisoners in Tibet or access for international humanitarian organizations to prisoners in Tibet.<sup>79</sup> Although the TPA does not require them to do so, other U.S. government officials have raised the cases of Tibetan political

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<sup>78</sup> “World Bank Rejects Tibet Land Plan,” BBC News, July 7, 2000, <http://news.bbc.co.uk/2/hi/asia-pacific/823072.stm>. For a blow-by-blow account of the incident from the perspective of two activists involved in opposing the project, see Kay Treacle and Liz Sweet, “Summary of Events Leading to the Cancellation of the China Western Poverty Reduction Project,” *Tibet Environmental Watch*, July 20, 2000, <http://www.tew.org/development/sum.china.pov.html>.

<sup>79</sup> See, for example, the White House Office of the Press Secretary, “Background Readout by Senior Administration Officials on President Obama’s Meeting with President Hu Jintao of China,” April 1, 2009, [http://www.whitehouse.gov/the\\_press\\_office/Background-Readout-by-Senior-Administration-Officials-on-President-Obamas-Meeting-with-President-Hu-Jintao-of-China/](http://www.whitehouse.gov/the_press_office/Background-Readout-by-Senior-Administration-Officials-on-President-Obamas-Meeting-with-President-Hu-Jintao-of-China/); the White House, “Press Conference with President Obama and President Hu of the People’s Republic of China,” January 19, 2011, <http://www.whitehouse.gov/the-press-office/2011/01/19/press-conference-president-obama-and-president-hu-peoples-republic-china>; and U.S. Department of State, “Solo Press Availability in Beijing, China,” February 14, 2014, <http://www.state.gov/secretary/remarks/2014/02/221658.htm>.



and religious prisoners and have pressed Chinese authorities to grant international humanitarian organizations access to Tibetan areas.

The impact of such advocacy is unclear. Some Tibetans have been released on medical parole in recent years, often toward the end of their prison sentences.<sup>80</sup> As for access for international humanitarian organizations, in 2004, China accepted a visit from a U.N. Commission on Human Rights Working Group on Arbitrary Detention. The group's itinerary included visits to a prison and a detention center in the Tibetan capital, Lhasa, and the group was permitted to meet a Tibetan prisoner of concern, Phuntsok Wang.<sup>81</sup> In 2005, China accepted a visit from Manfred Nowak, the then-U.N. Special Rapporteur on Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment. Nowak's mission to China included visits to three prisons in the Tibetan capital, Lhasa, during which he was able to interview prisoners.<sup>82</sup> No U.N. delegation has been permitted to visit prisons in Tibet since then, however.<sup>83</sup> In December 2013, as part of a periodic U.N. review of China's human rights record, Austria, Slovakia, and Switzerland all recommended that China facilitate a visit by the U.N. High Commissioner on Human Rights—the last time a High Commissioner visited China was in 1998. Switzerland's recommendation stated specifically that China should facilitate visits by the U.N. High Commissioner on Human Rights and U.N. special rapporteurs and working groups to China, "including to Tibetan and Uighur areas." China formally accepted all three countries' recommendations in February 2014, raising hopes of a possible forthcoming visit to Tibet by a U.N. High Commissioner on Human Rights.<sup>84</sup>

## **U.S. "Branch Office" in Lhasa (Sec. 618)**

The TPA states that the Secretary of State should "make best efforts to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet."

Congress has passed other laws and resolutions showing its strong interest in this objective. They include:

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<sup>80</sup> See, for example, the case of Lobsang Tenzin, who was reported released on medical parole in late 2012, months before his expected release in April 2013. "After Serving Twenty Five Years, Tibetan Prisoner Released on Medical Parole," *Phayul*, May 1, 2013, <http://www.phayul.com/news/article.aspx?id=33394&t=1>. In a recent case, Radio Free Asia reported that a Tibetan arrested in May 2010 over his involvement in anti-Chinese protests and released on medical parole on October 27, 2013, died March 19, 2014, reportedly from injuries sustained during his imprisonment. "Tibetan Political Prisoner Dies After Brutal Torture in Jail," Radio Free Asia, March 21, 2014, <http://www.rfa.org/english/news/tibet/jail-03212014142217.html>.

<sup>81</sup> United Nations Economic and Social Council, Civil and Political Rights, Including the Questions of Torture and Detention: Report of the Working Group on Arbitrary Detention, Addendum, Mission to China, December 29, 2004, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/102/74/PDF/G0510274.pdf>.

<sup>82</sup> United Nations Economic and Social Council, Civil and Political Rights, Including the Question of Torture and Detention: Report of the Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment Manfred Nowak: Mission to China, March 10, 2006, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/117/50/PDF/G0611750.pdf>.

<sup>83</sup> United Nations Human Rights, Office of the High Commissioner for Human Rights, "Country and Other Visits by Special Procedures Mandate Holders Since 1998," October 31, 2014, <http://www.ohchr.org/EN/HRBodies/SP/Pages/countryvisitsa-e.aspx>.

<sup>84</sup> United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review: China (Including Hong Kong, China and Macao, China)*, December 4, 2013, A/HRC/25/5; United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review: China, Addendum, A/HRC/25/5/Add.1*, February 27, 2014, <http://www.ohchr.org/en/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>.

- The Foreign Relations Authorization Act, FY1994 and 1995 (P.L. 103-236) required the establishment of a U.S. Information Agency office in Lhasa and appropriated \$350,000 annually for its establishment and operations in FY1994 and FY1995.
- The Supplemental Appropriations Act, 2008 (P.L. 110-252) made up to \$5 million available from appropriations for the Department of State to establish a U.S. Consulate in Lhasa, Tibet. It further instructed that, “The Department of State should not consent to opening a consular post in the United States by the People’s Republic of China until such time as the People’s Republic of China consents to opening a United States consular post in Lhasa, Tibet.”
- H.Res. 1077 and S.Res. 504 in the 110<sup>th</sup> Congress and S.Res. 356 in the 112<sup>th</sup> Congress all urged “that the agreement to permit China to open further diplomatic missions in the United States should be contingent upon the establishment of a United States Government consulate in Lhasa, Tibet.”

The TPA does not take a position on what sort of an office the United States should establish in Lhasa, referring only to “a United States branch office in Lhasa, Tibet.” Four of the five legislative measures listed above, however, seek the establishment of a U.S. consulate.

Consulates are established on a reciprocal basis. The United States has five consulates in mainland China, in Chengdu, Guangzhou, Shanghai, Shenyang, and Wuhan. China has five consulates in the United States, in Chicago, Houston, Los Angeles, New York, and San Francisco. In 2011 congressional testimony, then-Deputy Assistant Secretary of State Daniel Baer stated that the United States has “since 2005, made the establishment of a consulate in Lhasa a priority.”<sup>85</sup>

In the absence of a U.S. consular presence in Lhasa, U.S. diplomats have had trouble accessing Tibetan areas, even to provide consular services for U.S. citizens in distress. A “findings” provision in the Reciprocal Access to Tibet Act of 2014 (H.R. 4851), introduced on September 8, 2014, notes, for example, that, “The Chinese government restricted United States consular access after an October 28, 2013, bus crash in the Tibet Autonomous Region, in which at least two Americans died and more than a dozen others, all from Walnut, California, were injured.”<sup>86</sup>

In its 2013 Report on International Religious Freedom for China, including Tibet, the State Department reported that the U.S. Ambassador to China in June 2013 became the first U.S. diplomat to be approved to visit Tibet in over two years. The report noted, however, that the Chinese government “denied multiple requests by other U.S. and foreign diplomats for permission to visit the TAR and repeatedly prevented foreign diplomatic personnel from visiting Tibetan areas outside the TAR for which permission was not officially required.”<sup>87</sup>

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<sup>85</sup> U.S. Department of State, “Deputy Assistant Secretary Daniel Baer Testimony Before the House Foreign Affairs Committee, June 2, 2011, <http://www.state.gov/j/drl/rls/rm/2011/164945.htm>.

<sup>86</sup> For information about the crash and its victims, see “洛杉矶华人组团同游西藏途经白朗县翻车3死16伤” (“Los Angeles Chinese Touring Tibet as a Group: Traveling Through White Wolf (Bailang) County, Bus Turns Over, Three Dead, 16 Injured” (in Chinese), *Radio Free Asia*, November 1, 2013, <http://www.rfa.org/mandarin/yataibaodao/shaoshuminzu/th-11012013095344.html>. The report indicates that in addition to U.S. citizens, Taiwanese citizens were among the passengers.

<sup>87</sup> U.S. Department of State, 2013 Report on International Religious Freedom: China (Includes Tibet, Hong Kong, and Macau) – Tibet, July 28, 2014, <http://www.state.gov/j/drl/rls/irf/2013/eap/222125.htm>.

The State Department has reported no progress on its request to establish a consulate in Lhasa. In June 2014, State Department Deputy Spokesperson Marie Harf stated from the podium, “As envisioned in the Tibetan Policy Act of 2002, we continue efforts to open a consulate in Lhasa, [and] also continue to request the Chinese Government to allow a consular officer to visit Tibet and ethnically Tibetan areas of China. No other update.”<sup>88</sup>

India, too, is seeking to open a consulate in Lhasa, but according to an April 2014 Indian news report, “China has clarified that it will not allow any additional foreign diplomatic presence in Tibet.”<sup>89</sup> Nepal is currently the only country with a consulate in Lhasa; it was established prior to the Dalai Lama’s flight to India in 1959.

## **Tibetan Language Training (Sec. 619)**

Sec. 619 of the TPA requires the Secretary of State to ensure that Tibetan language training is available to Foreign Service officers and urges “every effort” to assign a Tibetan-speaking U.S. official to a U.S. post in the PRC.

According to the State Department, the U.S. Consulate in Chengdu employs a senior political officer as the U.S. government’s “Tibet watcher.” The Tibet watcher is given training in Tibetan language before taking up his or her post. The State Department’s Foreign Service Institute offers Tibetan-language instruction.<sup>90</sup>

## **Religious Persecution (Sec. 620)**

Sec. 620(a) of the TPA states that pursuant to the International Religious Freedom Act of 1998 (P.L. 105-292) the U.S. Ambassador to the PRC should (1) seek to meet with the 11<sup>th</sup> Panchen Lama “and otherwise ascertain information concerning his whereabouts and well-being” and (2) request that China “release the 11<sup>th</sup> Panchen Lama and allow him to pursue his religious studies without interference and according to tradition.” Sec. 620(b) states that also pursuant to P.L. 105-292, it is the sense of the Congress that in exchanges with Chinese officials, U.S. officials “should call for and otherwise promote the cessation of all interference by the Government of the People’s Republic of China or the Communist Party in the religious affairs of the Tibetan people.”

The Panchen Lama is the second-most senior figure in Tibetan Buddhism after the Dalai Lama. Gedun Choekyi Nyima, the child recognized by the Dalai Lama in 1995 as the 11<sup>th</sup> reincarnation of the Panchen Lama, has not been seen or heard from since that year. The Chinese government rejected his selection by the Dalai Lama as “illegal and invalid” and took him and his parents to an undisclosed location. It oversaw the selection of a different child, Gyaltzen Norbu, as the 11<sup>th</sup> Panchen Lama. No foreigner is known to have been permitted to meet with Gedun Choekyi

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<sup>88</sup> U.S. Department of State, “Marie Harf, Deputy Spokesperson, Daily Press Briefing,” June 6, 2014, <http://www.state.gov/r/pa/prs/dpb/2014/06/227231.htm>.

<sup>89</sup> Ananth Krishnan, “No Accord on Consulate in Lhasa,” *The Hindu*, April 15, 2014, <http://www.thehindu.com/news/national/no-accord-on-consulate-in-lhasa/article5912647.ece>.

<sup>90</sup> U.S. Department of State and the Broadcasting Board of Governors, *Inspection of the Foreign Service Institute*, March 2013, <http://oig.state.gov/documents/organization/209366.pdf>. Tibetan is described in the inspection report as a “less commonly taught language” whose instructors also teach “the national language,” presumably Mandarin Chinese.

Nyima, who is now thought to be 25 years old, and his whereabouts are unknown.<sup>91</sup> It is unclear with what regularity the U.S. Ambassador requests to meet with him or advocates for his release. Although the TPA requires only the U.S. Ambassador to China to request Gedun Choekyi Nyima's freedom, other U.S. officials have also advocated on his behalf.

Since passage of the TPA, official Chinese interference in Tibetan religious affairs has increased. Chinese authorities have issued a plethora of regulations governing many facets of the lives of Tibetan monks and nuns, including a 2007 regulation giving the Communist Party and government control over the process by which lineages of Tibetan lamas are reincarnated.<sup>92</sup> The Dalai Lama in 2011 described the regulation as "outrageous and disgraceful."<sup>93</sup> China has repeatedly signaled that it intends to control the selection process for a new Dalai Lama after the death of the current Dalai Lama, although, as noted above (see "The Leadership of Tibet and the Tibetan Exile Movement Since 1949"), the Dalai Lama himself has suggested that he may not have a successor as Dalai Lama.

U.S. officials and U.S. government reports regularly raise the issue of religious freedom in Tibet. The separate section on Tibet in the State Department's International Religious Freedom Report for 2013 for China stated, for example, that, "The government's respect for and protection of religious freedom in the TAR [Tibet Autonomous Region] and other Tibetan areas were poor, with widespread official interference in religious practice, especially in Tibetan Buddhist monasteries and nunneries..... Official interference in the practice of Tibetan Buddhist religious traditions continued to generate profound grievances."<sup>94</sup>

## **Chinese Views on Congressional Actions Related to Tibet and the Tibetan Policy Act of 2002**

China typically has reacted angrily to congressional actions on Tibet, routinely declaring Tibetan issues an internal Chinese matter in which foreigners should not interfere. The Chinese government portrays the Dalai Lama, on whom Congress bestowed the Congressional Gold Medal, as a dangerous separatist. After President Obama met with the Dalai Lama at the White House on February 21, 2014, a Chinese Foreign Ministry spokesman described the Tibetan spiritual leader as "a political exile who has long been engaged in anti-China separatist activities under the cloak of religion" and accused him of "essentially pursuing 'independence in disguise.'"<sup>95</sup>

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<sup>91</sup> For more information, see Congressional-Executive Commission on China Annual Reports.

<sup>92</sup> For more information, see *Congressional-Executive Commission on China, Annual Report 2010*, October 10, 2010, pp. 220-222.

<sup>93</sup> His Holiness the 14<sup>th</sup> Dalai Lama of Tibet, "Reincarnation," September 24, 2011, <http://www.dalailama.com/biography/reincarnation>.

<sup>94</sup> U.S. Department of State, International Religious Freedom Report for 2013: China (Includes Tibet, Hong Kong, and Macau)," July 28, 2014, [http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic\\_load\\_id=222125&year=2013#wrapper](http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=222125&year=2013#wrapper).

<sup>95</sup> Ministry of Foreign Affairs of the People's Republic of China, "Foreign Ministry Spokesperson Qin Gang's Remarks on US President Obama's Tibet-related Comments When Meeting with the Dalai Lama," February 23, 2014.

Chinese academic articles on Congress' role in Tibet policy express particular concern about legislation declaring Tibet to be an occupied country. Chinese scholars also fault Congress for putting pressure on the executive branch to take actions related to Tibet, thus "seriously harming the healthy development of China-U.S. relations." The Chinese academic literature also blames Congress' support for the Dalai Lama for helping him and his supporters to internationalize the issue of Tibet, a development that China equates with "splittism."<sup>96</sup> Many Chinese scholars have suggested that the United States seeks to use the issue of Tibet to pressure China and slow its emergence as a great power.

Chinese discussions of the Tibetan Policy Act of 2002 focus on the TPA's creation of a statutory requirement for the position in the State Department of a Special Coordinator for Tibetan issues. The Chinese government has made clear that it does not recognize the position. Responding to Under Secretary Sewall's 2014 appointment as Special Coordinator, Chinese Foreign Ministry spokesperson Hua Chunying said, "The Chinese government is firmly opposed to any country's interference in China's internal affairs by making use of the so-called 'Tibetan issues.' We will never recognize the so-called 'Special Coordinator for Tibet Issues' designated by the U.S. as we have never before."<sup>97</sup>

A 2013 Chinese academic study of the position noted that while the Clinton Administration created the post before passage of the TPA, the TPA made the Special Coordinator's role more "institutionalized, open, and specific."<sup>98</sup> Among the conclusions the authors drew about the Special Coordinator position were:

- "In the eyes of the American government, the Special Coordinator position is very important," as evidenced by the fact that before the TPA required the position, then-Secretary of State Colin Powell chose to retain it even as he eliminated 23 other positions.
- The U.S. establishment of a Special Coordinator position has had a "bad international influence" by encouraging other governments to consider designating representatives or offices for Tibet issues. The authors note a European Union effort to create a Special Representative for Tibet and an Australian effort to create a Tibet coordination office.
- The rank of Special Coordinators has risen since passage of the TPA, "demonstrating that U.S. support for the Dalai clique is constantly increasing, and that the United States is attempting to enhance the status of its relationship with Tibet in order to suppress and contain China."
- The authors argue that Special Coordinators had a negative impact on the dialogue by backing the Dalai Lama's positions, rather than staying neutral; by denying that the Dalai Lama was seeking Tibetan independence; and by

<sup>96</sup> Guo Yonghu and Li Hua, "美国国会于中美关系中的西藏问题新探" ("A New Exploration of Congress and the 'Tibet Issue' in U.S.-China Relations"), *Journal of Tibet Nationalities Institute*, January 2008.

<sup>97</sup> Ministry of Foreign Affairs of the People's Republic of China, Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference, February 24, 2014, [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2535\\_665405/t1131653.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/t1131653.shtml).

<sup>98</sup> Han Lei, Xue Dan, "美国国务院西藏问题特别协调员的设立及其活动" ("The Establishment of the U.S. State Department's 'Special Coordinator for Tibetan Issues' and their Activities"), *中南大学学报(社会科学版)* (*Journal of Central South University (Social Science Edition)*), Vol. 19, No. 3., June 2013, pp. 217-222.

supporting the Dalai Lama’s calls for a “Middle Way” involving “genuine autonomy” for Tibetan districts within the framework of the PRC. U.S. involvement in the development of the negotiating positions of the Dalai Lama’s representatives made it impossible, the authors’ argue, for the two sides to reach agreement.

## Congressional Efforts to Update the Tibetan Policy Act of 2002

In recent years, three legislative efforts to update the Tibetan Policy Act of 2002 have passed the House, but not progressed further.

In the 113<sup>th</sup> Congress, H.R. 4194, the Government Reports Elimination Act of 2014—as reported in the House (H.Rept. 113-419), passed by the House on April 28, 2014, and referred in the Senate—would require the elimination of the *Report on Tibet Negotiations* required by Sec. 613(b) of the TPA. As reported to the Senate on July 31, 2014 by the Senate Homeland Security and Governmental Affairs Committee, however, the provision eliminating the *Report on Tibet Negotiations* had been removed from the bill (S.Rept. 113-232). The Senate passed H.R. 4194, as amended, on September 16, 2014, sending a message to the House the following day.

In the 111<sup>th</sup> Congress, the House on June 10, 2009 passed H.R. 2410, the Foreign Relations Authorization Act, FY2010 and 2011, which contained substantive amendments to the TPA. H.R. 2410 was not acted on by the Senate. The main proposed amendments in H.R. 2410 are summarized below, with key provisions appearing in bold text:

- Sec. 613(a), as amended, would not only have required the President and the Secretary to encourage dialogue between the PRC government and the Dalai Lama or his representatives leading to a negotiated agreement on Tibet, but also to **coordinate with other governments in multilateral efforts to encourage dialogue**. It would also have added a “policy coordination” paragraph requiring the President to **direct the National Security Council to ensure that United States policy on Tibet is coordinated and communicated** with all executive branch agencies in contact with the government of China.
- Sec. 616, as amended, would have added a subsection on U.S. assistance stating that **“the President shall provide grants to nongovernmental organizations** to support sustainable economic development, cultural and historical preservation, health care, education, and environmental sustainability projects for Tibetan communities in the Tibet Autonomous Region and in other Tibetan communities in China,” subject to project principles and to **“the review and approval of the Special Coordinator** for Tibetan Issues.”
- Sec. 621, as amended, would have **expanded the duties and responsibilities of the Special Coordinator for Tibetan Issues to include reviewing and approving all the President’s grants to NGOs** to support projects for Tibetan communities in China. It would also have **required the Secretary of State to assign dedicated personnel to the Office of the Special Coordinator** for Tibetan Issues sufficient to assist in the management of the office’s responsibilities, including the review and approval of grants to NGOs.

- The bill would have **authorized the Secretary of State to establish a Tibet section within the U.S. embassy in Beijing**, China, headed by an official of “senior rank,” to follow “political, economic, and social developments inside Tibet, including Tibetan areas of Qinghai, Sichuan, Gansu, and Yunnan Provinces, until such time as a U.S. consulate in Tibet is established.” It would also have authorized “such sums as may be necessary” for this Tibet section for FY2010 and FY2011. Notably, this language would have **expanded the definition of “Tibet” to encompass Tibetan areas in neighboring Chinese provinces**. The Central Tibetan Administration in India considers Tibet to encompass the Tibet Autonomous Region; all of Qinghai Province; and ethnic Tibetan areas of Sichuan, Gansu, and Yunnan Provinces.<sup>99</sup> This provision would also have required that the new Tibet section be in the U.S. embassy in Beijing, although the U.S. government’s “Tibet-watcher” position is currently located at the U.S. Consulate General in Chengdu, which is closer to Tibetan areas.
- Sec. 618, as amended, would have **directed the Secretary of State to “seek to establish a U.S. Consulate in Lhasa, Tibet**, to provide services to United States citizens traveling to Tibet and to monitor political, economic, and cultural developments” in Tibetan areas. The language would have replaced language in the Tibet Policy Act of 2002 that directed the Secretary to “make best efforts to establish an office,” in Lhasa.
- Section 620(b), as amended, would have specified that in exchanges with Chinese government officials, when U.S. government representatives promote the cessation of PRC or Communist Party **interference in the religious affairs of the Tibetan people, that category should include the reincarnation system of Tibetan Buddhism**.

Finally, in the 109<sup>th</sup> Congress, the house passed H.R. 2601, the Foreign Relations Authorization Act, Fiscal Years 2006 and 2007. It included some of the same amendments to the TPA that were included in the 111<sup>th</sup> Congress’ H.R. 2410:

- Like H.R. 2410, Sec. 616, as amended, would have added a subsection on U.S. assistance **requiring the President to provide grants to nongovernmental organizations** for projects for Tibetans inside Tibet, and required that **projects be subject to review and approval by the Special Coordinator** for Tibetan Issues. Unlike H.R. 2410, it would also have authorized \$6 million in appropriations for such projects in FY2006 and \$8 million in FY2007.
- Unlike H.R. 2410, it would have amended Sec. 619 to require the Secretary of State to ensure that **at least one Foreign Service officer was assigned to a U.S. post in the PRC to monitor developments in Tibet, and that the officer had at least six months and as much as one year of Tibetan-language training** prior to taking up the post.

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<sup>99</sup> Central Tibetan Administration, “Tibet at a Glance,” <http://tibet.net/about-tibet/tibet-at-a-glance/>. Rather than referring to “Tibet including” Tibetan areas in the four Chinese provinces, some Tibet scholars prefer the formulation, “Tibet and” Tibetan areas of the four provinces. This formulation is less provocative to China because it does not take the position that Tibet proper is a geographic entity beyond the borders of the Tibet Autonomous Region, but it clearly covers both the Tibet Autonomous Region and the Tibetan Autonomous Prefectures and Counties in Qinghai, Sichuan, Gansu, and Yunnan Provinces.

- Like H.R. 2410, it would have amended Sec. 621 to **require the Secretary of State to assign dedicated personnel to the Office of the Special Coordinator** for Tibetan Issues sufficient to assist in the management of the office's responsibilities, including the review and approval of grants.

## Questions for Consideration in the Case of Future Efforts to Update the Tibetan Policy Act of 2002

As noted above, the House has passed three legislative measures seeking to update the Tibetan Policy Act of 2002 to take account of developments since the act's original passage. Advocates with close ties to the Tibetan exile movement and other human rights advocates have also called on Congress to update the act. As it considers the future of the TPA, issues Congress may wish to consider include the following general questions:

- **Relations with China.** To what degree, if any, should Congress consider policy toward Tibet in the context of relations with China? Bilateral trade between the United States and China totaled \$562 billion in 2013, and the United States seeks China's cooperation on multiple global challenges, even as the two countries' relationship is characterized by many areas of profound disagreement, including on the issue of human rights.
- **Tibet's political status: "occupied country" or part of China?** Does Congress see a need to clarify its position on Tibet's status? As noted above (see "The U.S. Congress and the Question of Tibet's Political Status"), while the executive branch considers Tibet to be a part of China, in the early 1990s, Congress passed legislation declaring Tibet to be "an occupied country" and stating that, "Tibet's true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people." A number of subsequent legislative measures, however, have implied Congress' acceptance of a status for Tibet as part of China.
- **Tibet's geographic scope.** The TPA refers throughout to "Tibet," without defining the geographic scope of the term. China usually considers "Tibet" to refer only to the area within the borders of the PRC-established Tibet Autonomous Region (TAR), which is home to approximately half of China's ethnic Tibetan population and comprises less than half of the area that Tibetan exile organizations consider to constitute "Tibet." Appropriations legislation has repeatedly used the term, "Tibetan communities in the Tibetan [sic] Autonomous Region and in other Tibetan communities in China,"<sup>100</sup> in order to indicate that the legislation is intended to apply to Tibetan areas beyond the borders of the TAR. Such language implies a position on Tibet's political status, namely that Tibet is part of China. The Foreign Relations Authorization Act, Fiscal Years 2010 and 2011 (H.R. 2410), which passed the House but was not acted on by the Senate, referred to, "Tibet, including Tibetan areas of Qinghai, Sichuan, Gansu, and Yunnan Provinces." By referring to Tibetan areas of Chinese provinces

<sup>100</sup> See P.L. 108-7 (2003), P.L. 108-199 (2004), P.L. 108-447 (2004), P.L. 109-102 (2005), P.L. 110-161 (2007), P.L. 111-8 (2009), P.L. 111-117 (2009), P.L. 112-74 (2011), and P.L. 113-76 (2014).



outside the TAR, but avoiding use of the word “China,” that language defined “Tibet” more broadly than the TAR but left some ambiguity about Tibet’s political status. The same legislation also called for the establishment of a consulate in Lhasa, however, implying acceptance a status for Tibet as part of China. The India-based Central Tibetan Administration’s position is that “Tibet” includes the TAR, Tibetan areas of China’s Sichuan, Gansu, and Yunnan Provinces, and all of China’s Qinghai Province.<sup>101</sup>

- **Tibetans in Tibet vs. Tibetans in exile.** What should be the balance between U.S. programs, activities, and policies focused on the 6 million Tibetans living under Chinese Communist Party rule and those focused on the approximately 130,000 Tibetans living in exile?
- **Changes in the political arrangements of the Tibetan exile movement.** As noted above (see “The Leadership of Tibet and the Tibetan Exile Movement Since 1949”), the Dalai Lama in 2011 gave up political leadership of the Tibetan exile movement and raised the possibility that that the institution of the Dalai Lama might end with him. Lobsang Sangay is now serving a five-year term as the elected political head, or Sikyong, of the Central Tibetan Administration. To what degree, if any, should the TPA reflect these changes?
- **Tibetan-language reports.** In congressional testimony in 2011, a State Department official said the department was working to translate into Tibetan its International Religious Freedom Report and its Country Report on Human Rights Practices in China.<sup>102</sup> The 2013 Country Report on Human Rights Practices in China is available on the State Department website in Chinese translation, but not Tibetan. The 2013 International Religious Freedom Report does not appear to be available in either Chinese or Tibetan.<sup>103</sup> Does Congress see a need to address the issue of the languages of the reports?

Congress may also wish to consider the following questions about specific provisions of the Tibetan Policy Act of 2002:

- **Sec. 621(c): Dialogue between the PRC and the Dalai Lama’s representatives.** With the dialogue process stalled since January 2010, should Sec. 621(c) of the TPA continue to define the “central objective” of the Special Coordinator for Tibetan Issues to be “to promote substantive dialogue between the Government of the People’s Republic of China and the Dalai Lama or his representatives”?
- **Sec. 621(c) and (d): Alignment in the TPA between the Special Coordinator’s “central objective” and “duties and responsibilities.”** In the TPA, the Special Coordinator’s “central objective” and the official’s “duties and responsibilities” are not aligned. Should they be?

<sup>101</sup> Central Tibetan Administration, “Tibet at a Glance,” <http://tibet.net/about-tibet/tibet-at-a-glance/>.

<sup>102</sup> Daniel Baer, Deputy Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, “Testimony Before the House Foreign Affairs Committee: Religious Freedom, Democracy, and Human Rights in Asia: Status of Implementation of the Tibetan Policy Act of 2002,” June 2, 2011, <http://www.state.gov/j/drl/rls/rm/2011/164945.htm>.

<sup>103</sup> Translated reports are available on the State Department website at <http://www.humanrights.gov/reports/translations/hrr/> and <http://www.humanrights.gov/reports/translations/irf/>.

- **Sec. 621(d)(1): The Special Coordinator’s coordination of U.S. government programs and projects concerning Tibet.** The TPA requires the Special Coordinator to coordinate U.S. government programs and projects related to Tibet, but it does not reference most ongoing programs and projects related to Tibet. Should it do so? For a list of such programs and projects, see “Congressionally Mandated Programs and Earmarked Appropriations for Tibet and Tibetans” above. None of these programs is mentioned in the TPA. In addition, should the TPA provide a mechanism for the Special Coordinator formally to “task” non-State Department entities in order to coordinate policy? Or is such a provision unnecessary?
- **Sec. 621(d)(3): Regular travel by the Special Coordinator to Tibetan refugee settlements in India and Nepal.** The TPA does not mention travel to the 12 Tibetan refugee settlements in Bhutan. Should it do so?
- **Sec. 621(d)(5): The Special Coordinator’s contacts with foreign governments related to Tibet.** The TPA requires the Special Coordinator to “make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet.” Should this language be amended to reflect the actual scope of the Special Coordinator’s international coordination efforts? Should it refer to “foreign governments” rather than only “foreign ministries,” for example? Should the purpose of contacts with other countries be broader than pursuing a “negotiated solution” for Tibet? Should multilateral settings be addressed? Or is the current language sufficient?
- **Sec. 621(d)(6): Ensuring “adequate sources, staff, and bureaucratic support” for the Special Coordinator.** Should this be the responsibility of the Special Coordinator, as indicated in the TPA, or of the President or the Secretary of State?
- **Sec. 614: Reporting on Tibet.** What should be the scope of the annual report required in Sec. 613(b) of the TPA? Should it remain confined to the President and the Secretary of State’s efforts to encourage dialogue between the PRC and representatives of the Dalai Lama and the status of such dialogue? Should it be expanded to cover implementation of the entire Tibetan Policy Act of 2002; all activities of the Special Coordinator for Tibetan Issues; or the full range of activities related to Tibet undertaken by the U.S. government, including activities not specifically mandated by the act? Or should the report be eliminated, as proposed in H.R. 4194, the Government Reports Elimination Act of 2014, as introduced? If the report is retained, should the legislation require that it be made public?
- **Sec. 616(d): Economic principles.** Fear of violating the “Tibet project principles” outlined in Sec. 616(d) of the TPA appears to have dissuaded some international financial institutions and such U.S. institutions as the Trade Development Administration from pursuing projects in Tibet. Does Congress see a need to reevaluate the principles? Or does it believe they have served their purpose?
- **Sec. 615(3) and Sec. 621(d)(2): Elements of Tibet’s “distinct identity.”** Sec. 621(d)(2) requires the Special Coordinator to promote the policy of seeking to protect “the distinct religious, cultural, linguistic, and *national identity* of Tibet” (CRS emphasis). Sec. 615(3) directs the Congressional-Executive Commission

on China to include in its annual report a description of, “measures taken to safeguard Tibet’s distinct *historical*, religious, cultural, and linguistic identity” (CRS emphasis), adding “historical” and dropping “national.” Should these provisions be consistent? The Obama Administration’s 2013 *Report on Tibet Negotiations* refers to respect for “the distinct religious, linguistic, and cultural identity of the Tibetan people.”<sup>104</sup>

- **Sec. 613, 617, 619, and 621: Specific U.S. officials tasked with implementing provisions of the TPA.** These four provisions of the TPA require specific individuals to carry out mandates, as summarized below. Does Congress see any need to review which individuals are required to carry out specific provisions of the TPA? Should the tasks be required of a broader set of individuals? Or should the individuals tasked in each provision remain unchanged?
  - In Sec. 613(a) and (b)(1), the President and the Secretary of State alone are required to encourage the Chinese government “to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet.” The annual report mandated by the TPA requires reporting exclusively on the President’s and the Secretary’s steps to encourage dialogue.
  - In Sec. 617, the President and the Secretary of State alone are required to request the release of political and religious prisoners in Tibet, seek access for international humanitarian organizations to prisoners in Tibet, and seek medical parole for Tibetan prisoners known to be in ill health.
  - In Sec. 619, the U.S. Ambassador to China alone is required to ascertain information about the well-being of the 11<sup>th</sup> Panchen Lama and to request his release from Chinese government custody.
  - In Sec. 621, the Special Coordinator alone is required to “vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing [sic] for improved respect for human rights.”

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<sup>104</sup> U.S. Department of State, *Report on Tibet Negotiations*, May 17, 2013, [http://www.savetibet.org/wp-content/uploads/2013/10/051713\\_State\\_Report-on-Tibet-Negotiations.pdf](http://www.savetibet.org/wp-content/uploads/2013/10/051713_State_Report-on-Tibet-Negotiations.pdf).