

END BANKING FOR HUMAN TRAFFICKERS ACT OF 2017

FEBRUARY 23, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROYCE of California, from the Committee on Foreign Affairs, submitted the following

R E P O R T

[To accompany H.R. 2219]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 2219) to increase the role of the financial industry in combating human trafficking, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “End Banking for Human Traffickers Act of 2017”.

SEC. 2. INCREASING THE ROLE OF THE FINANCIAL INDUSTRY IN COMBATING HUMAN TRAFFICKING.

(a) **TREASURY AS A MEMBER OF THE PRESIDENT'S INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.**—Section 105(b) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(b)) is amended by inserting “the Secretary of the Treasury,” after “the Secretary of Education.”

(b) **REQUIRED REVIEW OF PROCEDURES.**—Not later than 180 days after the date of enactment of this Act, the Financial Institutions Examination Council shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies, take the following actions:

(1) Review and enhance, where necessary, training and examinations procedures to improve the ability of anti-money laundering programs to target human trafficking operations.

(2) Review and enhance, where necessary, procedures for referring potential human trafficking cases to the appropriate law enforcement agency.

(c) **INTERAGENCY TASK FORCE RECOMMENDATIONS TARGETING MONEY LAUNDERING RELATED TO HUMAN TRAFFICKING.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Interagency Task Force to Monitor and Combat Trafficking shall prepare and submit to Congress, the Secretary of the Treasury, and each appropriate Federal banking agency a series of legislative, administrative, and regulatory recommendations, if necessary, to revise anti-money laundering programs of financial institutions in order to specifically target money laundering related to human trafficking, as described in paragraph (2).

(2) **REQUIRED RECOMMENDATIONS.**—The recommendations required under paragraph (1) shall, at a minimum, include the following:

(A) Successful anti-human trafficking programs currently in place at financial institutions that are suitable for broader adoption.

(B) Recommended changes, if necessary, to the internal policies, procedures, and controls at financial institutions so that such institutions can better deter and detect money laundering related to human trafficking.

(C) Recommended changes, if necessary, to ongoing employee training programs at financial institutions so that those institutions can better equip employees to deter and detect money laundering related to human trafficking, including the training of legal counsel, risk managers, and compliance officers.

(D) Recommended revisions, if necessary, to existing regulatory requirements and guidelines for the reporting of suspicious transactions by financial institutions, as required pursuant to section 5318(g) of title 31, United States Code, in order to facilitate the collection of data on instances of suspected human trafficking.

(d) **ADDITIONAL REPORTING REQUIREMENT.**—Section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)) is amended by adding at the end the following:

“(4) **DESCRIPTION OF EFFORTS OF UNITED STATES TO ELIMINATE MONEY LAUNDERING RELATED TO HUMAN TRAFFICKING.**—In addition to the information required in the annual report under paragraph (1) and the interim report under paragraph (2), the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, shall include in each such report a description of efforts of the United States to eliminate money laundering related to human trafficking and the number of investigations, arrests, indictments and convictions in money laundering cases with a nexus to human trafficking.”

(e) **LIMITATION.**—Nothing in this Act shall be construed to grant rulemaking authority to the Interagency Task Force to Monitor and Combat Trafficking.

(f) **DEFINITIONS.**—As used in this section—

(1) the term “anti-money laundering program” means any program established by a financial institution pursuant to section 5318(h) of title 31, United States Code;

(2) the term “appropriate Federal banking agency” has the meaning given the term in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q));

(3) the term “human trafficking” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery;

(4) the term “Interagency Task Force to Monitor and Combat Trafficking” means the Interagency Task Force to Monitor and Combat Trafficking established by the President pursuant to section 105 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103); and

(5) the term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal or civil law.

SEC. 3. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

Section 108(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106(b)) is amended by adding at the end the following new paragraph:

“(13) Whether the government of the country, consistent with the capacity of the country, has in effect a framework to prevent financial transactions involving the proceeds of severe forms of trafficking in persons, and is taking steps to implement such a framework, including by investigating, prosecuting, convicting, and sentencing individuals who attempt or conduct such transactions.”.

SUMMARY AND PURPOSE

H.R. 2219, the End Banking for Human Traffickers Act, seeks to choke off human traffickers’ access to the financial system by enhancing the financial industry’s efforts to detect and deter money laundering related to human trafficking and by encouraging foreign governments to have in effect a framework to prevent financial transactions involving the proceeds of severe forms of trafficking in persons.

BACKGROUND AND NEED FOR THE LEGISLATION

Human trafficking has devastated the lives of tens of millions of people around the world, including in the United States. The perpetrators of this exploitation prey on the defenseless in our society, including young children.

The International Labor Organization estimates that over \$150 billion in illegal profits are made from forced labor each year and \$99 billion are earned from the victims of sexual exploitation. Billions in human trafficking profits are also earned in sectors like construction, manufacturing and agriculture. Contrary to popular misconception, this is not just a problem in developing nations, as nearly one-third of those profits are generated in industrialized countries.

These profits have made human trafficking the third most lucrative criminal enterprise in the world, according to the United Nations. Banks, credit card companies, and money transfer companies are all used by traffickers to facilitate their business and the exploitation of their victims. Traffickers aren’t hiding their illegal profits under a mattress or burying them in their backyard—they are laundering funds through financial institutions and depositing them in accounts that they can access electronically. Cutting off their access to the banking system is critical to putting an end to this illegal activity.

The End Banking for Human Traffickers Act will help law enforcement and financial institutions identify and report suspected human traffickers so that they can be prosecuted to the full extent of the law without relying entirely on testimony from victims.

This legislation will not only bolster United States efforts to combat human traffickers’ use of the domestic financial system but it will also encourage other countries to cut off traffickers from the global financial system. Specifically, H.R. 2219 will update the

State Department’s Trafficking in Persons Report to require a country-by-country assessment of whether foreign governments have established a functioning legal framework to prevent financial transactions involving the proceeds of severe forms of human trafficking. This assessment will become part of the State Department Tier Rankings of countries’ efforts to combat human trafficking, which are taken seriously in foreign capitals and help to reinforce global norms of responsible governmental behavior.

As the center of the global financial system and leading country in the world in combating human trafficking, it is incumbent on the United States to take all possible steps to address this heinous crime.

HEARINGS

Most recently, the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations held a hearing on May 2, 2017, entitled “Winning the Fight Against Human Trafficking” related to the contents of H.R. 2219. The bill is an additional result of the committee’s extended focus on human trafficking, which has included numerous hearings in recent Congresses, and the consideration of several trafficking-related bills, including H.R. 2200 and H.R. 1625, during the 115th Congress.

COMMITTEE CONSIDERATION

On December 14, 2017, the Committee on Foreign Affairs marked up H.R. 2219 in open session, pursuant to notice. An amendment (offered by Chairman Royce) was considered *en bloc* with the underlying bill and both were agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of Rules of the House of Representatives, the committee reports that findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of House Rule X, are incorporated in the descriptive portions of this report, particularly in the “Background and Need for the Legislation” and “Section-by-Section Analysis” sections.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

In compliance with clause 3(c)(2) of House Rule XIII and the Unfunded Mandates Reform Act (P.L. 104–4), the committee adopts as its own the estimate of new budget authority, entitlement authority, tax expenditure or revenues, and Federal mandates contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, February 15, 2018.

Hon. EDWARD R. ROYCE, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2219, the End Banking for Human Traffickers Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Stephen Rabent (for FFIEC costs) and Sunita D'Monte (for Interagency Task Force and Department of State costs), who can be reached at 226-2860.

Sincerely,

KEITH HALL.

Enclosure

cc: Honorable Eliot L. Engel
 Ranking Member

H.R. 2219—End Banking for Human Traffickers Act of 2017.

As ordered reported by the House Committee on Foreign Affairs on December 14, 2017.

H.R. 2219 would require the existing Interagency Task Force to Monitor and Combat Trafficking (Interagency Task Force) to recommend methods to combat money laundering related to human trafficking and to submit those recommendations to the Congress, the Secretary of the Treasury, and federal banking agencies. In addition, the bill would require the Department of State to add information about programs to deter such money laundering to its periodic reports on human trafficking.

Using information about the costs of preparing similar reports, CBO estimates that implementing the bill would cost less than \$500,000 over the 2018–2022 period to develop the analysis and recommendations required under the bill. Such spending would be subject to the availability of appropriated funds.

H.R. 2219 also would direct the Federal Financial Institutions Examination Council (FFIEC) to review and evaluate examination procedures for financial institutions regarding efforts to counter money laundering and the detection of financial transactions related to human trafficking. Using information from the affected financial regulatory agencies, CBO estimates that reviewing and evaluating the procedures would cost \$1 million over the 2018–2020 period.

Review and evaluation costs incurred by the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency are recorded in the budget as increases in direct spending, but those agencies are authorized to collect premiums and fees from the financial institutions they regulate to cover such administrative expenses. Thus, CBO estimates enacting H.R. 2219 would increase net direct spending by a negligible amount over the 2018–2020 period.

Review and evaluation costs incurred by the Federal Reserve System, also an FFIEC member, to implement the bill would reduce remittances to the Treasury, which are recorded in the budget as revenues. CBO estimates that enacting H.R. 2219 would decrease revenues by less than \$500,000 over the 2018–2020 period.

Because H.R. 2219 would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 2219 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2219 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On February 15, CBO transmitted a cost estimate for H.R. 2219, the End Banking for Human Traffickers Act of 2017, as ordered reported by the House Committee on Financial Services on December 13, 2017. The two bills are similar and CBO’s estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Stephen Rabent (for the FFIEC) and Sunita D’Monte (for the Interagency Task Force and the Department of State). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

DIRECTED RULE MAKING

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(i) of H. Res. 5 during the 115th Congress, the committee notes that H.R. 2219 contains no directed rule-making provisions.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House Rule XIII, the committee states that no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

PERFORMANCE GOALS AND OBJECTIVES

The objective of this legislation is to choke off human traffickers’ access to the financial system by galvanizing expertise within the financial industry and the United States Government. Section 4 requires the Attorney General’s annual Trafficking in Persons report to include information about the efforts of the United States to eliminate money laundering related to human trafficking, including the number of investigations, arrests, indictments, and convictions in money laundering cases with a nexus to human trafficking. This will enable Congress to conduct effective oversight of performance and results.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2219 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

H.R. 2219 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 2219 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House Rule XXI.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. The bill may be cited as the “End Banking for Human Traffickers Act of 2017.”

Section 2. Increasing the Role of the Financial Industry in Combating Human Trafficking. Adds the Secretary of the Treasury as a member of the President’s Task Force to Monitor and Combat Trafficking; requires the Financial Institutions Examination Council to review and enhance certain procedures to address human trafficking-related financial transactions and determine whether requirements for financial institutions are sufficient to detect and deter money laundering related to human trafficking; and requires the Interagency Task Force to Monitor and Combat Trafficking to report to Congress on efforts of the United States Government and financial institutions related to human trafficking, including feedback and recommendations related to successful anti-human trafficking programs currently in place that may be suitable for broader adoption by similarly situated financial institutions, human trafficking-related information sharing, and other efforts to detect and deter money laundering related to human trafficking.

Section 3. Coordination of Human Trafficking Issues by the Office of Terrorism and Financial Intelligence. Requires the Secretary of the Treasury to designate an office within the Office of Terrorism and Financial Intelligence that shall coordinate efforts to combat the illicit financing of human trafficking.

Section 4. Additional Reporting Requirement Under the Trafficking Victims Protection Act of 2000. Adds the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs to the list of congressional committees to which the Attorney General’s annual Trafficking in Persons report must be submitted and includes as part of such report information about the efforts of the United States to eliminate money laundering related to human trafficking.

Section 5. Minimum Standards for the Elimination of Trafficking. Requires the State Department, for the purposes of rating countries’ commitment to the minimum standards for the elimination of trafficking as part of its annual Trafficking in Persons Report, to assess whether foreign governments have in effect a framework to prevent financial transactions involving the proceeds of severe forms of human trafficking.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION
ACT OF 2000**

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**DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT
OF 2000**

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**SEC. 105. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT
TRAFFICKING.**

(a) **ESTABLISHMENT.**—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

(b) **APPOINTMENT.**—The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Education, *the Secretary of the Treasury*, and such other officials as may be designated by the President.

(c) **CHAIRMAN.**—The Task Force shall be chaired by the Secretary of State.

(d) **ACTIVITIES OF THE TASK FORCE.**—The Task Force shall carry out the following activities:

- (1) Coordinate the implementation of this division.
- (2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.
- (3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.
- (4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.
- (5) Examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world.
- (6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other enti-

ties, to advance the purposes of this division, and make reasonable efforts to distribute information to enable all relevant Federal Government agencies to publicize the National Human Trafficking Resource Center Hotline on their websites, in all headquarters offices, and in all field offices throughout the United States.

(7) Not later than May 1, 2004, and annually thereafter, the Attorney General shall submit to the Committee on Ways and Means, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate, a report on Federal agencies that are implementing any provision of this division, or any amendment made by this division, which shall include, at a minimum, information on—

(A) the number of persons who received benefits or other services under subsections (b) and (f) of section 107 in connection with programs or activities funded or administered by the Secretary of Health and Human Services, the Secretary of Labor, the Attorney General, the Board of Directors of the Legal Services Corporation, and other appropriate Federal agencies during the preceding fiscal year;

(B) the number of persons who have been granted continued presence in the United States under section 107(c)(3) during the preceding fiscal year and the mean and median time taken to adjudicate applications submitted under such section, including the time from the receipt of an application by law enforcement to the issuance of continued presence, and a description of any efforts being taken to reduce the adjudication and processing time while ensuring the safe and competent processing of the applications;

(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under subparagraph (T)(i) or (U)(i) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) during the preceding fiscal year;

(D) the number of persons who have applied for, been granted, or been denied a visa or status under clause (ii) of section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) during the preceding fiscal year, broken down by the number of such persons described in subclauses (I), (II), and (III) of such clause (ii);

(E) the amount of Federal funds expended in direct benefits paid to individuals described in subparagraph (D) in conjunction with T visa status;

(F) the number of persons who have applied for, been granted, or been denied a visa or status under section 101(a)(15)(U)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(i)) during the preceding fiscal year;

(G) the mean and median time in which it takes to adjudicate applications submitted under the provisions of law set forth in subparagraph (C), including the time between

the receipt of an application and the issuance of a visa and work authorization;

(H) any efforts being taken to reduce the adjudication and processing time, while ensuring the safe and competent processing of the applications;

(I) the number of persons who have been charged or convicted under one or more of sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, or 1594 of title 18, United States Code, during the preceding fiscal year and the sentences imposed against each such person;

(J) the amount, recipient, and purpose of each grant issued by any Federal agency to carry out the purposes of sections 106 and 107 of this Act, or section 134 of the Foreign Assistance Act of 1961, during the preceding fiscal year;

(K) the nature of training conducted pursuant to section 107(c)(4) during the preceding fiscal year;

(L) the amount, recipient, and purpose of each grant under section 202 and 204 of the Trafficking Victims Protection Act of 2005;

(M) activities by the Department of Defense to combat trafficking in persons, including—

(i) educational efforts for, and disciplinary actions taken against, members of the United States Armed Forces;

(ii) the development of materials used to train the armed forces of foreign countries;

(iii) all known trafficking in persons cases reported to the Under Secretary of Defense for Personnel and Readiness;

(iv) efforts to ensure that United States Government contractors and their employees or United States Government subcontractors and their employees do not engage in trafficking in persons; and

(v) all trafficking in persons activities of contractors reported to the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(N) activities or actions by Federal departments and agencies to enforce—

(i) section 106(g) and any similar law, regulation, or policy relating to United States Government contractors and their employees or United States Government subcontractors and their employees that engage in severe forms of trafficking in persons, the procurement of commercial sex acts, or the use of forced labor, including debt bondage;

(ii) section 307 of the Tariff Act of 1930 (19 U.S.C. 1307; relating to prohibition on importation of convict-made goods), including any determinations by the Secretary of Homeland Security to waive the restrictions of such section; and

(iii) prohibitions on the procurement by the United States Government of items or services produced by slave labor, consistent with Executive Order 13107 (December 10, 1998);

(O) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under subsection (g); and

(P) the activities undertaken by Federal agencies to train appropriate State, tribal, and local government and law enforcement officials to identify victims of severe forms of trafficking, including both sex and labor trafficking;

(Q) the activities undertaken by Federal agencies in cooperation with State, tribal, and local law enforcement officials to identify, investigate, and prosecute offenses under sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, 1594, 2251, 2251A, 2421, 2422, and 2423 of title 18, United States Code, or equivalent State offenses, including, in each fiscal year—

(i) the number, age, gender, country of origin, and citizenship status of victims identified for each offense;

(ii) the number of individuals charged, and the number of individuals convicted, under each offense;

(iii) the number of individuals referred for prosecution for State offenses, including offenses relating to the purchasing of commercial sex acts;

(iv) the number of victims granted continued presence in the United States under section 107(c)(3);

(v) the number of victims granted a visa or otherwise provided status under subparagraph (T)(i) or (U)(i) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15));

(vi) the number of individuals required by a court order to pay restitution in connection with a violation of each offense under title 18, United States Code, the amount of restitution required to be paid under each such order, and the amount of restitution actually paid pursuant to each such order; and

(vii) the age, gender, race, country of origin, country of citizenship, and description of the role in the offense of individuals convicted under each offense; and

(R) the activities undertaken by the Department of Justice and the Department of Health and Human Services to meet the specific needs of minor victims of domestic trafficking, including actions taken pursuant to subsection (f) and section 202(a) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(a)), and the steps taken to increase cooperation among Federal agencies to ensure the effective and efficient use of programs for which the victims are eligible.

(e) OFFICE TO MONITOR AND COMBAT TRAFFICKING.—

(1) IN GENERAL.—The Secretary of State shall establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the

Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

(2) UNITED STATES ASSISTANCE.—The Director shall be responsible for—

(A) all policy, funding, and programming decisions regarding funds made available for trafficking in persons programs that are centrally controlled by the Office to Monitor and Combat Trafficking; and

(B) coordinating any trafficking in persons programs of the Department of State or the United States Agency for International Development that are not centrally controlled by the Director.

(f) REGIONAL STRATEGIES FOR COMBATING TRAFFICKING IN PERSONS.—Each regional bureau in the Department of State shall contribute to the realization of the anti-trafficking goals and objectives of the Secretary of State. Each year, in cooperation with the Office to Monitor and Combat Trafficking in Persons, each regional bureau shall submit a list of anti-trafficking goals and objectives to the Secretary of State for each country in the geographic area of responsibilities of the regional bureau. Host governments shall be informed of the goals and objectives for their particular country and, to the extent possible, host government officials should be consulted regarding the goals and objectives.

(g) SENIOR POLICY OPERATING GROUP.—

(1) ESTABLISHMENT.—There shall be established within the executive branch a Senior Policy Operating Group.

(2) MEMBERSHIP; RELATED MATTERS.—

(A) IN GENERAL.—The Operating Group shall consist of the senior officials designated as representatives of the appointed members of the Task Force (pursuant to Executive Order No. 13257 of February 13, 2002).

(B) CHAIRPERSON.—The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

(C) MEETINGS.—The Operating Group shall meet on a regular basis at the call of the Chairperson.

(3) DUTIES.—The Operating Group shall coordinate activities of Federal departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of this division.

(4) AVAILABILITY OF INFORMATION.—Each Federal department or agency represented on the Operating Group shall fully share all information with such Group regarding the department or agency's plans, before and after final agency decisions are made, on all matters relating to grants, grant policies, and other significant actions regarding the international trafficking in persons and the implementation of this division.

(5) REGULATIONS.—Not later than 90 days after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003, the President shall promulgate regula-

tions to implement this section, including regulations to carry out paragraph (4).

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TRAFFICKING VICTIMS PROTECTION ACT OF 2000

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DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

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SEC. 108. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) **MINIMUM STANDARDS.**—For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) **CRITERIA.**—In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons. After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously in-

vestigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, a transparent system for remediating or punishing such public officials as a deterrent, measures to prevent the use of forced labor or child labor in violation of international standards, effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of

the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials, including diplomats and soldiers, who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone such trafficking. A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data consistent with its resources shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.

(9) Whether the government has entered into effective, transparent partnerships, cooperative arrangements, or agreements that have resulted in concrete and measurable outcomes with—

(A) domestic civil society organizations, private sector entities, or international nongovernmental organizations, or into multilateral or regional arrangements or agreements, to assist the government's efforts to prevent trafficking, protect victims, and punish traffickers; or

(B) the United States toward agreed goals and objectives in the collective fight against trafficking.

(10) Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.

(11) Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

(12) Whether the government of the country has made serious and sustained efforts to reduce the demand for—

- (A) commercial sex acts; and
- (B) participation in international sex tourism by nationals of the country.

(13) Whether the government of the country, consistent with the capacity of the country, has in effect a framework to prevent financial transactions involving the proceeds of severe forms of trafficking in persons, and is taking steps to implement such a framework, including by investigating, prosecuting, convicting, and sentencing individuals who attempt or conduct such transactions.

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SEC. 110. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) STATEMENT OF POLICY.—It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

- (1) does not comply with minimum standards for the elimination of trafficking; and
- (2) is not making significant efforts to bring itself into compliance with such standards.

(b) REPORTS TO CONGRESS.—

(1) ANNUAL REPORT.—Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report describing the anti-trafficking efforts of the United States and foreign governments according to the minimum standards and criteria enumerated in section 108, and the nature and scope of trafficking in persons in each country and analysis of the trend lines for individual governmental efforts. The report should include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance;

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance;

(D) information on the measures taken by the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization and, as appropriate, other multilateral organizations in which the United States participates, to prevent the involvement of the organization’s employees, contractor personnel, and peacekeeping forces in trafficking in persons or the exploitation of victims of trafficking;

(E) reporting and analysis on the emergence or shifting of global patterns in human trafficking, including data on the number of victims trafficked to, through, or from

major source and destination countries, disaggregated by nationality, gender, and age, to the extent possible;

(F) emerging issues in human trafficking; and

(G) a section entitled “Promising Practices in the Eradication of Trafficking in Persons” to highlight effective practices and use of innovation and technology in prevention, protection, prosecution, and partnerships, including by foreign governments, the private sector, and domestic civil society actors.

(2) SPECIAL WATCH LIST.—

(A) SUBMISSION OF LIST.—Not later than the date on which the determinations described in subsections (c) and (d) are submitted to the appropriate congressional committees in accordance with such subsections, the Secretary of State shall submit to the appropriate congressional committees a list of countries that the Secretary determines requires special scrutiny during the following year. The list shall be composed of the following countries:

(i) Countries that have been listed pursuant to paragraph (1)(A) in the current annual report and were listed pursuant to paragraph (1)(B) in the previous annual report.

(ii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report and were listed pursuant to paragraph (1)(C) in the previous annual report.

(iii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report, where—

(I) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

(II) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or

(III) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

(B) INTERIM ASSESSMENT.—Not later than February 1st of each year, the Secretary of State shall provide to the appropriate congressional committees an assessment of the progress that each country on the special watch list described in subparagraph (A) has made since the last annual report.

(C) RELATION OF SPECIAL WATCH LIST TO ANNUAL TRAFFICKING IN PERSONS REPORT.—A determination that a country shall not be placed on the special watch list described in subparagraph (A) shall not affect in any way the

determination to be made in the following year as to whether a country is complying with the minimum standards for the elimination of trafficking or whether a country is making significant efforts to bring itself into compliance with such standards.

(D) COUNTRIES ON SPECIAL WATCH LIST FOR 2 CONSECUTIVE YEARS.—

(i) IN GENERAL.—Except as provided under clause (ii), a country that is included on the special watch list described in subparagraph (A) for 2 consecutive years after the date of the enactment of this subparagraph, shall be included on the list of countries described in paragraph (1)(C).

(ii) EXERCISE OF WAIVER AUTHORITY.—The President may waive the application of clause (i) for up to 2 years if the President determines, and reports credible evidence to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, that such a waiver is justified because—

(I) the country has a written plan to begin making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking;

(II) the plan, if implemented, would constitute making such significant efforts; and

(III) the country is devoting sufficient resources to implement the plan.

(E) PUBLIC NOTICE.—Not later than 30 days after notifying Congress of each country determined to have met the requirements under subclauses (I) through (III) of subparagraph (D)(ii), the Secretary of State shall provide a detailed description of the credible evidence supporting such determination on a publicly available website maintained by the Department of State.

(3) SIGNIFICANT EFFORTS.—In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(4) DESCRIPTION OF EFFORTS OF UNITED STATES TO ELIMINATE MONEY LAUNDERING RELATED TO HUMAN TRAFFICKING.—*In addition to the information required in the annual report under paragraph (1) and the interim report under paragraph (2), the Secretary of State, in consultation with the Attorney*

General and the Secretary of the Treasury, shall include in each such report a description of efforts of the United States to eliminate money laundering related to human trafficking and the number of investigations, arrests, indictments and convictions in money laundering cases with a nexus to human trafficking.

(c) NOTIFICATION.—Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS.—The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADE-RELATED ASSISTANCE.—The President has determined that—

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide such assistance to the government of the country for the subsequent fiscal year and will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such

restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE.—The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY.—

(A) IN GENERAL.—The President may exercise the authority under paragraph (4) with respect to—

- (i) all nonhumanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs to a country;
- (ii) all multilateral assistance described in paragraph (1)(B) to a country; or
- (iii) one or more programs, projects, or activities of such assistance.

(B) AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS.—

The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) DEFINITION OF MULTILATERAL DEVELOPMENT BANK.—In this subsection, the term “multilateral development bank” refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) CERTIFICATION.—Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(8)(A), or with respect to any assistance described in section 103(8)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

(f) After the President has made a determination described in subsection (d)(1) with respect to the government of a country, the President may at any time make a determination described in

paragraphs (4) and (5) of subsection (d) to waive, in whole or in part, the measures imposed against the country by the previous determination under subsection (d)(1).

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