



Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress

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Summary

Trafficking in persons, or human trafficking, refers to the involuntary subjection of men, women, and children to exploitative conditions that can be tantamount to slavery. Reports suggest that human trafficking is a global phenomenon, victimizing millions of people each year and contributing to a multi-billion dollar criminal industry. It is a centuries-old problem that, despite international and U.S. efforts to eliminate it, continues to occur in virtually every country in the world. Human trafficking is also an international and cross-cutting policy problem that bears on a range of major national security, human rights, criminal justice, social, economic, migration, gender, public health, and labor issues.

The U.S. government and successive Congresses have long played a leading role in international efforts to combat human trafficking. Key U.S. foreign policy responses include the following:

- **Foreign Country Reporting** to describe annual progress made by foreign governments to combat human trafficking, child soldiers, and forced labor.
- **Foreign Product Blacklisting** to identify goods made with convict, forced, or indentured labor, including forced or indentured child labor.
- **Foreign Aid** to support foreign countries' efforts to combat human trafficking.
- **Foreign Aid Restrictions** to punish countries that are willfully noncompliant with anti-trafficking standards.
- **Conditions on Trade Preference Program Beneficiaries** to offer certain countries export privileges to the United States, only if they also adhere to international standards against forced labor and child trafficking.
- **Preventing U.S. Government Participation in Trafficking Overseas** to punish and deter trafficking-related violations among U.S. government personnel and contractors.

Although there is widespread support among policy makers for the continuation of U.S. anti-trafficking goals, ongoing reports of such trafficking worldwide raise questions regarding whether sufficient progress has been made to deter and ultimately eliminate the problem, the end goal of current U.S. anti-trafficking policies. This report explores current foreign policy issues confronting U.S. efforts to combat human trafficking, the interrelationship among existing policies, and the historical and current role of Congress in such efforts.

The 112th Congress has introduced and taken action on several bills related to human trafficking, including bills to reauthorize the Trafficking Victims Protection Act (TVPA), the cornerstone legislative vehicle for current U.S. policy to combat human trafficking, beyond FY2011 (S. 1301, H.R. 2830, and H.R. 2583). Given recent challenges in balancing budget priorities, the 112th Congress may choose to consider certain aspects of this issue further, including the effectiveness of international anti-trafficking projects, interagency coordination mechanisms, and the monitoring and enforcement of anti-trafficking regulations, particularly as they relate to the activities of U.S. government contractors and subcontractors operating overseas.

For an overview of domestic and international provisions in the TVPA, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Sun Wyler.

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Introduction

Trafficking in persons, or human trafficking, refers to the involuntary subjection of men, women, and children to exploitative conditions that some equate with slavery. It is a centuries-old problem that, despite international and U.S. efforts to eliminate it, continues to occur in virtually every country in the world. Common forms of human trafficking include trafficking for commercial sexual exploitation and trafficking through forced labor and debt bondage. Other forms of human trafficking also include trafficking for domestic servitude and the use of children in armed conflict (e.g., child soldiers).

The modern manifestation of this trafficking problem is driven by the willingness of labor and service providers to violate anti-trafficking laws and regulations in the face of continued international demand for cheap labor and services and gaps in the enforcement of such rules. Ongoing demand is particularly concentrated among industries and economic sectors that are low-skill and labor-intensive. To address the complex dynamics at issue in human trafficking, policy responses are cross-cutting and international, bringing together diverse stakeholders in the fields of foreign policy, human rights, international security, criminal justice, migration, refugees, public health, child welfare, gender issues, urban planning, international trade, labor recruitment, and government contracting and procurement.

In the United States, Congress has enacted legislation to address aspects of the problem, including the Trafficking Victims Protection Act of 2000 (TVPA, Division A of P.L. 106-386, as amended); TVPA reauthorizations (TVPRAs of 2003, 2005, and 2008); the Child Soldiers Prevention Act of 2008 (CSPA of 2008, Title IV of P.L. 110-457); and the Tariff Act of 1930 (Title III, Chapter 497, as amended). Other trafficking-related provisions have also been enacted through the Trade Act of 1974 (Title V of P.L. 93-618, as amended), the Trade and Development Act of 2000 (TDA, P.L. 106-200, as amended), and several additional trade preference programs authorized by Congress.

Although the United States has long supported international efforts to eliminate various forms of human trafficking, a new wave of contemporary action against international human trafficking galvanized in the late 1990s as news stories drew attention to the discovery of trafficked women and children from the former Soviet Union forced to participate in the commercial sex industries in Western Europe and North America. Across the international community, the transnational nature of the phenomenon highlighted the need for improved international coordination and commitment to halting trafficking flows. To this end, the United Nations (U.N.) adopted in 2000 the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter U.N. Trafficking Protocol), a supplement to the U.N. Convention Against Transnational Organized Crime. The U.N. Trafficking Protocol is

Further Reading

For additional information on human trafficking beyond selected foreign policy issues covered in this report, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Sun Wyler. RL34317 provides an expanded overview of the human trafficking phenomenon, both as it exists in the United States and abroad. It also describes and analyzes both the domestic and international provisions in the TVPA and related issues for Congress, including immigration relief for trafficking victims discovered in the United States, aid available to victims in the United States, and domestic investigations of trafficking offenses.

not the first or only multilateral mechanism to address human trafficking; it was, however, the first to define trafficking in persons and require States Parties to criminalize such activity.¹

Since the U.N. Trafficking Protocol entered into force in 2003, the international community has seen an uptick in the number of countries enacting laws that prohibit and criminally punish human trafficking. While observers note that continued vigilance is required to encourage the remaining 46 U.N. members to become States Parties to the U.N. Trafficking Protocol, emphasis from the U.S. foreign policy perspective has also been placed on improving the implementation and enforcement of anti-trafficking laws. According to the U.S. State Department's 2011 *Trafficking in Persons Report* (hereinafter *TIP Report*), 62 countries have yet to convict a trafficker under laws in accordance with the U.N. Trafficking Protocol.²

Continued public attention and academic research suggest that human trafficking remains a problem—a key rationale for the repeated reauthorization and enactment of further legislative enhancements to the TVPA, most recently through the TVPRA of 2008 (P.L. 110-457). Data on the global scope and severity of human trafficking continue to be lacking, due in large part to uneven enforcement of anti-trafficking laws internationally and related challenges in identifying victims. According to the International Labor Organization (ILO), an estimated 12.3 million individuals are currently subjected to forced labor worldwide. The sources of victims have diversified over time, as have the industries in which such trafficking victims are found. Known flows involve victims originating not only from Eastern and Central Europe, but also from South and Southeast Asia, North and West Africa, and Latin America and the Caribbean. Observers, however, debate whether existing anti-trafficking efforts worldwide have resulted in appreciable and corresponding progress toward the global elimination of human trafficking.

The 112th Congress has remained active on international human trafficking issues, particularly with appropriations identified for anti-trafficking assistance purposes, pending legislation in both chambers to reauthorize the TVPA, and an active record of committee hearings. Given current challenges in balancing budget priorities, Congress may choose to further explore possible gaps and redundancies in international anti-trafficking projects, whether there is a need for enhanced interagency coordination mechanisms for funding and programming prioritization, and what prospects may exist to invigorate the monitoring and enforcement of anti-trafficking laws and policies, particularly as they relate to U.S. government contractors and subcontractors. See the **Appendix** for further discussion of pending legislation in the 112th Congress on international human trafficking.

¹ Other key international treaties addressing human trafficking, which the United States has ratified or acceded to, include the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 2000 U.N. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography; the 2000 U.N. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; the 1957 International Labor Organization (ILO) Convention No. 105 on the Abolition of Forced Labour; and the 1999 ILO Convention No. 182 on the Worst Forms of Child Labour.

² U.S. Department of State (DOS), Office to Monitor and Combat Trafficking in Persons (J/TIP), *Trafficking in Persons Report 2011*, June 27, 2011. Hereinafter cited as *TIP Report* (2011).

U.S. Foreign Policy Framework

Current U.S. foreign policy approaches for addressing human trafficking are a modern off-shoot of anti-slavery policies that centered initially on reinforcing international prohibitions on forced labor during the first half of the 20th century. With time, U.S. and international perspectives on the global scope of human trafficking have expanded to cover a broader range of victims and prohibited activities, including sex trafficking and the exploitation of children in labor, armed conflict, and the commercial sex industry. The ultimate goal of current U.S. anti-trafficking policy is to eliminate the problem and support international efforts to abolish human trafficking worldwide.

The U.S. government has long played a leading role in international efforts to combat human trafficking, with Congress in particular driving contemporary U.S. foreign policy responses. Several major sources of foreign policy legislation and executive branch guidance frame current U.S. responses to the problem. They include the following:

- **Trafficking Victims Protection Act of 2000.** The cornerstone legislative vehicle for current U.S. policy on combating international human trafficking is the Trafficking Victims Protection Act of 2000 (TVPA), as amended and reauthorized (TVPRAs).³ Among other provisions, the TVPA formalized the overall U.S. approach to anti-trafficking through an emphasis on prevention of severe forms of human trafficking, prosecution of traffickers, and protection of victims (the three Ps) both domestically and internationally. It establishes minimum standards for the elimination of trafficking and specific criteria to assess whether such standards have been met. The TVPA also established several key elements in the U.S. foreign policy response to human trafficking, including the State Department Office to Combat and Monitor Trafficking in Persons; interagency entities to coordinate anti-trafficking policies across U.S. agencies, such as the Senior Policy Operating Group (SPOG) and President's Interagency Task Force (PITF); several reporting requirements to Congress; authorities to provide anti-trafficking foreign aid; and mechanisms to withhold U.S. aid to countries that fail to achieve progress in combating human trafficking.
- **National Security Presidential Directive 22.** Highlighting the impact of human trafficking on U.S. national security, President George W. Bush in December 2002 issued National Security Presidential Directive 22 on Combating Trafficking in Persons (NSPD-22).⁴ NSPD-22 is “based on an abolitionist

³ The TVPA has been amended and reauthorized through the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA of 2003), P.L. 109-162; the Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA of 2005), P.L. 109-164; and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), P.L. 110-457. Additional provisions, amending the TVPA are also located at Section 682 of Division A (Department of State Authorization Act, Fiscal Year 2003), Title VI, Subtitle G of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228); and Section 804 of Title VIII, Subtitle A of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162). The TVPA is codified at 22 U.S.C. 7101-7112. Unless otherwise noted, all subsequent references to the TVPA are assumed to refer to the TVPA, as amended.

⁴ President George W. Bush, National Security Presidential Directive 22 (NSPD-22), *Combating Trafficking in Persons*, December 16, 2002, partially declassified for publication as “Appendix C” in U.S. Department of Defense (DOD), Office of the Inspector General (OIG), *Inspections and Evaluations: Evaluation of DOD Efforts to Combat Trafficking in Persons*, Report No. IE-2007-002, November 21, 2006.

approach to trafficking in persons,” establishing as a U.S. government-wide goal the eradication of international trafficking in persons, including a zero tolerance policy among U.S. government employees and contractors.⁵ NSPD-22 also notably identifies prostitution and several related activities as “contributing to the phenomenon of trafficking in persons”—and thus to be opposed as a matter of U.S. government policy.

- **Tariff Act of 1930.** Section 307 of the Tariff Act of 1930, as amended, prohibits the import of all foreign “goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part” by convict or forced or indentured labor.⁶ The U.S. Department of Homeland Security (DHS) implements the provisions of Section 307 by maintaining a public list of such prohibited goods and barring entry of such products into the United States.⁷
- **Executive Order 13126.** On June 12, 1999, President William J. Clinton issued Executive Order 13126, the Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor (EO 13126). This executive order prohibits U.S. government contractors from using or procuring “goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.” The U.S. Department of Labor, with consultation from DHS and the State Department, implements the provisions of EO 13126 by maintaining a public list of offending products, as well as a list of the countries from which such products originate.⁸
- **Trade Preference Program Eligibility.** Select countries receive temporary, non-reciprocal, duty-free U.S. market access for certain exports on condition that they adhere to “internationally recognized worker rights,” including prohibitions on forced labor, as well as eliminate the “worst forms of child labor,” including child trafficking.⁹ Such congressionally authorized preference programs include the Generalized System of Preferences (GSP);¹⁰ Caribbean Basin Economic Recovery Act (CBERA), as amended and extended through the U.S. Caribbean Basin Trade Partnership Act (CBTPA);¹¹ Andean Trade Preference Act (ATPA), as amended and extended through the Andean Trade Promotion and Drug

⁵ Ibid.

⁶ Section 307 of Title III, Chapter 497 (46 Stat. 689); 19 U.S.C. 1307. Unless otherwise noted, all subsequent reference to the Tariff Act of 1930 are assumed to refer to the Act, as amended.

⁷ U.S. Department of Homeland Security (DHS), Customs and Border Protection (CBP), *Convict, Forced, or Indentured Labor Product Importations*, December 10, 2009, http://www.cbp.gov/xp/cgov/trade/trade_outreach/convict_importations.xml.

⁸ U.S. Department of Labor, International Labor Affairs Bureau (ILAB), *Executive Order 13126*, <http://www.dol.gov/ILAB/regs/eo13126/main.htm>.

⁹ The definition for “internationally recognized worker rights” was first incorporated into U.S. statutes through Section 507, Title V (Trade Act of 1974), of the Trade Reform Act (P.L. 93-618), as added by Section 1952(a), Title I (GSP Renewal Act of 1996) of the Small Business Job Protection Act of 1996 (P.L. 104-188). The definition for “worst forms of child labor” was first incorporated into U.S. statutes through Section 412(b), Title IV of the Trade and Development Act of 2000 (TDA, P.L. 106-200). Both terms are codified at 19 U.S.C. 2467.

¹⁰ Title V (Trade Act of 1974) of the Trade Reform Act (P.L. 93-618), as amended; 19 U.S.C. 2462-2467.

¹¹ CBERA was first enacted through the Title II of P.L. 98-67 (“An act to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region, to provide for backup withholding of tax from interest and dividends, and for other purposes”), and subsequently amended. CBTPA was first enacted through Title II of the TDA (P.L. 106-200), and subsequently amended. Both provisions are codified at 19 U.S.C. 2701-2707.

Eradication Act (ATPDEA);¹² and African Growth and Opportunity Act (AGOA).¹³

- **Child Soldiers Prevention Act of 2008.** Addressing the specific issue of children in armed conflict, the Child Soldiers Prevention Act of 2008 (CSPA of 2008) mandates the U.S. Department of State to annually publish a list of countries in violation of international standards to condemn the conscription, recruitment, and use of children in armed conflict and punish such countries by prohibiting the provision of certain types of U.S. military assistance.

Key U.S. entities involved in combating international trafficking in persons include the Department of State, Department of Labor, Agency for International Development (USAID), Department of Defense (DOD), and the Department of Homeland Security (DHS). These departments and agencies are among the participants in interagency coordination mechanisms to combat international human trafficking through the SPOG and the PITF and may also issue agency-specific guidelines against human trafficking that implement enacted laws, federal regulations, and presidential determinations, directives, and executive orders.

The U.S. government also participates in multilateral and regional anti-trafficking efforts conducted by the international community, including through organizations such as the United Nations, the International Labor Organization (ILO), the International Organization for Migration (IOM), and the Organization for Security and Cooperation in Europe (OSCE), among many others. See **Table 1** for a list of multilateral treaties related to human trafficking in which the U.S. government participates.

Table 1. Key International Treaties Addressing Trafficking in Persons Which the United States Has Ratified or Acceded To

Date of U.S. Accession, Signing, or Ratification	Name of Convention or Protocol	Entry into Force
December 6, 1967 (accession)	1956 U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	April 30, 1957
December 13, 2000 (signed) November 3, 2005 (ratified)	2000 U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime	December 25, 2003
July 5, 2000 (signed) December 23, 2002 (ratified)	2000 U.N. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	January 18, 2002
July 5, 2000 (signed) December 23, 2002 (ratified)	2000 U.N. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	February 12, 2002

¹² ATPA was first enacted through Title II (Trade Preference for the Andean Region) of the Andean Trade Preference Act (P.L. 102-182) and subsequently amended. ATPDEA was first enacted through Division C, Title XXXI of the Trade Act of 2002 (P.L. 107-210), and subsequently amended. Both provisions are codified at 19 U.S.C. 3201-3206.

¹³ Title I (Extension of Certain Trade Benefits to Sub-Saharan Africa) of the TDA (P.L. 106-200); 19 U.S.C. 3701-3706 and 19 U.S.C. 2466a-b.

Date of U.S. Accession, Signing, or Ratification	Name of Convention or Protocol	Entry into Force
September 25, 1991 (ratified)	1957 ILO Convention No. 105 on the Abolition of Force Labor	January 17, 1959
February 12, 1999 (ratified)	1999 ILO Convention No. 182 on the Worst Forms of Child Labor	November 19, 2000

Sources: CRS presentation of data contained in the U.N. Treaty Collection, *Status of Treaties*, <http://treaties.un.org/Home.aspx?lang=en>, and ILO *Database of International Labor Standards*, <http://www.ilo.org/ilolex/english/newratframeE.htm>.

Key Trafficking Terms in U.S. Foreign Policy Context

As various terms are defined and used in international treaties as well as domestic statutes, choice in the application of these terms may trigger different policy consequences. The following section identifies and compares several terms frequently used in the context of foreign policy discussions related to human trafficking.

Human Trafficking

“Human Trafficking” is a generic term to describe what the U.N. Trafficking Protocol defines as “trafficking in persons” and the TVPA in U.S. statute defines as “severe forms of trafficking in persons.” The U.N. and U.S. terms share similarities, but are applied in different policy contexts. They are both precedent-setting, as two of the earliest official definitions broadly conceived to describe human trafficking as a combination of prohibited acts (e.g., recruitment, harboring, or transportation of victims) and prohibited methods or means of procuring commercial sex and other labor or services (e.g., force, fraud, or coercion). Both afford enhanced protections for children against victimization in the commercial sex industry, as well as protections against their subjection to work under conditions of involuntary servitude, peonage, debt bondage, or slavery. Neither the U.S. nor the U.N. definition requires trafficking victims to be physically moved across international borders.

In general, the U.S. term defined in the TVPA is considered more restrictive than the U.N. definition, resulting in a less expansive basis for the concept of human trafficking and a more narrowly defined scope for U.S. foreign policy activities to combat human trafficking. The intended foreign policy purposes of the definitions also differ. The U.N. term was created to facilitate international cooperation for legal and technical assistance. The U.S. term is used to measure and rank foreign countries’ progress in combating trafficking. It can trigger unilateral U.S. government restrictions on foreign aid to countries with a record of poor performance to combat severe forms of human trafficking. Additionally, it can also affect federal contracting and procurement policies. Domestically, the U.S. term also has implications for the criminal justice system and immigration status categories.

Forced Labor

The U.N. Trafficking Protocol does not define forced labor. Instead, the primary international definition of forced labor can be found in ILO Convention No. 29, the Forced Labour Convention of 1930, which defines “forced or compulsory labour” as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” The TVPRA of 2008 (P.L. 110-457) amends the U.S. *Criminal Code* and indirectly defines “forced labor” by describing the circumstances under which an individual could be punished for knowingly providing or obtaining the labor or services of a person.¹⁴

The ILO term for forced labor is broader than both the U.N. and U.S. definitions of human trafficking. The ILO term is relevant in the U.S. anti-trafficking policy context, as it is the governing definition for the U.S. import ban on foreign goods produced with convict, forced, or indentured labor (§307 of the Tariff Act of 1930). The ILO definition also applies to U.S. decisions to apply or revoke trade preference beneficiary status to select foreign countries (e.g., GSP, CBERA/CBTPA, ATPA/ATPDEA, and AGOA). The U.S. Department of Labor also applies the international definition in its preparation of two additional mandates: (1) a list of foreign goods produced with exploitative child labor that may not be used in federal contractor supply chains (EO 13126), and (2) a list of foreign goods produced by forced

¹⁴ 18 U.S.C. 1589.

labor or child labor (TVPPRA of 2005; P.L. 109-164).

Worst Forms of Child Labor

ILO Convention No. 182, the Worst Forms of Child Labor Convention of 1999, defines “the worst forms of child labour” to include child slavery and prostitution, as well as use of children in illicit activities, such as drug trafficking, and other work, which by its nature, is likely to harm the health, safety, or morals of children. This term is used in the U.S. foreign policy context in decisions to apply or revoke trade preference beneficiary status to foreign countries. It is also the governing definition used by the Labor Department for its annual report on *Findings of the Worst Forms of Child Labor* (hereinafter *Worst Forms of Child Labor Report*). However, not all of the ILO-specified worst forms of child labor necessarily constitute human trafficking, as defined by either the U.N. or the TVPA. This term is to be distinguished from other terms used in U.S. foreign policy contexts, including “forced and indentured child labor” (as is used by EO 13126) and “child labor” (as is used to develop a list of foreign goods produced by forced or child labor, pursuant to the TVPPRA of 2005).

Foreign Policy Issues

Overall, U.S. foreign policy to address and eliminate international human trafficking includes several dimensions that are not mutually exclusive. They are summarized below, and key issues associated with each line of activity are discussed in the subsequent sections.

- **Foreign Country Reporting.** Congress requires the U.S. Departments of State and Labor to report annually on foreign country efforts against human trafficking, child soldiers, and the worst forms of child labor, as well as country efforts to support human rights, including prohibitions on forced and compulsory labor and child trafficking.
- **Foreign Product Blacklisting.** Congress mandates the U.S. Departments of Labor and Homeland Security to maintain, respectively, a list of foreign goods produced with child or forced labor and a list of foreign products made with convict, forced, or indentured labor to be barred entry at U.S. ports. Additionally, the President, through EO 13126, requires the Department of Labor to maintain a list of foreign goods made with forced or indentured child labor prohibited from use in federal procurement supply chains.
- **Foreign Assistance and Related Projects to Support Anti-Trafficking Efforts Abroad.** Congress authorizes and appropriates to the U.S. Department of State, U.S. Agency for International Development (USAID), and the U.S. Department of Labor funds to support foreign countries’ efforts to combat human trafficking. Between FY2005 and FY2010, these departments and agencies obligated a total of \$493 million for international anti-trafficking activities, including assistance to foreign governments, NGOs, and civil society organizations, as well as researchers.
- **Restrictions on Foreign Assistance to Poor-Performing Countries.** Congress requires that non-humanitarian, nontrade-related foreign aid be denied to countries that are willfully noncompliant with anti-trafficking standards. Separately, Congress also requires that certain types of U.S. military assistance be denied to countries that harbor or recruit child soldiers.
- **Conditions on Foreign Country Trade Preference Beneficiary Status for Anti-Trafficking Purposes.** Through several legislative vehicles, Congress authorizes certain countries to export to the United States specified products

duty-free. Eligibility for this privilege, however, is conditioned on whether such countries are committed to certain foreign policy goals, including internationally recognized worker rights, such as prohibiting forced labor, and the elimination of the worst forms of child labor, such as child trafficking.

- **Prevention of Trafficking in U.S. Operations Overseas.** Congress and the White House have issued several policies and regulations emphasizing prohibitions on trafficking-related activities among U.S. military personnel, contractors, peacekeepers, and post-conflict and humanitarian aid workers. For U.S. contractors operating overseas, for example, anti-trafficking laws and regulations bar not only “severe forms of human trafficking,” as defined by the TVPA, but also procurement of commercial sex (e.g., prostitution) while contracted with the U.S. government and use of forced labor in the performance of the contract.

These lines of activity reflect a long-standing and broad-based set of U.S. policy commitments to eliminate international human trafficking. The problem of human trafficking, however, continues to persist—challenging policy makers to modify and improve existing U.S. foreign policy responses to the problem. Persistent reports of human trafficking worldwide may also challenge policy makers to evaluate whether anti-trafficking programs can achieve current U.S. foreign policy goals within a realistic time frame.

Foreign Country Reporting

One line of U.S. foreign policy activity to combat human trafficking is through foreign country reporting. Congress has mandated that the Departments of State and Labor regularly report on foreign countries’ policy responses to human trafficking and forced labor, identify countries that recruit and harbor child soldiers, and evaluate efforts made by foreign countries to eliminate the worst forms of child labor, including child trafficking.

The most targeted of these reports is the State Department’s *TIP Report*, which reviews the status of foreign countries in achieving the TVPA’s minimum standards to eliminate severe forms of trafficking in persons.¹⁵ In the *TIP Report*, countries ultimately receive one of four possible ranking designations: Tier 1 (best), Tier 2, Tier 2 Watch List, and Tier 3 (worst). Only Tier 1 countries are fully compliant with the TVPA’s minimum standards, while the rest are non-compliant and vary in terms of the level of effort to improve. Other congressionally mandated foreign country reporting includes two reports, the *Findings of the Worst Forms of Child Labor* (hereinafter *Worst Forms of Child Labor Report*) and the *Country Reports on Human Rights Practices* (hereinafter *Human Rights Report*), as well as an additional list, published in conjunction with the *TIP Report*, of countries involved in recruiting and using child soldiers (see **Table 2** below). For two of these reporting requirements—the *TIP Report* and the list of countries involved in recruiting and using child soldiers—the worst-performing countries may, in turn, be subject to restrictions on certain types of U.S. foreign assistance (see section below on “Foreign Aid Restrictions”).

¹⁵ Section 108(a) of the TVPA, as amended; 22 U.S.C. 7106(a).

Table 2. Summary of Foreign Country Reporting Requirements

Reporting Requirement	Legislative Source	Description
<i>TIP Report</i>	Section 110(b) of the TVPA, as amended; 22 U.S.C. 7107(b).	Due each June and issued annually since 2001, the centerpiece of the <i>TIP Report</i> is a country-by-country analysis and ranking, based on progress countries have made in their efforts to prosecute, protect, and prevent human trafficking.
List of Countries Involved in Recruiting and Using Child Soldiers	Section 404(b) of the CSPA; 22 U.S.C. 2370c-1(b)	Beginning in 2010, the State Department annually publishes a list of countries that recruit or use child soldiers in their armed forces, or that harbor non-government armed forces that recruit or use child soldiers. Following these guidelines, the State Department identified six such countries in both 2010 and 2011: Burma, Chad, Democratic Republic of the Congo (DRC), Somalia, Sudan, and Yemen.
<i>Worst Forms of Child Labor Report</i>	Section 412(d) of the TDA, as amended; 19 U.S.C. 2464	Since 2002, the Labor Department has issued an annual report on the progress made by certain specified countries to eliminate the worst forms of child labor. The most recent report, released in September 2011, covers 144 countries and territories designated as current or previous beneficiaries of trade preference programs.
<i>Human Rights Report</i>	Section 504 of the Trade Act of 1974 (19 U.S.C. 2464) and Section 104 of the TVPA (22 U.S.C. 2151n)	Congress also requires the State Department to include in its annual <i>Human Rights Report</i> sections for each country on the status of the “prohibition of forced or compulsory labor” as well as on trafficking in persons. In the 2011 edition, the State Department reported on 196 countries. The 2011 edition cross-referenced the <i>TIP Report</i> for details on human trafficking and also stated that most countries faced challenges associated with implementing and enforcing prohibitions against forced or compulsory labor.

Sources: CRS presentation of data from the Legislative Information System (LIS); DOS, J/TIP, 2011 *TIP Report*; DOL, 2011 *Worst Forms of Child Labor Report*; and DOS, 2011 *Human Rights Report*.

These annually updated analyses provide regular reporting and country-level detail that are not otherwise published. As public documents, the information contained in them has created diplomatic opportunities for engagement with foreign counterparts, as well as for increased public awareness of human trafficking as an international problem. Some officials and outside observers value these reports as an effective means through which to praise countries that have implemented best practices, criticize those that have balked at reform, and offer support to those that could benefit from foreign donor assistance.

In contrast, the State Department’s Office of Inspector General (OIG) describes several of these reports as resource-intensive, unnecessarily “encyclopedic in detail and length,” largely redundant, and at times the cause of more diplomatic harm than good.¹⁶ Although the actual number of pages devoted to each individual country narrative tends to be relatively few, OIG criticized the length of the State Department’s *TIP Report*, which in 2011 totaled 413 pages, and the Department of Labor’s *Worst Forms of Child Labor Report*, which in 2011 totaled 855 pages. The State Department’s OIG described the *TIP Report* as among the most cost-intensive in terms

¹⁶ DOS and Broadcasting Board of Governors (BBG), Office of Inspector General (OIG), *Inspection of Department-Required and Congressionally Mandated Reports: Assessment of Resource Implications*, Report of Inspection, Report Number ISP-I-11-11, October 2010.

of personnel resources both at U.S. diplomatic posts abroad and at headquarters in Washington, DC.

To illustrate such criticisms, the OIG highlighted the experience of U.S. Embassy Bridgetown, located in Barbados. In addition to Barbados, Embassy Bridgetown is responsible for diplomatic relations with six additional governments in the Eastern Caribbean, including Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines. All are covered by either the *TIP Report* or the *Worst Forms of Child Labor Report*, or both. Embassy Bridgetown reportedly estimated that approximately 200 person-hours were required to resolve questions and differences in its submission to Washington for the 2009 *TIP Report* and an additional 200 person-hours for “dealing with negative political, media, and public reactions.”¹⁷ Some, however, may consider such time and personnel resources committed to human trafficking issues appropriate, given the perceived magnitude and seriousness of the problem.

Other concerns have centered on the lack of consistent reporting quality across countries, as well as questions regarding discrepancies in data collection and the reliability of report findings. For example, the Labor Department’s *Worst Forms of Child Labor Report* identifies a substantially larger number of countries associated with child soldiers, compared to the State Department’s list. A rationale for this discrepancy may be that, in most cases, reports of child soldiers are often associated with unsanctioned rebel groups beyond the control of state policies. However, in the case of Afghanistan, the Department of Labor reports that children have joined its national military and police forces.

Foreign Product Blacklisting

A second line of foreign policy activity to combat human trafficking is through foreign product blacklisting. Through two acts (the Tariff Act of 1930 and the TVPRA of 2005) and an executive order (EO 13126), the Departments of Labor, State, and Homeland Security are required to maintain lists of foreign products that have been produced by forced labor, child labor, indentured labor, forced or indentured child labor, and convict labor.

- Pursuant to the **Tariff Act of 1930**¹⁸ and implementing regulations, DHS may prohibit certain types of goods from import into the United States when it is determined that (1) the goods are produced, mined, or manufactured with the use of convict, forced, or indentured labor; and (2) such goods had been or are likely to be imported into the United States. According to DHS’s Customs and Border Protection (CBP), currently banned products include specified furniture, clothes hampers, and palm leaf bags from a state penitentiary in Tamaulipas, Mexico, as well as specified diesel engines, machine presses, sheepskin and leather products, and malleable iron pipe fittings from a combination of factories and prisons in Yunnan, Xuzhou, Qinghai, and Tianjin, China.¹⁹
- Pursuant to **EO 13126**, issued by President Clinton on June 12, 1999, the Department of Labor, in consultation with the State Department and DHS, is

¹⁷ Ibid.

¹⁸ Section 307 of the Tariff Act of 1930 (Title III, Chapter 497, as amended; 19 U.S.C. 1307).

¹⁹ DHS, CBP, *Convict, Forced, or Indentured Labor Product Importations*, December 10, 2009, http://www.cbp.gov/xp/cgov/trade/trade_outreach/convict_importations.xml.

required to jointly publish and maintain a list of countries and products that are likely to have been mined, produced, or manufactured by forced or indentured child labor. The appearance on the list triggers an additional requirement for U.S. federal contractors to certify that they have made good faith efforts to ensure that their products and services to the U.S. government do not involve forced or indentured child labor. The most recent version of the list identifies 46 products from 21 countries.²⁰

- The **TVPA of 2005** mandates the Department of Labor to “develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards.”²¹ Pursuant to this mandate, the Department of Labor initially published a list in 2009 and subsequently updated the list in 2010 and 2011. There are currently 130 goods from 71 countries identified by the Department of Labor as likely produced by child labor or forced labor.²²

Although not all of the blacklisted products pursuant to these provisions are necessarily indicative of human trafficking, they are often included today as a dimension of U.S. policy to combat international human trafficking and described in recent State Department *TIP Reports* as a component of the overall U.S. anti-trafficking policy regime.²³ The consequences of being identified as a blacklisted product vary, depending on which list a product is placed.

These lists can be viewed as innovative policy responses to prevent labor-related human trafficking, often considered an under-emphasized and under-prioritized dimension of the trafficking in persons problem. They may, however, be criticized by some as duplicative, while also not sufficiently tailored or utilized as a tool to combat human trafficking, given variations in the standards, definitions, and criteria used for each blacklist. The direct correlation between blacklisted products and human trafficking is therefore imprecise, as none of the three lists specify whether blacklisted products are indicative of human trafficking as defined by either the U.N. or the TVPA (see **Table 3** below).

²⁰ U.S. Department of Labor, ILAB, EO 13126, *Current List of Products and Countries on EO 13126*, current as of May 31, 2011, <http://www.dol.gov/ILAB/regs/eo13126/>.

²¹ Section 105(b)(2)(C) of the TVPA of 2005 (P.L. 109-164; 22 U.S.C. 7112(b)(2)(C)). Section 110 of the TVPA of 2008 (P.L. 110-457) reiterates this reporting requirement (no corresponding U.S. Code citation).

²² U.S. Department of Labor, ILAB, *List of Goods Produced by Child Labor or Forced Labor*, 2011.

²³ The original purpose of enacting these provisions was not necessarily designed to serve specifically as a policy response to trafficking in persons, but rather to condemn foreign labor practices in contravention to international labor standards.

Table 3. Foreign Product Blacklisting Terms Used in Comparison

Legislative Source	Implementing Agency	Factors that Trigger Inclusion on a Foreign Product Blacklist							Consequence of Blacklisting
		Convict Labor	Child Labor ^a	Forced Labor ^b	Forced Child Labor ^c	Indentured Labor	Indentured Child Labor ^c	Human Trafficking	
Tariff Act of 1930	DHS	X		X	X	X	X	N/A	Import Ban
EO 13126	DOL, in consultation with DOS and DHS				X		X	N/A	Procurement Ban
TVPPA of 2005	DOL		X	X	X			N/A	N/A

Sources: Section 307 of the Tariff Act of 1930 (Title III, Chapter 497, as amended; 19 U.S.C. 1307), EO 13126 (June 12, 1999), Section 105 of the TVPPA of 2005 (P.L. 109-164; 22 U.S.C. 7112), and U.S. Department of Labor, Bureau of International Labor Affairs (ILAB), *Frequently Asked Questions, Trafficking Victims Protection Reauthorization Act (TVPPA)*, “What Definitions of Child Labor and Forced Labor are Used in Developing the List?” <http://www.dol.gov/ilab/faqs2.htm#tvpra3>. N/A=not applicable; DHS=Department of Homeland Security, DOS=Department of State, DOL=Department of Labor.

- a. Child labor is undefined in the TVPPA of 2005, but the Department of Labor defines “child labor” as “all work performed by a person below the age of 15” and includes all work performed by a person below the age of 18 under circumstances that fit the ILO’s definition of the “worst forms of child labor” (ILO Convention No. 182). ILO Convention No. 182 defines the “worst forms of child labor” as “(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”
- b. Section 307 of the Tariff Act of 1930 defines “forced labor” consistent with ILO Convention No. 29. ILO Convention No. 29 defines forced labor as “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.”
- c. EO 13126 defines “forced or indentured child labor” as all work or service (1) exacted from any person under the age of 18 involving forced labor as defined by ILO Convention No. 29; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Foreign Aid and International Anti-Trafficking Projects

A third line of foreign policy activity to combat human trafficking is through provisions of aid to foreign countries. For more than a decade, Congress has authorized and appropriated foreign assistance and international grants to combat human trafficking. From FY2005 through FY2010, the U.S. government obligated a total of \$493 million for international anti-trafficking projects outside the United States. Given the transnational nature of human trafficking, these anti-trafficking programs are viewed by proponents as crucial tools to build the capacity and capability of other countries to prevent trafficking, protect victims, and prosecute traffickers (commonly referred to as the three Ps). Improved foreign efforts to eliminate trafficking could, in turn, translate into fewer legal, political, and physical safe havens for international traffickers to exploit.

Such international projects, however, are also challenged by limitations in measuring effectiveness and developing meaningful measures of progress. Given the general absence of data to formulate a baseline estimate for the scope of the human trafficking problem, it is often difficult to specify how anti-trafficking aid programs have improved the situation. For example, the U.N. Office on Drugs and Crime (UNODC) stated in a 2009 report that “without a sense of the magnitude of the problem, it is impossible to prioritize human trafficking as an issue relative to other local or transnational threats, and it is difficult to assess whether any particular intervention is having effect.”²⁴ In lieu of specifics, anti-trafficking assistance programs are often described as providing diffuse capacity-building benefits for governance, civil society, and general public awareness. Such factors, however, are difficult to measure and, even if they were to be measured, may claim only tenuous links to any specific anti-trafficking program. In the past, the U.S. Government Accountability Office (GAO) has reported on problems with coordinating, evaluating, and monitoring the effectiveness of U.S. foreign aid projects to combat human trafficking.²⁵

Accounting for the annual amount of U.S. funding for international projects to combat human trafficking can also present difficulties. Executive branch agencies receive anti-trafficking funding through several appropriations accounts that are not necessarily linked to TVPA authorities. State Department aid for anti-trafficking is broken down on a country and regional basis, rather than allocated according to the TVPA’s specified authorities. For each fiscal year from FY2008 through FY2011, the TVPRA of 2008 authorized a total of \$63.8 million in foreign assistance to the State Department and to the President for combating trafficking in persons.²⁶ Yet, differing sources provide a varied portrait of how much the U.S. government spent on anti-trafficking aid projects in that period. The State Department, for example, reported that it budgeted a total of \$34.63 million in anti-trafficking foreign aid for FY2010 (see **Table 4**). Separately, the State Department also reported that, in FY2010, the U.S. government obligated \$85.27 million for approximately 175 international anti-trafficking projects benefitting more than 80 countries (see **Figure 1**).²⁷ The latter figure for obligated funds in FY2010 includes funding for projects that are allocated to agencies and for purposes beyond those referenced in the TVPA, such as Department of Labor funds for combating the worst forms of child labor.

²⁴ U.N. Global Initiative to Fight Human Trafficking (UNGIFT) and U.N. Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons*, February 2009.

²⁵ U.S. Government Accountability Office (GAO), *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-Trafficking Efforts Abroad*, GAO-06-825, July 18, 2006. In 2007, GAO followed up with a second report with similar conclusions, but indicated that progress in addressing GAO’s recommendation, though mixed, was generally positive. According to GAO, the executive branch continues to remain in the process of responding to several of its recommendations to improve anti-trafficking program monitoring, effectiveness, and coordination. GAO, *Human Trafficking: A Strategy Framework Could Help Enhance the Interagency Collaboration Needed to Effectively Combat Trafficking Crimes*, GAO-07-915, July 26, 2007.

²⁶ P.L. 110-457; not included in this total are additional funds authorized to the President for research (\$2 million, pursuant to Section 113(e)(3) of the TVPA) and to the State Department for the interagency task force, additional personnel, and official reception and representation expenses (approximately \$7 million, pursuant to Section 113(a) of the TVPA).

²⁷ DOS, J/TIP, *U.S. Government Anti-Trafficking in Persons Program Funding*, June 27, 2011. This document warns, however, that the total figure for international anti-trafficking projects “may be overstated” because funds through the Department of Labor to address the worst forms of child labor, including but not limited to child trafficking, cannot be disaggregated. Obligated totals for international anti-trafficking projects include funding budgeted separate from the foreign operations appropriations process, including some Educational and Cultural Exchange (ECE) programs funded by the State Department as well as some international, bilateral, and multilateral technical assistance to combat exploitative child labor internationally provided by the Department of Labor’s Bureau for International Labor Affairs (ILAB).

Table 4. Assistance to Combat Trafficking in Persons in the State Department's Foreign Operations Budget

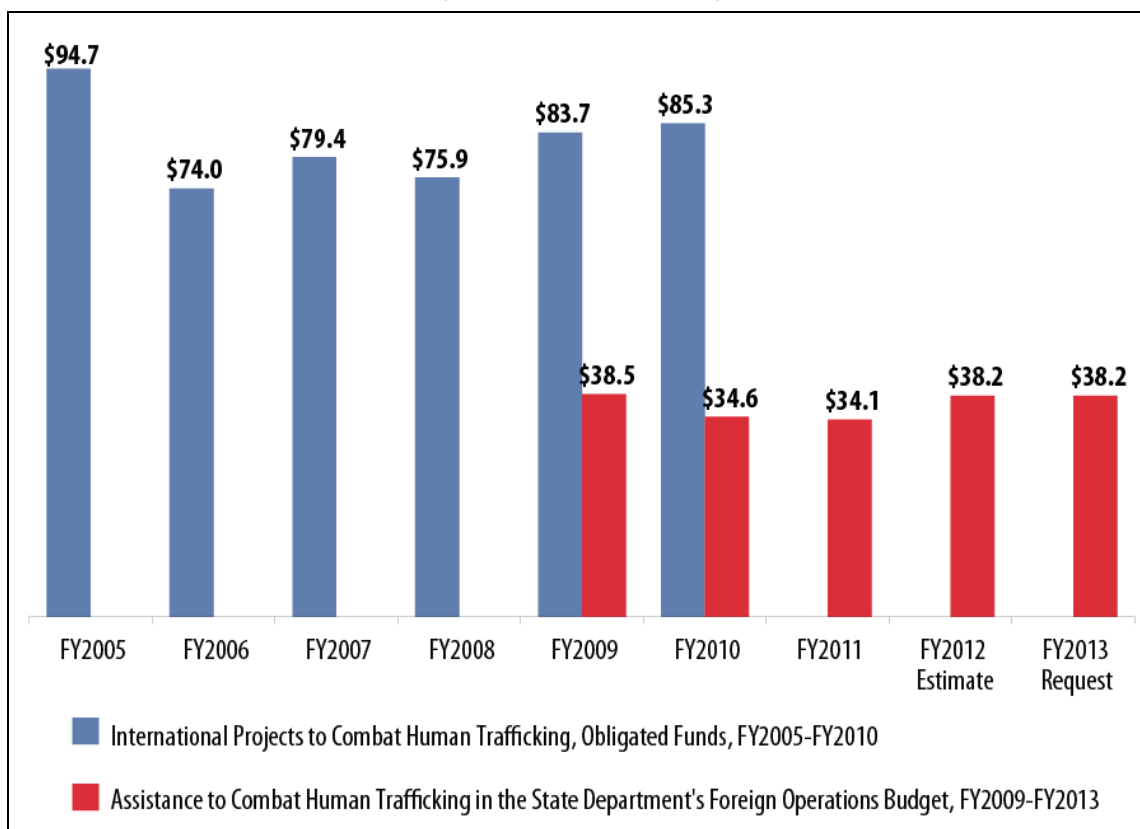
(in current U.S. \$ thousands)

	FY2009 Actual	FY2010 Actual	FY2011 Actual	FY2012 Estimate	FY2013 Request
Africa	900	435	750	1,500	1,550
East Asia and Pacific	4,505	2,818	4,180	5,150	4,302
Europe and Eurasia	5,894	2,136	4,556	5,943	4,450
Near East	300				2,000
South and Central Asia	3,834	4,930	5,404	5,338	4,260
Western Hemisphere	1,565	1,150	1,396		700
DOS/J-TIP	19,380	21,262	16,233	18,720	18,720
DOS/INL					425
USAID/DCHA			1,600	1,500	1,800
USAID/EGAT	1,567	900			
TOTAL	38,445	34,631	34,119	38,151	38,207

Sources: DOS, responses to CRS request, December 21, 2011 and April 4, 2012; DOS, CBJ, *Volume 2: Foreign Operations, Fiscal Year 2012-2013* (revised).

Notes: USAID=U.S. Agency for International Development; DCHA=USAID Bureau for Democracy, Conflict, and Humanitarian Assistance, DOS=U.S. Department of State, EGAT=USAID Bureau for Economic Growth, Agriculture and Trade; J-TIP=DOS Office to Monitor and Combat Trafficking in Persons; INL=DOS International Narcotics and Law Enforcement Affairs Bureau, Estimates are rounded up to the nearest thousand. Foreign assistance spigots included in this chart encompass Assistance for Europe, Eurasia, and Central Asia (AEECA), Development Assistance (DA), Economic Support Fund (ESF), and International Narcotics Control and Law Enforcement (INCLE) funds. U.S. Department of Labor and DOS Educational and Cultural Exchange (ECE) assistance funds are listed separately. The State Department has in the past reported that some non-quantified amount of Migration and Refugee Assistance (MRA) is obligated in support of projects related to anti-trafficking, but the anti-trafficking component of such projects could not be disaggregated.

Figure I. International Anti-Trafficking Obligations and Foreign Operations Budget
(in current U.S. \$ millions)



Source: CRS presentation of data from DOS, J/TIP, and DOS, F.

Note: Numbers are rounded to the nearest decimal.

Further, it is not clear from annual budget request documents why certain countries are selected for aid projects and what role the *TIP Report's* country rankings play in such selections. According to the State Department's FY2013 congressional budget justification (CBJ) for anti-trafficking foreign assistance, priority countries to receive such assistance include those that have not achieved the TVPA's minimum standards for eliminating severe forms of trafficking in persons (i.e., countries designated as Tier 3, Tier 2 Watch List, and Tier 2 in the State Department's annual *TIP Report*) provided that such countries have a demonstrable need for external assistance and that they show the political will to address deficiencies in their anti-trafficking policies. It is difficult to determine, based on the CBJ, why the State Department chose not to provide aid to the other 70 Tier 2 countries, 33 Tier 2 Watch List countries, and 21 Tier 3 countries. For a comparison of the State Department's budget request for FY2013 anti-trafficking aid and the most recent TIP Report ranking for those countries selected to receive such aid, see the **text box** below.

FY2013 Foreign Aid Request Compared to Country Rankings in the 2011 *TIP Report*

For FY2013, the State Department is requesting a total of \$38.2 million in anti-trafficking foreign aid funding to at least 28 countries. Of these, 3 were designated as Tier 1 in the 2011 *TIP Report*, 15 were Tier 2, 8 Tier 2 Watch List, and 2 Tier 3. This represents less than 16% of all countries ranked in the *TIP Report*.

- **Tier 1 (3 of a total of 32 Tier 1 countries in the 2011 *TIP Report*):** Bosnia and Herzegovina, Georgia, and Macedonia
- **Tier 2 (15 of 85 total Tier 2 countries):** Albania, Armenia, Cambodia, Egypt, Guatemala, Indonesia, Kazakhstan, Kosovo, Moldova, Montenegro, Mozambique, Nepal, Philippines, Tajikistan, and Ukraine
- **Tier 2 Watch List (8 of 41 total Tier 2 Watch List countries):** Azerbaijan, Bangladesh, Belarus, Malaysia, Russia, Thailand, Uzbekistan, and Vietnam
- **Tier 3 (2 of 23 total Tier 3 countries):** DRC and Lebanon.

Foreign Aid Restrictions

Restrictions on foreign assistance are also used to combat human trafficking. Congress has enacted two provisions through which to deny certain types of foreign aid to countries that are not advancing U.S. and international community anti-trafficking goals. One of these provisions, pursuant to the TVPA, seeks to restrict non-humanitarian, nontrade-related foreign aid from certain governments that do not show progress in eliminating human trafficking.²⁸ Under this provision, countries that receive a Tier 3 ranking in the *TIP Report* are ineligible to receive non-humanitarian, nontrade-related aid in the following fiscal year. The second provision, which first went into effect in 2010 pursuant to the CSPA of 2008, seeks to restrict certain U.S. military assistance from countries known to recruit or use child soldiers in their armed forces, or that host non-government armed forces that recruit or use child soldiers.²⁹ For both provisions, the President may reserve the option of waiving aid sanctions in cases where the continuation of aid would promote U.S. national interests that supersede anti-trafficking policy goals.

The goal of these aid restriction mechanisms is to induce foreign governments to enhance their commitments to combat human trafficking. Withholding or denying U.S. aid, it is argued, can be an effective point of leverage for countries that would like to continue receiving such aid. Some, however, perceive aid sanctions as a potentially blunt policy tool that can interfere with or undermine other U.S. interests in such countries. With the discretion to partially or fully waive sanctioned countries from experiencing the full effect of the aid restrictions, Presidents have sought to balance the impact of the aid restrictions with consideration of other U.S. foreign policy interests that may be at play (see **Table 5** and **Table 6**). An issue for debate is the extent to which the waiver option should be exercised and whether extensive use of the waiver option can have a negative effect on international commitments against human trafficking.

²⁸ Section 110(a) of the TVPA, as amended, 22 U.S.C. 7107(a).

²⁹ Title IV of the TVPRA of 2008 (P.L. 110-457); 22 U.S.C. 2151 note, and 2370c through 2370c-2. Prohibited aid, pursuant to the CSPA of 2008 include international military education and training (IMET); foreign military financing (FMF); excess defense articles; other DOD-funded aid, including aid provided pursuant to Section 1206 of the National Defense Authorization Act of FY2006 (P.L. 109-163), as amended and extended; and the issuance of direct commercial sales of military equipment.

Table 5. Aid Restrictions and Waivers Pursuant to the TVPA, FY2004-FY2012

	Non-humanitarian, Non-Trade Aid Restricted	In the Absence of Aid to Restrict, Exchange Programs Restricted	Full National Interest Waivers	Partial National Interest Waivers	Waivers Due to Subsequent Compliance
FY2004	none	Burma, Cuba, North Korea	none	Liberia, Sudan	Belize, Bosnia and Herzegovina, Dominican Republic, Georgia, Greece, Haiti, Kazakhstan, Suriname, Turkey, Uzbekistan
FY2005	none	Burma, Cuba, North Korea	none	Equatorial Guinea, Sudan, Venezuela	Bangladesh, Ecuador, Guyana, Sierra Leone
FY2006	none	Burma, Cuba, North Korea	Ecuador, Kuwait, Saudi Arabia	Cambodia, Venezuela	Bolivia, Jamaica, Qatar, Sudan, Togo, UAE
FY2007	Burma	Cuba, North Korea	Saudi Arabia, Sudan, Uzbekistan	Iran, Syria, Venezuela, Zimbabwe	Belize, Laos
FY2008	Burma	Cuba	Algeria, Bahrain, Malaysia, Oman, Qatar, Saudi Arabia, Sudan, Uzbekistan	Iran, North Korea, Syria, Venezuela	Equatorial Guinea, Kuwait
FY2009	Burma, Syria	Cuba	Algeria, Fiji, Kuwait, Papua New Guinea, Qatar, Saudi Arabia, Sudan	Iran, North Korea	Moldova, Oman
FY2010	North Korea	Cuba	Chad, Kuwait, Malaysia, Mauritania, Niger, Papua New Guinea, Saudi Arabia, Sudan	Burma, Eritrea, Fiji, Iran, Syria, Zimbabwe	Swaziland
FY2011	none	North Korea, Eritrea	DRC, Dominican Republic, Kuwait, Mauritania, Papua New Guinea, Saudi Arabia, Sudan	Burma, Cuba, Iran, Zimbabwe	none
FY2012	none	North Korea, Eritrea, Madagascar	Algeria, CAR, Guinea-Bissau, Kuwait, Lebanon, Libya, Mauritania, Micronesia, Papua New Guinea, Saudi Arabia, Sudan, Turkmenistan, Yemen	Burma, Cuba, DRC, Equatorial Guinea, Iran, Venezuela, Zimbabwe	none

Source: Presidential Determination (PD) with Respect to Foreign Governments' Efforts Regarding Trafficking in Persons, PD nos. 2003-35, 2004-46, 2005-37, 2006-25, 2008-4, 2009-5, 2009-29, 2010-15, and 2011-18.

Table 6. Aid Restrictions and Waivers Pursuant to the CSPA of 2008, FY2011-FY2012

	Aid Restricted	Partial National Interest Waivers	Full National Interest Waivers	Waivers Due to Subsequent Compliance
FY2011	Burma and Somalia	none	Chad, DRC, Sudan, and Yemen	none
FY2012	Burma, Somalia, and Sudan	DRC	Yemen	Chad

Source: Presidential Determination (PD) with Respect to Section 404(c) of the Child Soldiers Prevention Act of 2008, PD 2011-4, PD 2012-01.

Observers have questioned whether the aid restrictions are effective in prompting countries to improve their efforts to combat human trafficking. It may be too soon to assess the impact of the child soldiers-related aid restriction. With regard to the aid sanctions program pursuant to the TVPA, however, only two countries—South Korea and Bosnia and Herzegovina—have improved from Tier 3, the worst-performing category, to Tier 1, the highest-performing category, since the aid restriction program first went into effect almost a decade ago. Many more countries have either maintained the same tier ranking over the years, or are middling in their performance ratings without clear trends toward significant improvement. To this end, some commentators have questioned whether the existing aid restrictions are sufficient. See **text box** below on “*TIP Report* Ranking Trends: Measurable Signs of Improvement?”

TIP Report Ranking Trends: Measurable Signs of Improvement?

Since 2001, the State Department's *TIP Report* has been ranking countries on the basis of their efforts to combat human trafficking. In the 2011 report, a total of 181 countries were ranked. Only Tier 1 countries are compliant with achieving the TVPA's minimum standards for eliminating trafficking. The rest, totaling approximately 82% of all countries ranked in the 2011 *TIP Report*, are listed as non-compliant—variously receiving designations as Tier 2, Tier 2 Watch List, or Tier 3, depending on their level of effort in achieving the minimum standards. Following are trends in country rankings over the course of the *TIP Report's* existence:

- Consistent top performers, having always received a Tier 1 designation in annual *TIP Reports*, include **Australia, Austria, Belgium, Colombia, Denmark, Germany, Italy, Luxembourg, the Netherlands, New Zealand, Norway, Spain, the United Kingdom, and the United States of America** (first ranked in 2010).³⁰
- Most improved countries, having started as Tier 3 countries and eventually attaining Tier 1 status, include **South Korea** (from Tier 3 in 2001 to Tier 1 since 2002) and **Bosnia and Herzegovina** (from Tier 3 in 2001, 2002, and 2003 to Tier 1 since 2010).
- Middling countries, having always received a Tier 2 designation, include **Antigua and Barbuda, Botswana, Bulgaria, Burkina Faso, Chile, El Salvador, Iceland, Kosovo, Mongolia, Namibia, Palau, Timor-Leste, Uganda, and Uruguay**.
- Consistent worst performers, having always received a Tier 3 designation, include **Burma, Cuba, Eritrea, North Korea, and Sudan**.
- Countries that have backslid, having previously attained Tier 2 status but are now listed in the current *TIP Report* as a Tier 3 countries, include **Algeria, DRC, Equatorial Guinea, Guinea-Bissau, Iran, Kuwait, Lebanon, Libya, Madagascar, Mauritania, Saudi Arabia, Venezuela, Yemen, and Zimbabwe**.

Congress sought to increase the consequences associated with consistent poor performance in the *TIP Report* through the TVPRA of 2008, which included a new provision to automatically downgrade to Tier 3 those countries that have stayed on the “Tier 2 Watch List” for two consecutive years (unless the President issues a waiver to block the auto-downgrade).³¹ FY2012 is the first year in which this provision resulted in auto-downgrades to Tier 3 and posed a subsequent risk of aid denial. Of the 22 countries that were at risk of an auto-downgrade to Tier 3 in the 2011 *TIP Report*, all received waivers to avoid full sanctions on aid in FY2012.³² Even if aid restrictions were fully applied to all poor-performing countries, however, such an action would not necessarily indicate that U.S. aid to those countries has stopped because the existing aid denial provision exempts several categories of foreign aid. The 112th Congress has introduced several bills³³ that seek to shut one such perceived loophole in the aid sanctions relating to child

³⁰ The TVPA does not require the *TIP Report* to include and rank the United States in its country-by-country evaluations. The State Department, however, has voluntarily chosen to do so. Separately, the TVPA requires the Attorney General to submit a report each year to Congress on specified actions by the U.S. government to combat human trafficking, pursuant to Section 105(d)(7) of the TVPA, as amended (22 U.S.C. 7103(d)(7)).

³¹ Section 107 of the TVPRA of 2008 (P.L. 110-457); 22 U.S.C. 7105a. This provision allows the President to waive the Tier 3 downgrade for up to two years.

³² The 10 countries auto-downgraded in the 2011 *TIP Report* to Tier 3 include Algeria, Central African Republic (CAR), Equatorial Guinea, Guinea-Bissau, Lebanon, Libya, Micronesia, Turkmenistan, Venezuela, and Yemen. Twelve other countries remained listed as Tier 2 Watch List after the Obama Administration issued a waiver to prevent these countries from receiving the automatic downgrade to Tier 3, including Azerbaijan, Bangladesh, Cameroon, China, Guinea, Iraq, Mali, Qatar, Republic of Congo, Russia, St. Vincent and the Grenadines, and Uzbekistan. According to the 2011 *TIP Report*, such waivers were issued in cases in which the government in question has a written plan that “would constitute making significant efforts to comply with the TVPA’s minimum standards for the elimination of trafficking,” if implemented, and that there is credible evidence that the government in question is “devoting sufficient resources to implement the plan.”

³³ See for example H.R. 2519, “To amend the Child Soldiers Prevention Act of 2008 to prohibit peacekeeping (continued...)”

soldiers, which does not bar Peacekeeping Operations (PKO) assistance to countries identified as recruiting or harboring child soldiers. For further discussion of trafficking-related legislation in the 112th Congress, see the **Appendix**.

Conditions on Country Beneficiary Status for Trade Preference Programs

A further line of foreign policy activity to combat human trafficking is the designation of foreign countries as U.S. trade preference program beneficiaries, provided they adhere to international anti-trafficking commitments. For decades, the U.S. government has implemented a variety of unilateral trade preference programs designed to promote exports among selected developing countries.³⁴ Through such trade preference programs, designated beneficiary countries are provided duty-free entry for specified products into the United States. The first such program, in existence since 1976, is the Generalized System of Preferences (GSP).³⁵

Beneficiary countries may be designated (or removed) based on eligibility criteria specified in the relevant authorizing legislation. Such eligibility criteria include commitments to “internationally recognized worker rights,” such as prohibiting the “use of any form of forced or compulsory labor,” as well as commitments to eliminate the “worst forms of child labor,” such as child trafficking.³⁶

In theory, conditioning preferential trade status on foreign policy goals, including prohibiting forced labor and the worst forms of child labor, may serve to encourage country compliance with international efforts to combat human trafficking. According to GAO, government officials as well as representatives from non-governmental organizations and the private sector consider the process of conditioning beneficiary status for trade preference programs valuable in raising awareness about problems in foreign countries related to workers’ rights.³⁷ Some, however, question whether U.S. trade policies may nevertheless at times work at cross-purposes with U.S. anti-trafficking policies, offering trade benefits to countries that have not effectively enforced national policies to combat forced labor and the worst forms of child labor, including child trafficking. The U.S. Trade Representative is not a member of interagency coordination mechanisms on human trafficking, such as the SPOG and the PITF.

(...continued)

operations assistance to countries that recruit and use child soldiers,” S. 1259, the “Trafficking Victims Enhanced Protection Act of 2011, S. 1301, the “Trafficking Victims Enhanced Protection Act of 2011,” and H.R. 3589 and H.R. 2830, both entitled the “Trafficking Victims Protection Reauthorization Act of 2011.”

³⁴ For an overview of trade preference programs, see CRS Report R41429, *Trade Preferences: Economic Issues and Policy Options*, coordinated by Vivian C. Jones.

³⁵ Title V (Trade Act of 1974) of the Trade Reform Act (P.L. 93-618), as amended; 19 U.S.C. 2462-2467.

³⁶ Countries may be removed from beneficiary status on the basis of periodic administrative reviews for each trade preference program, either initiated by the executive branch or as a result of external petitions from outside, non-governmental organizations. In the past, countries have been petitioned by such groups for removal and ultimately removed from beneficiary status due to worker rights issues, although it is unclear how many of such removals were specifically due to poor government commitments to combat forced labor or the worst forms of child labor.

³⁷ GAO, *U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals*, GAO-08-443, March 2008. Hereinafter cited as GAO-08-443.

In the past, GAO has criticized the trade preference programs' country beneficiary review processes as disconnected with U.S. anti-trafficking policy.³⁸ Further, the criteria used to determine whether countries have committed to prohibiting forced labor and eliminating the worst forms of child labor appear to be set at a different threshold or standard than the ranking process established by either the State Department's annual *TIP Report* to measure country performance in combating severe forms of trafficking in persons or the Department of Labor's annual report listing countries and goods associated with child or forced labor. According to a GAO report, U.S. Trade Representative officials stated that "there is not a specific link" between eligibility criteria for trade preference programs and the State Department's *TIP Report*.³⁹ The GAO report further states that "while following statutory requirements, agencies' approaches to monitoring compliance with program criteria nevertheless result in disconnected review processes that are separate from ongoing U.S. efforts to [among other purposes] ... combat trafficking in persons."⁴⁰

Among those countries eligible for trade preference programs in 2012, 12 were designated by the State Department's 2011 *TIP Report* as Tier 3, the worst-performing category of countries, described as not having achieved the minimum standards for eliminating severe forms of human trafficking and not making significant efforts to do so.⁴¹ Similar disconnects appear between the trade preference program beneficiary countries and those listed by the Department of Labor as producing goods with either child labor, forced labor, or both. A total of 24 beneficiary countries are reported by the Department of Labor as producing goods with both forced and child labor.⁴² Such discrepancies may raise questions regarding both the credibility and impact of the State Department's *TIP Report* ranking process and the Department of Labor's annual list of goods produced by child or forced labor, as well as the effectiveness of the administrative reviews for beneficiary status for trade preference programs.

Preventing U.S. Government Participation in Trafficking Overseas

A final dimension of foreign policy activity to combat human trafficking addressed in this report is efforts to prevent U.S.-facilitated trafficking from occurring abroad. U.S. government personnel, diplomats, peacekeepers, and contractors operate overseas and represent U.S. interests abroad at U.S. embassies, consulates, military bases, and other posts located in foreign countries where domestic anti-trafficking laws and the enforcement of such laws may vary significantly.

³⁸ Based on a review of trade preference programs from 2001 through 2007. GAO, *An Overview of Use of U.S. Trade Preference Programs by Beneficiaries and U.S. Administrative Reviews*, GAO-07-1209, September 27, 2007.

³⁹ GAO-08-443.

⁴⁰ Ibid.

⁴¹ These countries include Algeria, CAR, DRC, Eritrea, Guinea-Bissau, Lebanon, Madagascar, Mauritania, Papua New Guinea, Venezuela, Yemen, and Zimbabwe.

⁴² These countries include Afghanistan (bricks), Angola (diamonds), Argentina (garments), Benin (cotton), Bolivia (brazil nuts/chestnuts and sugarcane), Brazil (cattle and charcoal), Burkina Faso (cotton and gold), Colombia (coca/stimulant plant), DRC (cassiterite and coltan), Cote d'Ivoire (cocoa and coffee), Ethiopia (hand-woven textiles), Ghana (tilapia/fish), India (bricks, carpets, cottonseed/hybrid, embroidered textiles/zari, garments, rice, and stones), Kazakhstan (cotton and tobacco), Malawi (tobacco), Mali (rice), Nepal (bricks, carpets, embroidered textiles/zari, and stones), Nigeria (cocoa, granite, and gravel/crushed stones), Pakistan (bricks, carpets, and coal), Peru (gold), Russia (pornography), Sierra Leone (diamonds), Thailand (garments and shrimp), and Uzbekistan (cotton). Paraguay reportedly produces goods with both child and forced labor, but not in combination to make a single item.

In recent decades, news reports have unearthed a range of international sex and labor trafficking schemes that have allegedly involved U.S. representatives overseas as the traffickers and exploiters and the end-user consumers of services provided by trafficking victims. Current focus has centered on allegations at U.S. installations in Iraq and Afghanistan, as well as at U.S. embassy missions, where third-country nationals (TCNs) are hired by subcontractors to perform low-skill, labor-intensive jobs.⁴³ Such schemes involving U.S. personnel apparently occur despite NSPD-22, discussed above, which established a “zero tolerance” policy toward all U.S. government employees and contractor personnel overseas who engage in human trafficking violations.

TVPA: Contractor Prohibitions and Reporting Requirements

The TVPA requires the President to authorize federal agencies and departments to terminate, without penalty, grants, contracts, and cooperative agreements if the grantee, subgrantee, contractor, or subcontractor (1) engages in severe forms of trafficking in persons while the grant, contract, or cooperative agreement is in effect; (2) procures a commercial sex act while the grant, contract, or cooperative agreement is in effect; or (3) uses forced labor in the performance of the grant, contract, or cooperative agreement.⁴⁴

Also pursuant to the TVPA, actions to enforce the U.S. government’s zero-tolerance policy against human trafficking in contracts are reported in an annual report to Congress prepared by the Attorney General.⁴⁵

Subsequently, the TVPRA of 2008 mandated additional reporting requirements for the OIGs for the Departments of State and Defense and USAID.⁴⁶ This provision directed the OIGs to investigate, over the course of three years from FY2010 through FY2012, a series of contracts and subcontracts at any tier under which contractors and subcontractors are at heightened risk of engaging in acts related to human trafficking. Specified high-risk activities include confiscation of employee passports, restriction on an employee’s mobility, abrupt or evasive repatriation of an employee, and deception of an employee regarding the work destination.

Although the OIG reports submitted to Congress pursuant to the TVPRA of 2008 collectively documented few instances of likely contractor involvement in severe forms of human trafficking, solicitation of commercial sex acts, sex trafficking, or involuntary servitude,⁴⁷ several of them identified contractor management practices that increased the risk of human trafficking and related violations. The State Department’s OIG, for example, found instances of contractor coercion at recruitment and destination points and exploitative conditions at work, including frequent instances in which workers paid recruiters brokerage fees and employers regularly confiscated employee passports, withheld wages, used confusing calculations to determine earnings, provided unsafe or unsanitary living conditions for workers, and participated in deceptive recruitment practices that exploited workers’ lack of language, education, and information.⁴⁸ The DOD’s OIG evaluated selected contracts in the U.S. Pacific Command and U.S. Central Command areas of responsibility and revealed problems with ensuring that contracts had the appropriate anti-trafficking clauses.⁴⁹

⁴³ Third-country nationals (TCNs) include non-local, non-U.S. citizen workers temporarily hired to work by federal contractors for the U.S. government overseas. There is concern that they are particularly susceptible to trafficking schemes, according to recent news and U.S. inspector general reports. As neither U.S. citizens nor citizens of the host nation where they are working, such TCNs are vulnerable due to distance and isolation from their home communities, the possibility of language barriers, and dependence on their employers to procure and maintain current visas and work permits. The U.S. government is often heavily reliant on such contractors for support in providing services at its overseas posts related to facilities maintenance, gardening, construction, cleaning, food, and local guard forces. Often, such TCNs are hired to perform labor for significantly lower cost than would be required to hire local staff. See for example DOS and BBG, OIG, Middle East Regional Office (MERO), *Performance Evaluation of Department of State Contracts to Assess the Risk of Trafficking in Persons Violations in Four States in the Cooperation Council for the Arab States of the Gulf*, Report No. MERO-I-11-06, January 2011.

⁴⁴ Section 106(g) of the TVPA, as amended; 22 U.S.C. 7104(g).

⁴⁵ Section 105(d)(7) of the TVPA, as amended; 22 U.S.C. 7103(d)(7). Although not congressionally mandated to report on anti-trafficking progress made by the U.S. government in the *TIP Report*, the 2011 edition reports that allegations of U.S. defense contractor violations were investigated and ultimately resulted in the dismissal of one employee by a (continued...)

Although the U.S. government reports that it continues to investigate alleged cases of trafficking involving U.S. officials and contractors, many experts have questioned why such cases rarely result in criminal prosecution or other enforcement measures. Regarding federal contractors, allegations are generally corrected internally by the contractor before more severe contracting penalties are imposed by the U.S. government, such as contract termination, or contractor disqualifications, suspensions, and debarments. Though there are anti-trafficking laws, regulations, and zero-tolerance policies in place, some question whether they are effectively enforced.⁵⁰ In war zones and overseas contingency operations, enforcement capacity is particularly challenged by factors such as the unreliability of host nation capacity to enforce its domestic rule of law, the need for low-cost and quickly recruited government contractors in large volumes, the prioritization of investigating human trafficking violations relative to other possible national security priorities in such operations, and the general absence of security, such that investigators and contracting officer representatives (CORs) are unable to travel to sites for inspection and audit. The 112th Congress has introduced several bills that seek to improve the enforcement of anti-trafficking regulations among federal contractors.⁵¹ For further discussion of trafficking-related legislation in the 112th Congress, see the **Appendix**.

Conclusion

Human trafficking is an inherently transnational and multi-dimensional issue that touches on a broad combination of foreign policy, human rights, criminal justice, and national security priorities. Despite U.S. and international efforts, perpetrators continue to persist in victimizing men, women, and children worldwide through commercial sexual exploitation, forced labor, debt bondage, domestic servitude, and the use of children in armed conflict. Although there remains widespread support among policy makers and outside observers for the continuation of U.S. and international anti-trafficking goals, reports of ongoing exploitation of trafficking victims worldwide appear to fundamentally question the effectiveness and prioritization of current responses to the trafficking problem. In the face of persistent reports of human trafficking

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DOD contractor. *TIP Report* (2011), "Country Narrative for the United States."

⁴⁶ Section 232 of the TVPRA of 2008 (P.L. 110-457).

⁴⁷ DOS and BBG, OIG, *Performance Evaluation of Department of State Contracts to Assess the Risk of Trafficking in Persons Violations in the Levant*, Report No. MERO-I-11-07, March 2011; *Report to the House Committee on Foreign Relations*, January 15, 2010; and Report of Inspection, *Embassy Riyadh and Constituent Posts, Saudi Arabia*, Report No. ISP-I-10-19A, March 2010.

⁴⁸ DOS and BBG, OIG, *Performance Evaluation of Department of State Contracts to Assess the Risk of Trafficking in Persons Violations in Four States in the Cooperation Council for the Arab States of the Gulf*, Report No. MERO-I-11-06, January 2011; *Report to the House Committee on Foreign Relations*, January 15, 2010; and Performance Audit, *The Bureau of Diplomatic Security Baghdad Embassy Security Force*, Report No. MERO-A-10-05, March 2010.

⁴⁹ DOD, OIG, *Evaluation of DOD Contracts Regarding Combating Trafficking in Persons*, Report No. IE-2010-001, January 2010; and *Evaluation of DOD Contracts Regarding Combating Trafficking in Persons: U.S. Central Command*, Report No. IE-SPO-2011-002, January 18, 2011.

⁵⁰ See for example U.S. House of Representatives, Committee on Oversight and Government Reform, Subcommittee on Technology, Information Policy, Intergovernmental Relations, and Procurement Reform, Hearing, *Are Government Contractors Exploiting Workers Overseas? Examining Enforcement of the Trafficking Victims Protection Act*, November 2, 2011.

⁵¹ See for example S. 2234 and H.R. 4259, the End Trafficking in Government Contracting Act of 2012 and S. 2139, the Comprehensive Contingency Contracting Reform Act of 2012.

worldwide, policy makers remain challenged to evaluate whether U.S. goals to eradicate human trafficking worldwide are achievable and whether current international anti-trafficking programs are measured against realistic expectations.

This report has explored issues related to several U.S. foreign policy responses to human trafficking, including (1) foreign country reporting, (2) foreign product blacklisting, (3) foreign aid, (4) foreign aid restrictions, (5) conditions on trade preference program beneficiaries, and (6) preventing U.S. government participation in trafficking overseas. These U.S. approaches to international human trafficking highlight a series of initiatives, often implemented unilaterally, that exceed the international commitments set forth in treaties such as the U.N. Trafficking Protocol. Issues discussed in this report have centered on challenges associated with how well these policy mandates connect with and reinforce each other, and whether resources devoted to combating human trafficking are allocated effectively and efficiently. Several generations of legislative activity address aspects of human trafficking as currently conceptualized by the U.N. Trafficking Protocol and TVPA, but they are neither necessarily or easily integrated in current anti-trafficking policy nor implemented smoothly across federal agencies. Given recent reports suggesting that U.S. government personnel and contractors have been implicated in trafficking schemes overseas, some may also question the credibility of the United States as an international leader against trafficking in persons.

As the 112th Congress considers action on international human trafficking issues related to pending legislation in both chambers to reauthorize the TVPA, the FY2013 budget and appropriations cycle, and upcoming executive branch report submissions to Congress, illustrative questions of congressional interest may include the following:

- **Congressionally Mandated Reports: Redundancies and Resource Costs.** In October 2010, the State Department's OIG released a report that singled out the *TIP Report* as among the most cost-intensive in terms of personnel resources both at U.S. diplomatic posts abroad and at headquarters in Washington, DC. It also pointed to redundancies among other congressionally mandated reports that reference human trafficking-related concerns, including the Labor Department's annual *Worst Forms of Child Labor Report*. Is there value in requiring the executive branch to submit multiple reports to Congress with similar information? To what extent have these reports provided Congress with relevant information needed to make policy decisions?
- **U.S. Military and Peacekeeping Aid to Countries with Child Soldiers.** In 2011, the State Department identified six countries that recruit or harbor child soldiers: Burma, Chad, DRC, Somalia, Sudan, and Yemen. Yet, half of these continue to receive U.S. military assistance (Chad, DRC, and Yemen), pursuant to presidential national interest waivers, and all continue to receive Peacekeeping Operations (PKO) assistance, a category of U.S. foreign aid intended to reform foreign military establishments and professionalize military forces in peacekeeping and stability operations, among other purposes. Others, such as Afghanistan and South Sudan, which are variously reported by the Department of Labor and non-governmental reports to recruit and harbor minors in their armed forces, also continue to receive U.S. military assistance. Are current U.S. restrictions on military aid effective in preventing and deterring countries from recruiting child soldiers? What policy options might exist to further induce foreign countries to halt such practices?

- **Effectiveness of U.S. Aid Restrictions to “Tier 3” Countries.** For FY2012, President Obama authorized the full force of anti-human trafficking aid restrictions to be applied to 3 of 23 Tier 3 countries: Eritrea, Madagascar, and North Korea. None of these countries, however, were anticipated to receive U.S. assistance that could have been sanctioned in FY2012. Have congressionally authorized anti-trafficking aid restrictions been effectively used by the executive branch? What additional policy options might exist to reach poor-performing countries that do not receive much U.S. foreign aid?
- **Interagency Consistency in the Implementation of Anti-Trafficking Policy.** Through the TVPA, Congress mandated the creation of two senior-level interagency coordinating bodies, including the SPOG and the PITF, to de-conflict and ensure consistency among international anti-trafficking initiatives. Yet, some interagency inconsistencies persist. For example, U.S. trade preference programs in 2012 continue to list as among its beneficiaries 12 Tier 3 countries. Additionally, 24 trade preference program beneficiary countries are listed by the Department of Labor as producing goods with a combination of both forced and child labor. Although there are no specific requirements to ensure consistency among U.S. trade policies and anti-trafficking policies, how do such disconnects affect the effectiveness of efforts to combat human trafficking?
- **Enforcement of Anti-Trafficking Policies Among U.S. Contractors Overseas.** Recent OIG reports submitted to Congress by the Departments of State and Defense and USAID identified several contractor management practices that increased the risk that human trafficking and related violations might occur, including instances of contractor coercion at recruitment and destination points and potentially exploitative conditions at work, such as unregulated recruitment fees, regular confiscation of employee passports, withheld wages, confusing calculations of earnings, unsafe or unsanitary living conditions, and deceptive recruitment practices that exploit workers’ lack of language, education, and information.⁵² What policy options should Congress consider in reducing the possibility of U.S. government funds and representatives from facilitating severe forms of trafficking in persons?
- **Multilateral Policy Options: Potential for Redundancy or Efficiency Gains?** As discussed in this report, the U.S. government implements a series of unilateral policy responses to combat international human trafficking. The United States is also an active participant in multilateral anti-trafficking initiatives. To what extent do such multilateral initiatives enhance or render redundant existing U.S. efforts? Do other countries and international organizations consider U.S. foreign policy responses to combat human trafficking an effective model? Given the common goal of eliminating trafficking in persons, what can or should the U.S. government do, if anything, to enhance its support of multilateral anti-trafficking initiatives?

⁵² U.S. Department of State and the BBG, OIG, *Performance Evaluation of Department of State Contracts to Assess the Risk of Trafficking in Persons Violations in Four States in the Cooperation Council for the Arab States of the Gulf*, Report No. MERO-I-11-06, January 2011; *Report to the House Committee on Foreign Relations*, January 15, 2010; and Performance Audit, *The Bureau of Diplomatic Security Baghdad Embassy Security Force*, Report No. MERO-A-10-05, March 2010.

See the **Appendix** for further discussion of pending legislation in the 112th Congress on international human trafficking.

Appendix. Selected Legislation in the 112th Congress

The 112th Congress has considered issues related to international trafficking in persons in the form of hearings and authorization and appropriations bills, as well as other oversight actions. This appendix identifies pending bills in the 112th Congress that would have an impact on U.S. foreign policy responses against human trafficking. Overall, key provisions have centered on themes related to funding levels for anti-trafficking initiatives, country and region-specific human rights issues, adjustments to existing trafficking-related reporting requirements and aid sanctions programs, prevention of labor trafficking in U.S. supply chains, and allegations associated with U.S. contractors operating overseas.

Trafficking Victims Protection Reauthorization Act of 2011

The 112th Congress has introduced three bills to reauthorize the TVPA beyond FY2011: two House bills, the Trafficking Victims Protection Reauthorization Act of 2011 (H.R. 2830 and H.R. 3589), and one Senate bill, the Trafficking Victims Enhanced Protection Act of 2011 (S. 1301). For a comparison of funding provisions, see **text box** below on “House and Senate Authorization of Appropriations in Comparison.”

Further Reading

For an overview of both domestic and international legislative proposals for the TVPA's reauthorization in the 112th Congress, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Sun Wyler.

H.R. 2830, H.R. 3589, and Related Provisions

Representative Smith introduced H.R. 2830 on August 30, 2011, as well as H.R. 3589 on December 7, 2011. Both bills would reauthorize appropriations for the TPVA for an additional two fiscal years: FY2012 and FY2013. The House Committee on Foreign Affairs marked up H.R. 2830 on October 5, 2011, and amended the bill as introduced in the nature of a substitute. Included in the marked-up version of H.R. 2830 were four amendments agreed upon en bloc, including amendments offered by Representatives Murphy, Fortenberry, Royce, and Bass. One notable omission in the marked-up version of H.R. 2830 included the removal of a provision to authorize the establishment of a DOD Director of Anti-Trafficking Policies.

H.R. 3589 includes the text of H.R. 2830 as amended in the October 5, 2011, following committee markup (at Sections 106, 108, 109, and 110). It also includes an additional provision at Section 303 related to the eligibility of faith-based organizations to receive assistance pursuant to the TVPA. H.R. 3589 was referred on December 14, 2011, to the House Subcommittee on Crime, Terrorism, and Homeland Security.

Notable provisions in H.R. 2830, as marked up, and H.R. 3589, as introduced, addressing foreign policy issues to combat international trafficking in persons include the following (as applicable, similarities among other bills introduced in the 112th Congress, including S. 1301, are also described below):

- **Section 102. Office to Monitor and Combat Modern Slavery and Other Forms of Human Trafficking.** This provision would rename the State Department's Office to Monitor and Combat Trafficking in Persons the “Office to Monitor and Combat Modern Slavery and Other Forms of Trafficking in Persons.”

- **Section 103. Prevention of Trafficking.** This provision would incorporate human trafficking-related elements of H.R. 2524, Microenterprise Empowerment and Job Creation Act of 2011.⁵³ It would also prioritize assistance to particularly vulnerable categories of persons, including stateless, marginalized, and internally displaced, as well as assistance to address post-conflict and humanitarian emergencies.
- **Section 104. Reports to Congress.** This provision would require, among other provisions, two additional sections in the annual *TIP Report* issued by the State Department pursuant to Section 110 of the TVPA. One new section would be entitled “Best Practices in Slavery Eradication” and a second section would be entitled “Refugee-Trafficking Connection.” Section 106 of S. 1301 as reported out of the Senate Judiciary Committee also includes a similar provision “Best Practices in Trafficking in Persons Eradication,” which would mandate the State Department to include in its annual *TIP Report* a new section on “exemplary governments and practices in the eradication of trafficking in persons.”⁵⁴
- **Section 106. Additional Activities to Monitor and Combat Forced Labor and Child Labor.** This provision incorporates the amendment offered by Representative Murphy to the marked-up version of H.R. 2830. The provision, dubbed the Business Transparency on Trafficking and Slavery Act, would encourage publicly traded or private entities with business operations in the United States and having annual global receipts in excess of \$100 million to voluntarily disclose on their websites measures to identify and address “conditions of forced labor, slavery, human trafficking and the worst forms of child labor” within their supply chains.
- **Section 108. Sense of Congress on Human Trafficking.** This provision incorporates the amendment offered by Representative Royce to the marked-up version of H.R. 2830, which would provide a Sense of Congress that Cambodia should be designated a Tier 3 country in the State Department’s annual *TIP Report*.
- **Section 109. Prohibition on Peacekeeping Operations Assistance to Countries that Recruit and Use Child Soldiers and Revision to National Interest Waiver Under the Child Soldiers Prevention Act of 2008.** This provision incorporates the amendment offered by Representative Fortenberry to the marked-up version of H.R. 2830 to bar assistance through the Peacekeeping Operations (PKO) foreign aid account from countries designated by the State Department as recruiting and using child soldiers. This provision would incorporate similar provisions in H.R. 2519, introduced by Representative Fortenberry on July 13, 2011, and the companion bill S. 1259, introduced by

⁵³ H.R. 2524, Microenterprise Empowerment and Job Creation Act of 2011, introduced by Representative Smith on July 13, 2011. It was referred to the House Foreign Affairs Committee on July 13, 2011. The bill would authorize foreign assistance, pursuant to Section 252(a) of the Foreign Assistance Act of 1961, as amended, to include “sustainable poverty-focused programs” whose beneficiaries would include “victims or potential victims of severe forms of trafficking in persons or women who are victims of or susceptible to other forms of exploitation and violence.”

⁵⁴ Note that S. 1301 incorporates the provision in S. 1362, Trafficking in Persons Report Improvement Act of 2011, introduced by Senator Webb on July 13, 2011, that would mandate the State Department to include in its annual *TIP Report* a new section on “exemplary governments and practices in the eradication of trafficking in persons.”

Senator Durbin on June 22, 2011. Section 109 of S. 1301 as reported out of the Senate Judiciary Committee also includes a similar provision to bar PKO funds from states designated as recruiting and using child soldiers. In contrast to the House bill, S. 1301 exempts from restriction PKO programs that “support military professionalization, security sector reform, heightened respect for human rights, peacekeeping preparation, or the demobilization and reintegration of child soldiers.”

- **Section 201 of H.R. 2830 and Section 202 H.R. 3589. Interagency Task Force to Monitor and Combat Trafficking.** Among other purposes, this provision would require the annual report prepared for Congress by the Attorney General on U.S. anti-trafficking programs, pursuant to Section 105(d)(7) of the TVPA,⁵⁵ to include additional information on federal agencies’ enforcement of the U.S. government zero-tolerance policy, pursuant to NSPD-22, against trafficking in persons, including termination, discipline, and prosecution of government contractors and subcontractors. Section 112 of S. 1301 as reported out of the Senate Judiciary Committee includes related amendments to Section 105(d)(7) of the TVPA to require additional information on Defense Department reporting of trafficking cases, including those by defense contractors.

S. 1301 and Related Provisions

S. 1301, the Trafficking Victims Enhanced Protection Act of 2011, was introduced on June 29, 2011, by Senator Leahy. On November 17, 2011, the bill was reported favorably in the nature of a substitute out of the Senate Judiciary Committee (S.Rept. 112-96). Notable provisions include the following:

- **Section 101. Regional Strategies for Combating Trafficking in Persons.** This provision would require each regional bureau to compile a list of anti-trafficking goals and objectives for each country in its area of responsibility.
- **Section 102. Regional Anti-Trafficking Officers.** This provision would authorize the Secretary of State to appoint at U.S. embassies overseas officers with specific responsibility to coordinate anti-trafficking diplomacy, initiatives, and programs.
- **Section 103. Partnerships Against Significant Trafficking in Persons.** This provision would amend the TVPA and insert a new section, Section 105A, intended to promote collaboration and cooperation among U.S. government, foreign government, civil society actors, and private sector entities to combat human trafficking. This section would also introduce a new mechanism, Child Protection Compacts, through which foreign countries may receive assistance to combat child trafficking. Initially introduced under S. 185, Child Protection Compact Act of 2011, by Senator Boxer on January 25, 2011, prospective country recipients would be required to meet certain eligibility criteria and assistance would be provided in the form of grants, cooperative agreements, or

⁵⁵ 22 U.S.C. 7103(d)(7).

contracts with recipient country governments or relevant NGOs or private entities with expertise in combating child trafficking.⁵⁶

- **Section 105. Minimum Standards for the Elimination of Trafficking.** This provision would amend Section 108(b) of the TVPA to include additional criteria for determining whether a country has achieved the minimum anti-trafficking standards, such as effective bilateral, regional, and multilateral coordination and cooperation on trafficking route information and effective policies and laws regulating foreign labor recruiters.
- **Section 106. Best Practices in Trafficking in Persons Eradication.** This provision would amend Section 110(b) of the TVPA to, among other purposes, require that the State Department, in its annual *TIP Report*, include a new section on “Exemplary Governments and Practices in the Eradication of Trafficking in Persons.” As discussed above, this provision incorporates aspects of S. 1362, Trafficking in Persons Report Improvement Act of 2011, introduced by Senator Webb on July 13, 2011.⁵⁷ Additionally, a similar provision is incorporated into Section 104 of H.R. 3589.
- **Section 108. Prevention of Child Trafficking Through Child Marriage.** This provision would require the Secretary of State to prepare a strategy to prevent child marriage and incorporate information on the status of child marriage in the State Department’s annual *Human Rights Report*.
- **Section 109. Child Soldiers.** As discussed above under Section 109 of H.R. 3589, this provision would bar certain PKO funds from states designated as recruiting and using child soldiers.
- **Section 110. Presidential Award for Technological Innovations to Combat Trafficking in Persons.** This provision would amend Section 112B(a) of the TVPA to include as possible recipients of the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons private sector entities and units of national, regional, and local governments. Such recipients may qualify for the award not only for having contributed extraordinary effort in combating trafficking, but also for contributing to technological innovation.
- **Section 111. Contracting Requirements.** This provision would elaborate on existing authorities for the federal government to terminate grants, contracts, and cooperative agreements if human trafficking-related acts take place during or in the performance of the grant, contract, or agreement. This provision would also mandate that a contract compliance plan be in place for grants, contracts, and

⁵⁶ S. 185, the Child Protection Compact Act of 2011, was referred to the Senate Committee on Foreign Relations on January 25, 2011. This bill specified that a country may receive up to \$15 million in assistance through a Compact.

⁵⁷ S. 1362, the Trafficking in Persons Report Improvement Act of 2011, was referred on July 13, 2011, to the Senate Committee on Foreign Relations. In addition to mandating a new section in the *TIP Report* on “exemplary governments and practices in the eradication of trafficking in persons,” S. 1362 would amend Section 110 of the TVPA, relating to the country designations as Tier 1, Tier 2, Tier 2 Watch List, or Tier 3, to implement a new ranking scheme. One category of countries would be identified as fully compliant with the minimum standards to eliminate severe forms of trafficking in persons and the countries in this category would be sorted and ranked according to their relative adherence to the minimum standards. A second category of countries would be identified as non-complaint with the minimum standards and similarly sorted and ranked relative to other countries in this second category.

cooperative agreements valued at more than \$1 million and that take place mainly overseas in support of contingency operations.

- **Section 112. Department of Defense Reporting of Trafficking in Persons Claims and Violations.** As discussed above under Section 201 of H.R. 2830 and Section 202 of H.R. 3589, this provision would require in the annual report prepared for Congress by the Attorney General on U.S. anti-trafficking programs, pursuant to Section 105(d)(7) of the TVPA,⁵⁸ additional information on Defense Department reporting of trafficking cases, including those by defense contractors.
- **Section 222. Reporting Requirements for the Secretary of Labor.** This provision would amend Section 105(b) of the TVPRA of 2005⁵⁹ to require that the list of goods from countries that are reasonably believed to have been produced by forced or child labor in violation of international standards be updated no later than December 2, 2012, and every two years thereafter. Although the Department of Labor has updated the list three times since the TVPRA of 2005 first mandated the list, there is no provision in current law that specifies whether and how frequently the list should be updated.
- **Section 223. Information Sharing to Combat Child Labor and Slave Labor.** This provision would require the Secretary of State to share on a regular basis with the Department of Labor information related to child labor and forced labor used to produce goods in violation of international standards.
- **Section 225. GAO Report on the Use of Foreign Labor Contractors.** This provisions would require the U.S. Government Accountability Office (GAO) to submit a report, within two years of enactment of the act, on the use of foreign labor contractors both domestically and overseas.

House and Senate Authorization of Appropriations in Comparison

Title III of H.R. 2830, as marked up; H.R. 3589, as introduced; and S. 1301, as reported, address authorization of appropriations for anti-trafficking initiatives and programs.

For the most part, Title III of H.R. 2830 and H.R. 3589 authorize appropriations for FY2012 and FY2013 for international programs at the same levels as in the previous TVPRA ending FY2011.⁶⁰ One notable change is to the authorization of appropriations for the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons pursuant to Section 112B of the TVPA.⁶¹ In current law, for each of the fiscal years 2008 through 2011, “such sums as may be necessary to carry out this section” are authorized to be appropriated. Section 301 of H.R. 2830 and H.R. 3589 would amend this to specify that \$500,000 may be appropriated for each of the fiscal years 2012 and 2013.

In contrast, Title III of S. 1301 authorizes appropriations for four fiscal years: FY2012 through FY2015. S. 1301 zeros or reduces authorized funding several programs and initiatives previously authorized for appropriations. S. 1301 also omits reference to some other programs and initiatives authorized for appropriations in the TVPRA of 2008. For example:

- **Programs zeroed out** include a USAID pilot program for victim rehabilitation facilities.⁶² This program was previously authorized under P.L. 110-457 at \$2.5 million for FY2011. H.R. 2830 and H.R. 3589 authorize \$1.5 million for each fiscal year 2012 and 2013 for such purposes. Also zeroed out are authorized

⁵⁸ 22 U.S.C. 7103(d)(7).

⁵⁹ 22 U.S.C. 7112(b).

⁶⁰ The previous TVPRA was the TVPRA of 2008, P.L. 110-457.

⁶¹ 22 U.S.C. 7109B.

⁶² 22 U.S.C. 7105 note.

expenses for Interagency Task Force receptions, previously authorized for appropriations at \$3,000 for FY2011.⁶³ H.R. 2830 and H.R. 3589 maintain authorized appropriations at the previously authorized level.

- **Programs for which authorized funding levels are reduced** by S. 1301 include funding in support of the Interagency Task Force,⁶⁴ from \$5.5 million in FY2011 to \$2 million in each fiscal year 2012 through 2015; funding for foreign victim assistance,⁶⁵ from \$15 million in FY2011 to \$7.5 million in each fiscal year 2012 through 2015; and funding for foreign assistance to meet the minimum standards to eliminate trafficking in persons,⁶⁶ from \$15 million in FY2011 to \$7.5 million in each fiscal year 2012 through 2015.
- **Programs omitted from reference** in S. 1301, which in current law are authorized only through FY2011, include funding for additional personnel to staff the Interagency Task Force (for which \$1.5 million is authorized in current law);⁶⁷ funding for foreign law enforcement training assistance (for which \$250,000 is authorized in current law);⁶⁸ research on human trafficking (for which \$2 million is authorized in current law);⁶⁹ and the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons (for which “such sums as may be necessary” is authorized in current law).⁷⁰

For additional detail on proposed changes to the authorization of appropriations, including domestic proposals, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Sun Wyler.

Other Anti-Trafficking Bills

Other bills in the 112th Congress that address foreign policy issues to combat international trafficking in persons include the following:

- **H.R. 1410, the Vietnam Human Rights Act of 2011.** H.R. 1410 was introduced on April 7, 2011, by Representative Smith. Referred on May 13, 2011, to the House Subcommittee on Africa, Global Health, and Human Rights. Would prohibit an increase in non-humanitarian foreign aid to Vietnam over FY2011 levels unless, among other provisions, the President determines and certifies to Congress that “[n]either any official of the Government of Vietnam nor any agency or entity wholly or partly owned by the Government of Vietnam was complicit in a severe form of trafficking in persons, or the Government of Vietnam took all appropriate steps to end any such complicity and hold such official, agency, or entity fully accountable for its conduct.”
- **H.R. 2583, the Foreign Relations Authorization Act, Fiscal Year 2012.** H.R. 2583 was introduced on July 19, 2011, by Representative Ros-Lehtinen. Reported favorably by the House Committee on Foreign Affairs on September 23, 2011 (H.Rept. 112-223). Includes human trafficking related provisions of H.R. 1410, the Vietnam Human Rights Act of 2011, and also would mandate the U.S. Department of State to establish a code of conduct to prevent trafficking in persons, which among other provisions, would “outline necessary steps to ensure

(...continued)

⁶³ 22 U.S.C. 7110(a).

⁶⁴ 22 U.S.C. 7105 note.

⁶⁵ 22 U.S.C. 7110(e)(1).

⁶⁶ 22 U.S.C. 7110(e)(2).

⁶⁷ 22 U.S.C. 7105 note.

⁶⁸ 22 U.S.C. 7110(d)(B).

⁶⁹ 22 U.S.C. 7110(e)(3).

⁷⁰ 22 U.S.C. 7109(d).

that Department of State contractors and subcontractors do not engage in trafficking in persons.”

- **H.R. 3253, the International Megan’s Law of 2011.** H.R. 3253 was introduced by Representative Smith on October 24, 2011. Referred on November 2, 2011, to the House Subcommittee on Immigration Policy and Enforcement. Would amend the criteria for determining whether countries have achieved the minimum standards for eliminating severe forms of human trafficking to specify that government-to-government cooperation on trafficking investigations and prosecutions include cooperation in the reporting of its own citizens who are suspected of engaging in severe forms of human trafficking in another country. Among other provisions, H.R. 3253 would establish an International Sex Offender Travel Center and encourage the use of anti-trafficking assistance authorized by Section 134 of the Foreign Assistance Act of 1961 to support foreign governments in the establishment of systems to identify sex offenders and share and receive information related to such individuals’ travel plans abroad. The bill would also mandate additional reporting requirements related to the plans and status of international mechanisms to track and monitor traveling child sex offenders.
- **S. 2234 and H.R. 4259, the End Trafficking in Government Contracting Act of 2012.** S. 2234 and H.R. 4259 were both introduced on March 26, 2012, by Senator Blumenthal and Representative Lankford, respectively. Among other provisions, the bills would enhance the existing authority provided in Section 106(g) of the TVPA to terminate or take other remedial action against contractors and subcontractors who are found destroying, concealing, removing, or confiscating an employee’s immigration documents without consent; failing to repatriate an employee upon the end of employment in certain circumstances; offering employment by means of materially false or fraudulent pretenses; charging recruited employees exorbitant placement fees; and providing inhuman living conditions. The bills would also amend 18 U.S.C. 1351 to expand the penalties for fraud in foreign labor contracting to include work outside the United States. This latter provision also appears in S. 2139, the Comprehensive Contingency Contracting Reform Act of 2012, introduced on February 29, 2012, by Senator McCaskill.

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