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H. R. 2737

To provide United States assistance for the purpose of eradicating trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2009

Mr. SMITH of New Jersey (for himself, Mrs. MALONEY, Mr. BURTON of Indiana, Mr. LATOURETTE, Mrs. MYRICK, Mr. PAULSEN, Mr. PERRIELLO, Mr. PLATTS, Mr. MCGOVERN, Mr. UPTON, Ms. ESHOO, Mr. McDERMOTT, and Mr. KIRK) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To provide United States assistance for the purpose of eradicating trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Child Protection Compact
5 Act of 2009”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) According to the United Nations Children’s
2 Fund (UNICEF), an estimated 158,000,000 chil-
3 dren aged 5–14 are engaged in child labor.

4 (2) The International Labor Organizations’
5 (ILO) Convention Concerning the Prohibition and
6 Immediate Action for the Elimination of the Worst
7 Forms of Child Labor, which the United States rati-
8 fied in February 1999, defines “worst forms of child
9 labour” as—

10 (A) all forms of slavery or practices similar
11 to slavery, such as the sale and trafficking of
12 children, debt bondage and serfdom and forced
13 or compulsory labour, including forced or com-
14 pulsory recruitment of children for use in
15 armed conflict;

16 (B) the use, procuring or offering of a
17 child for prostitution, for the production of por-
18 nography or for pornographic performances;

19 (C) the use, procuring or offering of a
20 child for illicit activities, in particular for the
21 production and trafficking of drugs as defined
22 in the relevant international treaties; and

23 (D) work which, by its nature or the cir-
24 cumstances in which it is carried out, is likely

1 to harm the health, safety or morals of chil-
2 dren.

3 (3) The sexual exploitation of minors is a global
4 phenomenon. The International Labour Organiza-
5 tion estimates that 1,800,000 children worldwide are
6 exploited each year through prostitution and pornog-
7 raphy.

8 (4) Many countries with a high prevalence of
9 trafficking in children lack financial resources, legal
10 expertise, technical capacity, and other resources to
11 appropriately protect and rescue these children, de-
12 spite a demonstrated political will to do so.

13 (5) Article 8 of the ILO Convention Concerning
14 the Prohibition and Immediate Action for the Elimini-
15 nation of the Worst Forms of Child Labor calls on
16 Members to “take appropriate steps to assist one
17 another in giving effect to the provisions of this Con-
18 vention through enhanced international cooperation
19 and/or assistance”.

20 (6) As a States Party to the Optional Protocol
21 to the Convention on the Rights of the Child on the
22 Sale of Children, Child Prostitution and Child Por-
23 nography, the United States is obligated pursuant to
24 Article 10 to, among other things, take all necessary
25 steps to strengthen international cooperation by mul-

1 tilateral, regional, and bilateral arrangements for the
2 prevention and detection of those responsible for
3 acts involving the sale of children, child prostitution,
4 child pornography and child sex tourism. The United
5 States also is required to promote international co-
6 operation and coordination authorities of other
7 States Parties to the Convention, national and inter-
8 national nongovernmental organizations and inter-
9 national organizations to achieve these objectives.

10 (7) Article 10 of the Optional Protocol to the
11 Convention on the Rights of the Child on the Sale
12 of Children, Child Prostitution and Child Pornog-
13 raphy further mandates that the United States and
14 other States Parties in a position to do so to provide
15 financial, technical, or other assistance through ex-
16 isting multilateral, regional, bilateral or other pro-
17 grams.

18 (b) DECLARATION OF PURPOSE.—The purpose of
19 this Act is to protect and rescue children from trafficking
20 by the establishment of Child Protection Compacts be-
21 tween the United States and select, eligible countries with
22 a significant prevalence of trafficking in children, in order
23 to—

24 (1) address institutional weaknesses within the
25 government that result in the failure to protect vul-

1 nerable children and to rescue and properly rehabili-
2 tate victims;

3 (2) address other legal, political, and societal
4 vulnerabilities for children within the country; and

5 (3) ensure transparency and accountability in
6 achieving the goals stipulated in the Compact over
7 the course of its three-year implementation.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
11 **TEES.**—Except as otherwise provided, the term “ap-
12 propriate congressional committees” means the
13 Committee on Foreign Affairs of the House of Rep-
14 resentatives and the Committee on Foreign Rela-
15 tions of the Senate.

16 (2) **COMPACT.**—The term “Child Protection
17 Compact” or “Compact” means a Child Protection
18 Compact described in section 6.

19 (3) **AMBASSADOR.**—The term “Ambassador”
20 means the Ambassador-at-Large of the Department
21 of State’s Office to Monitor and Combat Trafficking
22 in Persons.

23 (4) **MINOR.**—The term “minor” means an indi-
24 vidual who has not attained the age of 18 years.

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of State.

3 **SEC. 4. AUTHORIZATION OF ASSISTANCE.**

4 (a) ASSISTANCE.—The Secretary, acting through the
5 Ambassador, is authorized to provide assistance under this
6 section for each country that enters into a Compact with
7 the United States pursuant to section 6 to support policies
8 and programs that assist the country to eradicate the traf-
9 ficking of children and are in furtherance of the purposes
10 of this Act.

11 (b) FORM OF ASSISTANCE.—Assistance under this
12 section may be provided in the form of grants, cooperative
13 agreements, or contracts to or with eligible entities de-
14 scribed in subsection (c). Assistance under this section
15 may not be provided in the form of loans.

16 (c) ELIGIBLE ENTITIES.—An eligible entity referred
17 to in subsection (b) is—

18 (1) the national government of the eligible
19 country;

20 (2) regional or local governmental units of the
21 country; or

22 (3) a nongovernmental organization or a private
23 entity with expertise in the protection of vulnerable
24 children, the investigation and prosecution of those

1 who engage in or benefit from child trafficking, or
2 rescue of child victims of trafficking.

3 (d) NUMBER AND AMOUNT OF COMPACTS.—Subject
4 to the availability of appropriations, the Secretary shall
5 determine the number of Compacts based on the estab-
6 lished need of the countries determined to be most eligible
7 based on the criteria described in section 5. The amount
8 of any single Compact shall not exceed a total of
9 \$15,000,000.

10 (e) ANNUAL DISBURSEMENTS.—Disbursements shall
11 be made to the eligible entities on an annual basis pursu-
12 ant to the terms of the respective Compacts.

13 **SEC. 5. ELIGIBLE COUNTRIES.**

14 (a) DETERMINATION BY THE SECRETARY.—The Sec-
15 retary shall select a country for purposes of entering into
16 a Compact based on whether the country meets the initial
17 criteria listed in subsection (b) and the selection criteria
18 listed in subsection (c). The determination pursuant to
19 subsection (c) shall be based, to the maximum extent pos-
20 sible, upon objective, documented, and quantifiable indica-
21 tors.

22 (b) INITIAL CRITERIA.—

23 (1) IN GENERAL.—A country may be consid-
24 ered for a Compact if—

1 (A) the country is eligible for assistance
2 from the International Development Associa-
3 tion, and the per capita income of the country
4 is equal to or less than the historical ceiling of
5 the International Development Association, as
6 defined by the International Bank for Recon-
7 struction and Development; and

8 (B) subject to paragraph (2), the country
9 is not ineligible to receive United States eco-
10 nomic assistance under part I of the Foreign
11 Assistance Act of 1961 by reason of the appli-
12 cation of any provision of the Foreign Assist-
13 ance Act of 1961 or any other provision of law.

14 (2) RULE OF CONSTRUCTION.—For the pur-
15 poses of determining whether a country is eligible
16 for receiving assistance under paragraph (1), the ex-
17 ercise by the President, the Secretary of State, or
18 any other officer or employee of the United States
19 of any waiver or suspension of any provision of law
20 referred to in such paragraph, and notification to
21 the appropriate congressional committees in accord-
22 ance with such provision of law, shall be construed
23 as satisfying the requirement of such paragraph.

24 (c) SELECTION CRITERIA.—A country should be se-
25 lected on the basis of—

1 (1) a documented high prevalence of trafficking
2 of children within the country;

3 (2) demonstrated political will and sustained
4 commitment by the government to undertake mean-
5 ingful measures to address the trafficking of chil-
6 dren, including—

7 (A) enactment and enforcement of laws
8 criminalizing trafficking in children with pun-
9 ishments commensurate with the crime, includ-
10 ing, when necessary, against complicit govern-
11 ment officials;

12 (B) cooperation with local and inter-
13 national non-governmental organizations with
14 demonstrated expertise in combating the traf-
15 ficking in children; and

16 (C) the treatment of child trafficking vic-
17 tims in accordance with Article 6(3) of the Pro-
18 tocol to Prevent, Suppress and Punish Traf-
19 ficking in Persons, Especially Women and Chil-
20 dren, Supplementing the United Nations Con-
21 vention Against Transnational Organized
22 Crime;

23 (3) the capacity of the host country government
24 and relevant actors within civil society to effectively
25 utilize additional resources;

1 (4) United States Government in-country pres-
2 ence;

3 (5) an identifiable impact that will result from
4 implementation of a Compact; and

5 (6) assurances that the measures to be under-
6 taken will have a continued, sustainable impact once
7 the Compact period is completed.

8 **SEC. 6. CHILD PROTECTION COMPACT.**

9 (a) COMPACT.—The Secretary, acting through the
10 Ambassador, may provide assistance for a country only if
11 the country enters into an agreement with the United
12 States, to be known as a “Child Protection Compact”,
13 that establishes a 3-year plan for achieving shared objec-
14 tives in furtherance of the purposes of this Act.

15 (b) ELEMENTS.—The Compact should take into ac-
16 count the national child protection strategy of the country
17 and shall contain—

18 (1) the specific objectives that the country and
19 the United States expect to achieve during the term
20 of the Compact;

21 (2) the responsibilities of the country and the
22 United States in the achievement of such objectives;

23 (3) the particular programs or initiatives to be
24 undertaken in the achievement of such objectives

1 and the amount of funding to be allocated to each
2 program or initiative;

3 (4) regular benchmarks to measure, where ap-
4 propriate, progress toward achieving such objectives,
5 including benchmarks for each program or initiative;

6 (5) a multi-year financial plan, including the es-
7 timated amount of contributions by the United
8 States and the country, if any, and proposed mecha-
9 nisms to implement the plan and provide oversight,
10 that describes how the requirements of paragraphs
11 (1) through (4) will be met, including identifying the
12 role of civil society in the achievement of such re-
13 quirements;

14 (6) where appropriate, a description of the cur-
15 rent and potential participation of other donors in
16 the achievement of such objectives;

17 (7) a plan to ensure appropriate fiscal account-
18 ability for the use of assistance provided under sec-
19 tion 4;

20 (8) where appropriate, a process or processes
21 for consideration of solicited proposals under the
22 Compact as well as a process for consideration of
23 unsolicited proposals by the Secretary and national,
24 regional, or local units of government;

1 (9) a requirement that open, fair, and competi-
2 tive procedures are used in a transparent manner in
3 the administration of grants or cooperative agree-
4 ments or the procurement of goods and services for
5 the accomplishment of objectives under the Com-
6 pact; and

7 (10) the strategy of the country to sustain
8 progress made toward achieving such objectives after
9 expiration of the Compact.

10 (c) ASSISTANCE FOR DEVELOPMENT OF COMPACT.—
11 Notwithstanding subsection (a), the Secretary may enter
12 into contracts or make grants for any eligible country for
13 the purpose of facilitating the development and implemen-
14 tation of the Compact between the United States and the
15 country.

16 (d) DEFINITIONS.—In this subsection:

17 (1) NATIONAL CHILD PROTECTION STRAT-
18 EGY.—The term “national child protection strategy”
19 means any strategy to eliminate the trafficking in
20 children that has been developed by the government
21 of the country in consultation with a variety of non-
22 governmental organizations involved in the protec-
23 tion of vulnerable children, the prosecution of those
24 who engage in or benefit from child trafficking, or
25 rescue child victims of trafficking.

1 (2) PROGRAM OR INITIATIVE.—The term “pro-
2 gram or initiative” may include the following:

3 (A) Evaluation of legal standards and
4 practices and recommendations for improve-
5 ments that will increase the likelihood of suc-
6 cessful prosecutions.

7 (B) Training anti-trafficking police and in-
8 vestigators.

9 (C) Building the capacity of domestic non-
10 governmental organizations to educate vulner-
11 able populations about the danger of trafficking
12 and to work with law enforcement to identify
13 and rescue victims.

14 (D) Creation of victim-friendly courts.

15 (E) Development of appropriate after-care
16 facilities for rescued victims.

17 (F) Development and maintenance of data
18 collection systems.

19 (G) Development of regional cooperative
20 plans with neighboring countries to prevent
21 cross-border trafficking of children and child
22 sex tourism.

23 **SEC. 7. SUSPENSION AND TERMINATION OF ASSISTANCE.**

24 (a) SUSPENSION AND TERMINATION OF ASSIST-
25 ANCE.—The Secretary may suspend or terminate assist-

1 ance in whole or in part for a country or entity under
2 section 4 if the Secretary determines that—

3 (1) the country or entity is engaged in activities
4 which are contrary to the national security interests
5 of the United States;

6 (2) the country or entity has engaged in a pat-
7 tern of actions inconsistent with the criteria used to
8 determine the eligibility of the country or entity, as
9 the case may be; or

10 (3) the country or entity has failed to adhere to
11 its responsibilities under the Compact.

12 (b) REINSTATEMENT.—The Secretary may reinstate
13 assistance for a country or entity under section 4 only if
14 the Secretary determines that the country or entity has
15 demonstrated a commitment to correcting each condition
16 for which assistance was suspended or terminated under
17 subsection (a).

18 (c) CONGRESSIONAL NOTIFICATION.—Not later than
19 3 days after the date on which the Secretary suspends or
20 terminates assistance under subsection (a) for a country
21 or entity, or reinstates assistance under subsection (b) for
22 a country or entity, the Secretary shall submit to the ap-
23 propriate congressional committees a report that contains
24 the determination of the Secretary under subsection (a)
25 or subsection (b), as the case may be.

1 (d) RULE OF CONSTRUCTION.—The authority to sus-
2 pend or terminate assistance under this section includes
3 the authority to suspend or terminate obligations and sub-
4 obligations.

5 **SEC. 8. CONGRESSIONAL NOTIFICATION AND ANNUAL RE-**
6 **PORT.**

7 (a) CONGRESSIONAL CONSULTATION PRIOR TO COM-
8 PACT NEGOTIATIONS.—Not later than 15 days prior to
9 the start of negotiations of a Compact with a country, the
10 Ambassador—

11 (1) shall consult with the appropriate congres-
12 sional committees with respect to the proposed Com-
13 pact negotiation; and

14 (2) shall identify the objectives and mechanisms
15 to be used for the negotiation of the Compact.

16 (b) CONGRESSIONAL NOTIFICATION AFTER ENTER-
17 ING INTO A COMPACT.—Not later than 10 days after en-
18 tering into a Compact with a country, the Ambassador
19 shall provide notification of the Compact to the appro-
20 priate congressional committees, including a detailed sum-
21 mary of the Compact and a copy of the text of the Com-
22 pact.

23 (c) ANNUAL REPORT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, and an-

1 nually thereafter, the President shall transmit to the
2 appropriate congressional committees a report on
3 the assistance provided under section 4 during the
4 prior fiscal year.

5 (2) MATTERS TO BE INCLUDED.—The report
6 shall include the following:

7 (A) The amount of obligations and expend-
8 itures for assistance provided to each eligible
9 country during the prior fiscal year.

10 (B) For each country, an assessment of—

11 (i) the progress made during each
12 year by the country toward achieving the
13 objectives set out in the Compact entered
14 into by the country; and

15 (ii) the extent to which assistance pro-
16 vided under section 4 has been effective in
17 helping the country to achieve such objec-
18 tives.

19 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There are authorized to be appro-
21 priated to the Secretary \$50,000,000 for the 3-year period
22 beginning on October 1, 2010, to carry out the purposes
23 of this Act.

24 (b) AVAILABILITY OF FUNDS.—Amounts authorized
25 to be appropriated under subsection (a) are authorized to

1 remain available until expended, but not later than the
2 date of the termination of the Compacts.

3 (c) ALLOCATION OF FUNDS.—

4 (1) IN GENERAL.—The Secretary may allocate
5 or transfer to any agency of the United States Gov-
6 ernment any of the funds available for carrying out
7 this Act. Such funds shall be available for obligation
8 and expenditure for the purposes for which the
9 funds were authorized, in accordance with authority
10 granted in this Act or under authority governing the
11 activities of the United States Government agency to
12 which such funds are allocated or transferred.

13 (2) NOTIFICATION.—The Secretary shall notify
14 the appropriate congressional committees not less
15 than 15 days prior to an allocation or transfer of
16 funds pursuant to paragraph (1).

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