

114TH CONGRESS
2D SESSION

S. 3520

To amend the Trafficking Victims Protection Act of 2000 to clarify report dates, modify the criteria for determinations of whether countries are meeting the minimum standards for elimination of trafficking, and highlight the importance of concrete actions by countries to eliminate trafficking, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2016

Mr. MENENDEZ (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the Trafficking Victims Protection Act of 2000 to clarify report dates, modify the criteria for determinations of whether countries are meeting the minimum standards for elimination of trafficking, and highlight the importance of concrete actions by countries to eliminate trafficking, 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 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Trafficking In Persons Report Integrity Act”.

1 **SEC. 2. DEFINITIONS.**

2 Section 103 of the Trafficking Victims Protection Act
3 of 2000 (22 U.S.C. 7102) is amended—

4 (1) by redesignating paragraphs (5) through
5 (15) as paragraphs (7) through (17), respectively;

6 (2) by inserting after paragraph (4) the fol-
7 lowing:

8 “(5) CONCRETE ACTIONS.—The term ‘concrete
9 actions’ means any of the following actions that de-
10 monstrably improve the condition of a substantial
11 number of victims of human trafficking and persons
12 vulnerable to human trafficking:

13 “(A) Enforcement actions taken.

14 “(B) Investigations actively underway.

15 “(C) Prosecutions conducted.

16 “(D) Convictions attained.

17 “(E) Training provided.

18 “(F) Programs and partnerships actively
19 underway.

20 “(G) Victim services offered, including im-
21 migration services and restitution.

22 “(H) The amount of money the govern-
23 ment in question has committed to the actions
24 described in subparagraphs (A) through (G).

1 “(I) An assessment of the impact of such
2 actions on the prevalence of human trafficking
3 in the country.

4 “(6) CREDIBLE EVIDENCE.—The term ‘credible
5 evidence’ means information relied upon by the De-
6 partment of State to make determinations relating
7 to the provisions set forth in this division, includ-
8 ing—

9 “(A) reports by the Department of State;

10 “(B) reports of other Federal agencies, in-
11 cluding the Department of Labor’s List of
12 Goods Produced by Child Labor or Forced
13 Labor;

14 “(C) documentation provided by a foreign
15 country, including copies of relevant laws, regu-
16 lations, policies adopted or modified, enforce-
17 ment actions taken and judicial proceedings,
18 training conducted, consultations conducted,
19 programs and partnerships launched, and serv-
20 ices provided;

21 “(D) materials developed by civil society
22 organizations;

23 “(E) information from survivors of human
24 trafficking, vulnerable persons, and whistle-
25 blowers;

1 “(F) all relevant media and academic re-
2 ports that, in light of reason and common
3 sense, are worthy of belief; and

4 “(G) information developed by multilateral
5 institutions.”; and

6 (3) in paragraph (10), as redesignated—

7 (A) in the paragraph heading, by striking
8 “NONTRADE-RELATED” and inserting “NON-
9 ANTI-HUMAN TRAFFICKING RELATED”;

10 (B) in the matter preceding subparagraph
11 (A), by striking “nontrade-related” and insert-
12 ing “non-anti-human trafficking related”; and

13 (C) in subparagraph (A)(ix), by striking
14 “trade-related” and inserting “anti-human traf-
15 ficking-related”.

16 **SEC. 3. MINIMUM STANDARDS FOR THE ELIMINATION OF**
17 **TRAFFICKING.**

18 Section 108(b) of the Trafficking Victims Protection
19 Act of 2000 (22 U.S.C. 7106(b)) is amended—

20 (1) in paragraph (1)—

21 (A) by inserting “and without bias” after
22 “vigorously”;

23 (B) by striking “if the government” and
24 inserting the following: “if—

25 “(A) the government”;

1 (C) by striking “such acts and the Sec-
2 retary” and inserting the following: “such acts;

3 “(B) the Secretary”; and

4 (D) by striking “such data.” and inserting
5 the following: “such data; and

6 “(C) the Secretary has submitted copies of
7 such data and a description of such good faith
8 efforts to collect such data to the Committee on
9 Foreign Relations of the Senate and the Com-
10 mittee on Foreign Affairs of the House of Rep-
11 resentatives.”; and

12 (2) in paragraph (7)—

13 (A) by inserting “and without bias” after
14 “vigorously”;

15 (B) by inserting “or enable” after “con-
16 done”;

17 (C) by striking “if the government” and
18 inserting the following: “if—

19 “(A) the government”;

20 (D) by striking “such acts and the Sec-
21 retary” and inserting the following: “such acts;

22 “(B) the Secretary”; and

23 (E) by striking “such data.” and inserting
24 the following: “such data; and

1 “(C) the Secretary has submitted copies of
2 such data and a description of such good faith
3 efforts to collect such data to the Committee on
4 Foreign Relations of the Senate and the Com-
5 mittee on Foreign Affairs of the House of Rep-
6 resentatives.”; and

7 (3) by adding at the end the following:

8 “(13) Whether the government of the country—

9 “(A) sponsors or otherwise facilitates
10 forced labor; or

11 “(B) has policies that provide incentives
12 for or otherwise support the participation in or
13 facilitation of forced labor by officials at any
14 level of government.”.

15 **SEC. 4. ACTIONS AGAINST GOVERNMENTS FAILING TO**
16 **MEET MINIMUM STANDARDS.**

17 (a) IN GENERAL.—Section 110 of the Trafficking
18 Victims Protection Act of 2000 (22 U.S.C. 7107) is
19 amended—

20 (1) in subsection (a), by striking “nontrade-re-
21 lated” and inserting “non-anti-human trafficking re-
22 lated”; and

23 (2) in subsection (b)—

24 (A) in paragraph (1)—

1 (i) by striking “The report should”
2 and inserting “The report shall cover ef-
3 forts and activities taking place during the
4 period between April 1 of the year pre-
5 ceding the report and March 31 of the
6 year in which the report is made, and
7 should”;

8 (ii) in subparagraph (A), by inserting
9 “based only on concrete actions taken by
10 the country during the reporting year”
11 after “such standards”;

12 (iii) in subparagraph (B) by inserting
13 “based only on concrete actions taken by
14 the country during the reporting year (ex-
15 cluding any commitments by the country
16 to take additional future steps over the
17 next year)” after “compliance”;

18 (iv) in subparagraph (C), by striking
19 “compliance;” and inserting the following:
20 “compliance, including all countries in

21 which—

22 “(i) central government officials par-
23 ticipate in or facilitate forced labor; and

24 “(ii) the central government main-
25 tains policies that provide incentives for or

1 otherwise support the participation in or
2 facilitation of force labor by officials at any
3 level of government;”;

4 (v) in subparagraph (F), by striking
5 “and” at the end;

6 (vi) in subparagraph (G), by striking
7 the period at the end and inserting “;
8 and”; and

9 (vii) by adding at the end the fol-
10 lowing:

11 “(H) for each country included in a dif-
12 ferent list than the country had been placed in
13 the previous annual report, a detailed expla-
14 nation of how the concrete actions (or lack of
15 such actions) undertaken by the country during
16 the previous reporting period contributed to
17 such change, including a clear linkage between
18 such actions and the minimum standards enu-
19 merated in section 108.”;

20 (B) in paragraph (2)—

21 (i) in subparagraph (A)(iii)—

22 (I) in subclause (I), by adding
23 “or” at the end;

24 (II) in subclause (II), by striking
25 “; or” and inserting a period; and

1 (III) by striking subclause (III);

2 (ii) in subparagraph (B), by striking

3 “the last annual report” and inserting

4 “April 1 of the previous year”;

5 (iii) in subparagraph (D)—

6 (I) in clause (i), by striking

7 “2008,” and all that follows and in-

8 serting—

9 “2008—

10 “(I) shall be included on the list

11 of countries described in paragraph

12 (1)(C); and

13 “(II) shall be required to meet

14 the requirements specified in para-

15 graph (1)(B) before the country may

16 be removed from the list of countries

17 described in paragraph (1)(C).”;

18 (II) in clause (ii)—

19 (aa) by striking “2 years”

20 and inserting “1 year”;

21 (bb) in subclause (II), by

22 striking “and”;

23 (cc) in subclause (III), by

24 striking the period at the end

25 and inserting “; and”; and

1 (dd) by adding at the end
2 the following:

3 “(IV) the country has taken con-
4 crete actions to implement the prin-
5 cipal recommendations of the most re-
6 cent annual report on trafficking in
7 persons with respect to that coun-
8 try.”; and

9 (III) by adding at the end the
10 following:

11 “(iii) WRITTEN PLAN.—The Secretary
12 of State shall endeavor to work with each
13 country that receives a waiver under clause
14 (ii) and with civil society organizations in
15 each country to draft and implement a
16 written plan described in such clause.”;
17 and

18 (iv) in subparagraph (E), by striking
19 “shall provide” and all that follows and in-
20 serting the following: “shall provide, on a
21 publicly available website maintained by
22 the Department of State—

23 “(i) a detailed description of the cred-
24 ible evidence supporting such determina-
25 tion;

1 “(ii) the written plan submitted by
2 the country under subparagraph (D)(ii)(I);
3 and

4 “(iii) supporting documentation pro-
5 viding credible evidence of—

6 “(I) each concrete action by the
7 country to bring itself into compliance
8 with the minimum standards for the
9 elimination of trafficking, including
10 copies of relevant laws or regulations
11 adopted or modified; and

12 “(II) any actions taken by that
13 country to enforce the minimum
14 standards for the elimination of traf-
15 ficking, as appropriate.”;

16 (C) in paragraph (3)—

17 (i) in subparagraph (B), by striking
18 “and” at the end;

19 (ii) in subparagraph (C), by striking
20 the period at the end and inserting a semi-
21 colon; and

22 (iii) by adding at the end the fol-
23 lowing:

1 “(D) the extent to which the government
2 of the country is devoting sufficient budgetary
3 resources—

4 “(i) to investigate and prosecute acts
5 of severe trafficking in persons;

6 “(ii) to convict and sentence persons
7 responsible for such acts; and

8 “(iii) to obtain restitution for victims
9 of human trafficking;

10 “(E) the extent to which the government
11 of the country is devoting sufficient budgetary
12 resources—

13 “(i) to protect and rehabilitate victims
14 of trafficking in persons; and

15 “(ii) to prevent severe forms of traf-
16 ficking in persons;

17 “(F) the extent to which the government of
18 the country has consulted with domestic and
19 international civil society organizations to im-
20 prove the provision of services to victims of
21 trafficking in persons; and

22 “(G) whether—

23 “(i) government officials participate in
24 or facilitate forced labor and human traf-
25 ficking; and

1 “(ii) the government maintains poli-
2 cies that provide incentives for or otherwise
3 support the participation in or facilitation
4 of forced labor and human trafficking by
5 officials at any level of government.”; and
6 (D) by adding at the end the following:

7 “(4) SPECIAL RULE FOR CHANGES IN CERTAIN
8 DETERMINATIONS.—Not later than 90 days after
9 the submission of each annual report under para-
10 graph (1), the Secretary of State shall submit a de-
11 tailed description of the credible evidence supporting
12 a change in listing of a country, accompanied by
13 copies of documents providing such evidence, as ap-
14 propriate, to the appropriate congressional commit-
15 tees not later than 90 days after the submission of
16 that report if—

17 “(A) a country is included on a list of
18 countries described in paragraph (1)(C) in an
19 annual report submitted in calendar year 2015
20 or in any calendar year thereafter; and

21 “(B) in the annual report submitted in the
22 next calendar year, the country is listed on a
23 list of countries described in paragraph (1)(B).

24 “(5) WRITTEN PLAN.—The Secretary of State
25 shall endeavor to work with each country that has

1 been listed pursuant to paragraph (1)(C) in the
2 most recent annual report and civil society organiza-
3 tions to draft and implement the written plan de-
4 scribed in paragraph (2)(D)(ii).”.

5 (b) LIMITATION OF WAIVER AUTHORITY.—Section
6 110(d) of the Trafficking Victims Protection Act of 2000
7 (22 U.S.C. 7107(d)) is amended—

8 (1) in paragraph (1)—

9 (A) in the paragraph heading, by striking
10 “NONTRADE-RELATED” and inserting “NON-
11 ANTI-HUMAN TRAFFICKING RELATED”;

12 (B) by striking subparagraph (B);

13 (C) in subparagraph (A)—

14 (i) in clause (i)—

15 (I) by striking “(i)”; and

16 (II) by striking “nontrade-re-
17 lated” and inserting “non-anti-human
18 trafficking related”; and

19 (ii) by redesignating clause (ii) as
20 subparagraph (B); and

21 (D) in subparagraph (B), as redesignated,
22 by striking “nontrade-related” and inserting
23 “non-anti-human trafficking related”;

24 (2) in paragraph (4)—

1 (A) by striking “nontrade-related” and in-
2 serting “non-anti-human trafficking related”;
3 and

4 (B) by striking “or the multilateral assist-
5 ance described in paragraph (1)(B), or both,”;
6 and

7 (3) in paragraph (5)(A)—

8 (A) in clause (i)—

9 (i) by striking “nontrade-related” and
10 inserting “non-anti-human trafficking re-
11 lated”; and

12 (ii) by adding “or” at the end;

13 (B) by striking clause (ii); and

14 (C) by redesignating clause (iii) as clause
15 (ii).

16 (c) SUBSEQUENT WAIVER AUTHORITY.—Section
17 110(f) of the Trafficking Victims Protection Act of 2000
18 (22 U.S.C. 7107(f)) is amended by inserting “and has
19 submitted a report to the Committee on Foreign Relations
20 of the Senate and the Committee on Foreign Affairs of
21 the House of Representatives that describes in detail the
22 credible evidence that the country has taken concrete ac-
23 tions to implement the principal recommendations of the
24 most recent annual report on trafficking in persons with

1 respect to that country and includes copies of relevant doc-
2 uments” after “government of a country”.

3 **SEC. 5. UNITED STATES OPPOSITION TO ANY ACTION BY**
4 **CERTAIN INTERNATIONAL FINANCIAL INSTI-**
5 **TUTIONS THAT DOES NOT REQUIRE THE RE-**
6 **CIPIENT GOVERNMENT TO WORK TO ELIMI-**
7 **NATE HUMAN TRAFFICKING.**

8 (a) REQUIREMENT.—The President shall instruct the
9 United States Executive Director of each international fi-
10 nancial institution—

11 (1) to support the United States policy goal of
12 advancing the cause of ending modern slavery and
13 human trafficking, including by seeking to channel
14 assistance toward countries other than countries
15 whose governments—

16 (A) do not fully comply with the minimum
17 standards set forth in section 108(a) of the
18 Trafficking Victims Protection Act of 2000 (22
19 U.S.C. 7106(a)); and

20 (B) are not making significant efforts to
21 comply with such standards;

22 (2) to use the voice and vote of the United
23 States to oppose any loan, project, agreement,
24 memorandum, instrument, plan, or other program
25 involving a country that is described in paragraph

1 (1)(C) or (2)(A)(iii) of section 110(b) of the Traf-
2 ficking Victims Protection Act of 2000 (22 U.S.C.
3 7107(b)) (commonly known as “Tier 3 Countries”
4 and “Tier 2 Watch List Countries”, respectively) if
5 the loan, project, agreement, memorandum, instru-
6 ment, plan, or other program does not actively pro-
7 mote and work to achieve the minimum standards
8 set forth in section 108(a) of the Trafficking Victims
9 Protection Act of 2000 (22 U.S.C. 7106(a));

10 (3) to encourage other nations to adopt policies
11 that are consistent with subparagraph (B); and

12 (4) to initiate discussions with the other execu-
13 tive directors of the respective international financial
14 institution proposing that each such institution de-
15 velop anti-human trafficking provisions in its project
16 safeguards and procurement policies, taking into
17 consideration the minimum standards set forth in
18 section 108(a) of the Trafficking Victims Protection
19 Act of 2000 (22 U.S.C. 7106(a)) and the Abolition
20 of Forced Labour Convention, 1957, which was
21 adopted by the International Labour Organisation in
22 Geneva on June 25, 1957.

23 (b) REPORTING REQUIREMENTS.—

24 (1) IN GENERAL.—Not later than July 1 of
25 each year, the Secretary of the Treasury shall sub-

1 mit an annual report to the Chairman and Ranking
2 Member of the Committee on Foreign Relations of
3 the Senate and the Chairman and Ranking Member
4 of the Committee on Foreign Affairs of the House
5 of Representatives that describes all loans to Tier 3
6 Countries and Tier 2 Watch List Countries that
7 were considered by the Board of Executive Directors
8 of each international financial institution during the
9 preceding 12-month reporting period.

10 (2) CONTENTS.—Each report required under
11 paragraph (1) shall—

12 (A) include a list of all loans considered by
13 the Board of Executive Directors of each inter-
14 national financial institution;

15 (B) specify, with respect to each such
16 loan—

17 (i) the institution involved;

18 (ii) the date of final action;

19 (iii) the borrower;

20 (iv) the amount;

21 (v) the project or program;

22 (vi) the vote of the United States Gov-
23 ernment;

24 (vii) the reason for United States
25 Government opposition, if any; and

1 (viii) the final disposition of the loan;

2 (C) indicate whether the United States has
3 opposed any loan, financial assistance, or tech-
4 nical assistance to a country based upon the
5 prevalence of human trafficking within such
6 country;

7 (D) indicate whether the United States has
8 voted in favor of a loan, financial assistance, or
9 technical assistance to a country with respect to
10 which the United States had, in the preceding
11 2 years, opposed a loan, financial assistance, or
12 technical assistance based upon a reduction of
13 human trafficking within such country;

14 (E) in cases in which the United States
15 changed its voting position, regarding a loan, fi-
16 nancial assistance, or technical assistance to a
17 country, from opposition to support or from
18 support to opposition based upon the response
19 by the government of such country to human
20 trafficking within such country—

21 (i) indicate the policy considerations
22 that were taken into account in the devel-
23 opment of the United States voting posi-
24 tion;

1 (ii) indicate how the United States
2 voted on all other loans, financial assist-
3 ance, and technical assistance to such
4 country during the preceding 2 years; and

5 (iii) describe how the United States
6 voting position relates to the overall United
7 States Government policy on human traf-
8 ficking in such country; and

9 (F) describe the efforts of each inter-
10 national financial institution to implement anti-
11 human trafficking provisions in its project safe-
12 guards and procurement policies.

13 (c) DEFINED TERM.—In this section, the term
14 “international financial institution” includes—

15 (1) the International Bank for Reconstruction
16 and Development;

17 (2) the European Bank for Reconstruction and
18 Development;

19 (3) the International Development Association;

20 (4) the International Finance Corporation;

21 (5) the Multilateral Investment Guarantee
22 Agency;

23 (6) the Inter-American Development Bank;

24 (7) the Inter-American Investment Corporation;

25 (8) the Asian Development Bank;

- 1 (9) the African Development Bank; and
- 2 (10) the African Development Fund.

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