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The State Department's *Trafficking in Persons* Report: Scope, Aid Restrictions, and Methodology

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Summary

The State Department's annual release of the *Trafficking in Persons* report (commonly referred to as the TIP Report) has been closely monitored by Congress, foreign governments, the media, advocacy groups, and other foreign policy observers. The 109th Congress first mandated the report's publication in the Trafficking Victims Protection Act of 2000 (TVPA; Div. A of the Victims of Trafficking and Violence Protection Act of 2000, P.L. 106-386).

Over time, the number of countries covered by the TIP Report has grown, peaking at 188 countries, including the United States. In the 2017 TIP Report, the State Department categorized 187 countries. Countries were placed into one of several lists (or *tiers*) based on their respective governments' level of effort to address human trafficking between April 1, 2016, and March 31, 2017. An additional category of special cases included three countries that were not assigned a tier ranking because of ongoing political instability (Libya, Somalia, and Yemen).

Its champions describe the TIP Report as a keystone measure of government efforts to address and ultimately eliminate human trafficking. Some U.S. officials refer to the report as a crucial tool of diplomatic engagement that has encouraged foreign governments to elevate their own antitrafficking efforts. Its detractors question the TIP Report's credibility as a true measure of antitrafficking efforts, suggesting at times that political factors distort its country assessments. Some foreign governments perceive the report as a form of U.S. interference in their domestic affairs.

Continued congressional interest in the TIP Report and its country rankings has resulted in several key modifications to the process. Such modifications have included the creation of the special watch list, limiting the length of time a country may remain on a subset of the special watch list, expanding the list of criteria for determining whether countries are taking *serious and sustained efforts* to eliminate trafficking, establishing a list of governments that recruit and use child soldiers, and prohibiting the least cooperative countries on antitrafficking matters from participating in authorized trade negotiations. These modifications were often included as part of broader legislative efforts to reauthorize the TVPA, whose current authorization for appropriations expires at the end of FY2017.

Recent Developments

On June 27, 2017, the U.S. Department of State released the 17th edition of the TIP Report—the first for the Administration of President Donald J. Trump. In spite of State Department efforts to alleviate congressional concerns that the report's methodology is susceptible to political pressure, several Members in the 115th Congress have introduced legislation to further modify key aspects of the annual country ranking and reporting process.

The most significant changes to the TIP Report methodology are contained in H.R. 2200, the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2017, which passed the House on July 12, 2017. If enacted, the changes could reduce State Department flexibility and discretion in assigning tier rankings to countries and increase the number of countries that would fall into the worst category (Tier 3)—while also making it potentially more difficult for countries to attain the best category (Tier 1). Other proposed changes to the TIP Report methodology are contained in S. 377, S. 952, H.R. 436, H.R. 1191, and H.R. 2219.

While some observers may anticipate that changes to the TIP Report's methodology will improve its overall credibility and country ranking process, others may question whether such changes will confuse foreign governments and be perceived as too complex. The reputational harm of a poor ranking in the TIP Report has motivated some countries to improve their antitrafficking efforts. It

is not clear, however, if this scenario will hold true indefinitely. If the prospect of achieving a top ranking in the TIP Report begins to appear unattainable, could the TIP Report's ability to motivate countries to improve their antitrafficking efforts—and thus its value as a policy tool for international engagement to combat human trafficking—diminish?

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Introduction

Congress has led both U.S. and international efforts to eliminate severe forms of trafficking in persons, particularly with its enactment of the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386). Division A of that act, the Trafficking Victims Protection Act of 2000 (TVPA), established U.S. antitrafficking policy to (1) *prevent* trafficking, (2) *protect* trafficking victims, and (3) *prosecute* and punish traffickers (known as the three Ps).

A key element of the TVPA's foreign policy objectives involved a new requirement for the Secretary of State to produce an annual report on human trafficking and to rank foreign governments based on their antitrafficking efforts. In the ensuing reports, which the State Department titled as *Trafficking in Persons* (TIP) reports, the department developed a ranking system in which the best countries were identified as Tier 1 and the worst Tier 3. Moreover, the TVPA stipulated that the worst performers (Tier 3 countries) in the TIP Report could be subject to potential restrictions on certain types of U.S. foreign aid and other U.S. and multilateral funds—a policy that is intended to motivate countries to avoid Tier 3 by prioritizing antitrafficking efforts.

The TIP Report's annual release remains a topic of widespread interest among international and domestic stakeholders, including Congress. Since the TVPA's enactment 17 years ago, Congress has continued to adjust the requirements associated with how countries are ranked in the TIP Report, as well as the policy consequences of such rankings. (See **Figure 1** below.) These changes were often the result of congressional dissatisfaction with some aspect of the TIP Report:

- Due to difficulty discerning differences among Tier 2 countries, Congress modified the TVPA in 2003 to create a special watch list, composed of countries that deserve enhanced scrutiny.[1]
- Out of concern that countries were listed for too many consecutive years on the special watch list, Congress modified the TVPA in 2008 to limit the number of years a country may remain on it.[2]
- In response to the plight of children exploited in armed conflict, Congress modified the TVPA in 2008 to require the State Department to identify countries whose governments recruit and use child soldiers.[3]
- With the objective of linking U.S. trade policy to antitrafficking outcomes, Congress in 2015 prohibited Tier 3 countries from participating in authorized trade negotiations.[4]
- As a result of greater awareness of antitrafficking best practices, Congress has incrementally expanded its expectations for governments to conduct *serious and sustained efforts* to address human trafficking.

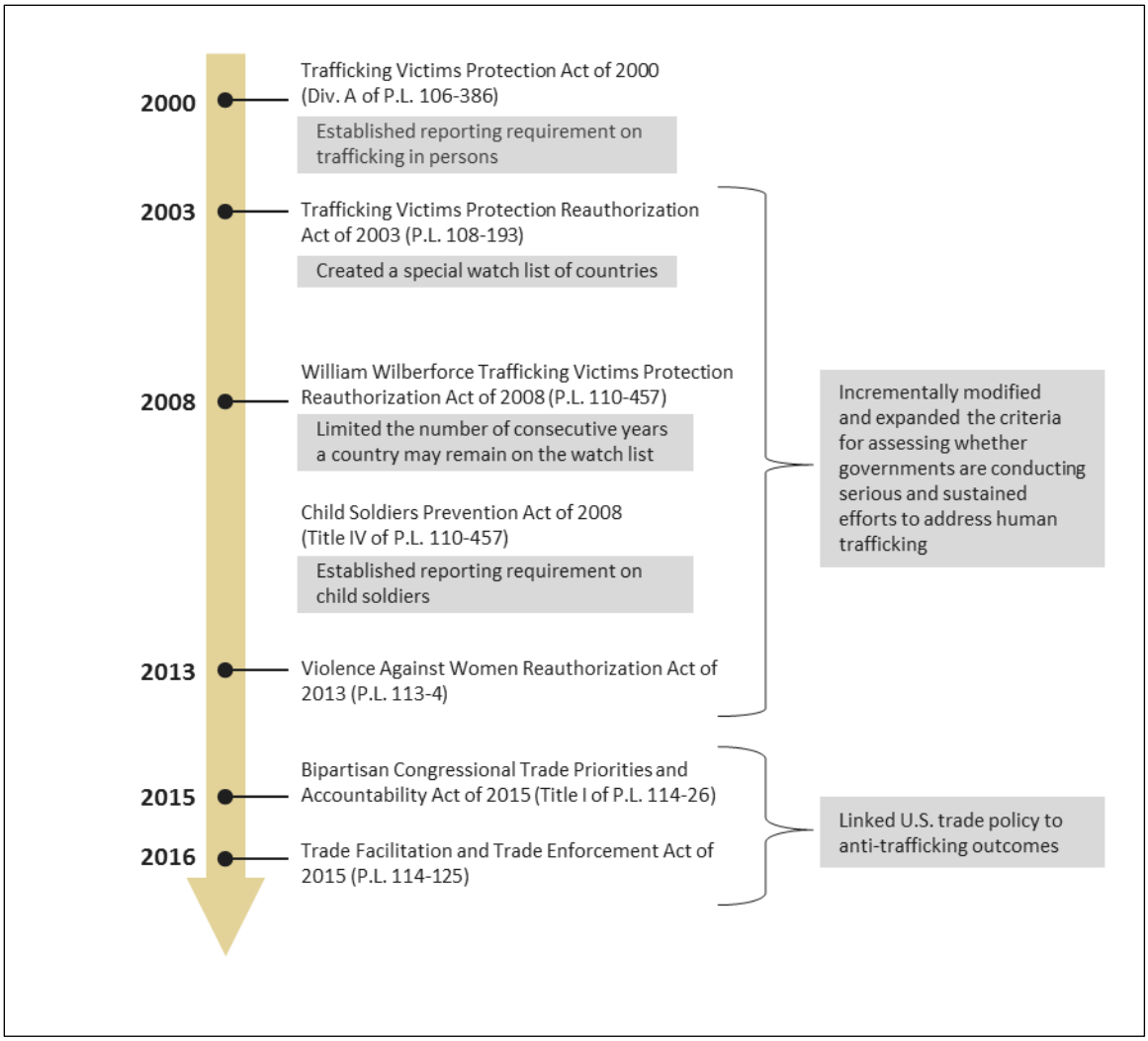
[1] §6 of the Trafficking Victims Protection Reauthorization Act of 2003 (2003 TVPRA; P.L. 108-193) amended §110 of the Trafficking Victims Protection Act of 2000 (TVPA); 22 U.S.C. 7107.

[2] §107 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (2008 TVPRA; P.L. 110-457) amended §110 of the TVPA; 22 U.S.C. 7107.

[3] See Title IV of P.L. 110-457, the Child Soldiers Prevention Act of 2008 (CSPA); 22 U.S.C. 2370c et seq.

[4] §106 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA; Title I of P.L. 114-26) added this statutory restriction; it was subsequently amended to allow for a waiver by §914 of the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125); 19 U.S.C. 4205.

Figure 1. Key Legislative Changes to the TIP Report, 2000-2016



Source: CRS, based on Congress.gov.

In light of ongoing congressional scrutiny of the State Department's TIP Report and its country ranking process, several bills in the 115th Congress have been introduced to further modify requirements associated with the TIP Report. Some of these proposed changes could significantly change—and at least temporarily complicate—the current TIP Report's methodology.[5] A critical question is whether further changes to the TIP Report's methodology will incentivize countries to boost their antitrafficking efforts or, in contrast, may erode the legitimacy of the TIP Report as a credible tool to advocate for human trafficking concerns.

This CRS report describes the legislative provisions that govern the U.S. Department of State's production of the annual TIP Report, reviews country ranking trends in the TIP Report, and identifies recent congressional oversight of and legislative activity to modify the TIP Report. Answers to selected frequently asked questions (FAQs) are included throughout the report.

[5] For further discussion, see "Legislative Oversight and Outlook" section, below.

TIP Report Scope

The contents of each annual TIP Report are governed by two provisions, one in the TVPA, as amended, and a second in the Child Soldiers Prevention Act of 2008 (CSPA).[6] In addition, current law requires the President and the Secretary of State to prepare related follow-on documentation for certain categories of countries. These include reporting requirements that were added to the TVPA as part of TVPA reauthorization acts, as well as requirements contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA), as amended.

Reporting Requirements in the TVPA

The TVPA, as amended, establishes the core contents of the TIP Report. Specifically, it requires the Secretary of State to submit to appropriate congressional committees an annual report, due not later than June 1 each year, which describes, on a country-by-country basis:[7]

- government efforts to eliminate severe forms of trafficking in persons;
- the nature and scope of trafficking in persons in each country; and
- trends in each government's efforts to combat trafficking.

FAQ: What Are *Severe Forms of Trafficking in Persons*?

The TVPA defines *severe forms of trafficking in persons* to mean:

> (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
>
> (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.[8]

This definition is largely consistent with the definition of trafficking in persons contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children[9] (adopted by the U.N. in 2000)—and TIP Reports use the terms trafficking in persons, severe forms of trafficking in persons, and human trafficking interchangeably. TIP Reports have also described human trafficking as *modern slavery*.[10]

The 2017 TIP Report illustratively describes common manifestations of human trafficking to include sex trafficking, child sex trafficking, forced labor, bonded labor (also known as debt bondage), domestic servitude, forced child labor, and unlawful recruitment and use of child soldiers.[11] Some government and nongovernmental entities may apply different definitions to refer to human trafficking, sometimes conflating human trafficking with human smuggling, illegal adoptions, international trade in human organs, child pornography, and prostitution.

[6] §110 of the TVPA (22 U.S.C. 7107) and §404 of the CSPA (22 U.S.C. 2370c-1).

[7] *Appropriate congressional committees* in the TVPA refer to the Senate Foreign Relations Committee (SFRC), the Senate Judiciary Committee (SJUD), the House Foreign Affairs Committee (HFAC), and the House Judiciary Committee (HJUD). See §103 of the TVPA; 22 U.S.C. 7102.

[8] §103 of the TVPA; 22 U.S.C. 7102.

[9] For the treaty's current status, see United Nations Treaty Collection, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&lang=en.

[10] See U.S. Department of State, *Trafficking in Persons*, report (TIP Report), June 28, 2017.

[11] Ibid.

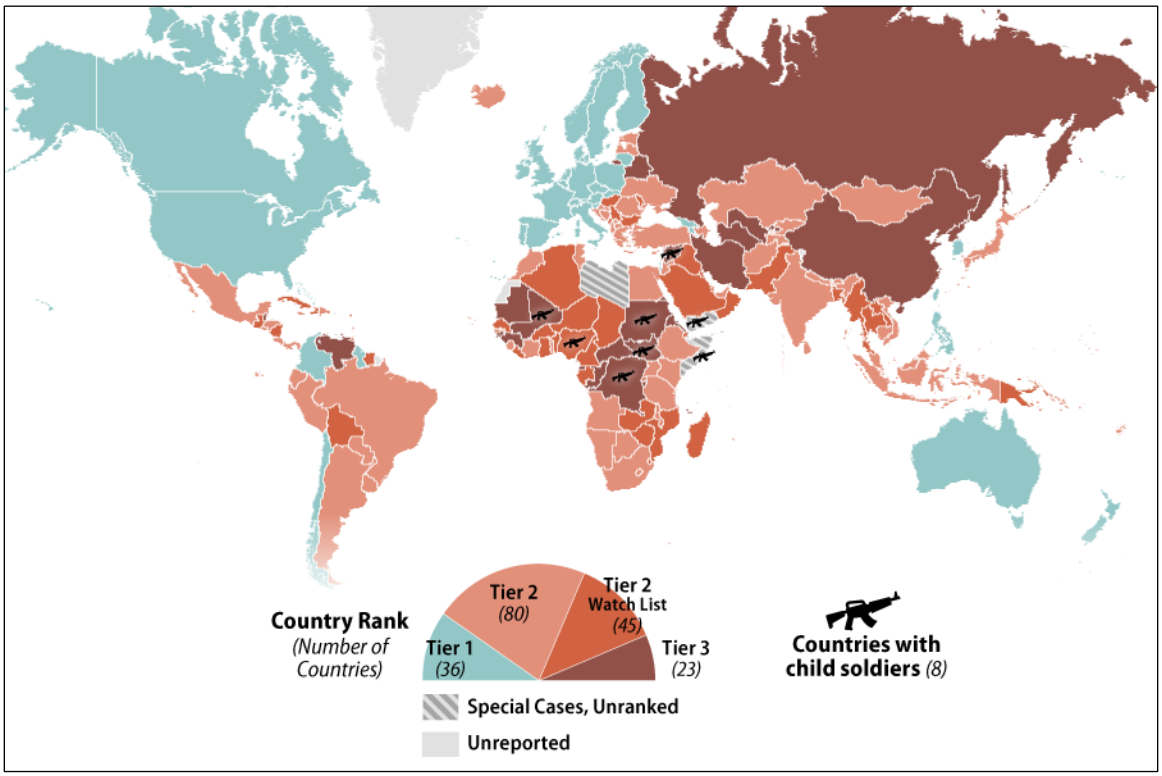
Required Country Lists in the TIP Report

Central to the TVPA's reporting requirements is a set of country lists, based on whether governments are achieving four minimum standards that the law prescribes for the elimination of severe forms of trafficking in persons. Specifically, the TVPA requires the report to include[12]

- a list of countries whose governments *fully comply* with the minimum standards for the elimination of severe forms of trafficking in persons; although the TVPA does not use the *tier* nomenclature, TIP Reports describe this list as Tier 1. (See **Table 1** below.)
- a list of countries whose governments *do not fully comply* with the minimum standards but are making *significant efforts* to become compliant; TIP Reports describe this list as Tier 2. (See **Table 2** below.)
- a list of countries whose governments do not fully comply and are not making significant efforts to become compliant; TIP Reports describe this list as Tier 3. (See **Table 3** below.)

In accordance with the 2003 amendments to the TVPA, which required the creation of a new "special watch list," the 2004 TIP Report introduced a new category of country ranking, called the Tier 2 Watch List.[13] For further discussion, see section on "Reporting Requirements Related to the Special Watch List."

Figure 2. 2017 TIP Report: Country Rankings



Source: CRS, based on U.S. Department of State, TIP Report, June 28, 2017, pp. 20, 46.

[12] §110 of the TVPA; 22 U.S.C. 7107.

[13] §6 of the 2003 TVPRA amended §110 of the TVPA; 22 U.S.C. 7107.

Table 1. Tier 1 Countries in the 2017 TIP Report

Armenia	Denmark	Korea, South	St. Maarten
Australia	Finland	Lithuania	Slovakia
Austria	France	Luxembourg	Slovenia
The Bahamas	Georgia	Netherlands	Spain
Belgium	Germany	New Zealand	Sweden
Canada	Guyana	Norway	Switzerland
Chile	Ireland	Philippines	Taiwan
Colombia	Israel	Poland	United Kingdom
Czechia	Italy	Portugal	United States

Source: U.S. Department of State, TIP Report, June 28, 2017, p. 46.

Table 2. Tier 2 Countries in the 2017 TIP Report

Afghanistan	Ecuador	Lesotho	St. Vincent and the Grenadines
Albania	Egypt	Macedonia	Seychelles
Angola	El Salvador	Malawi	Sierra Leone
Argentina	Estonia	Malaysia	Singapore
Aruba	Ethiopia	Maldives	Solomon Islands
Azerbaijan	Fiji	Malta	South Africa
Bahrain	Greece	Mauritius	Sri Lanka
Barbados	Honduras	Mexico	Tajikistan
Bhutan	Iceland	Micronesia	Tanzania
Bosnia and Herzegovina	India	Mongolia	Timor-Leste
Botswana	Indonesia	Morocco	Togo
Brazil	Jamaica	Namibia	Tonga
Brunei	Japan	Nepal	Trinidad and Tobago
Cambodia	Jordan	Palau	Tunisia
Costa Rica	Kazakhstan	Panama	Turkey
Cote D'Ivoire	Kenya	Paraguay	Uganda
Croatia	Kosovo	Peru	Ukraine
Curaçao	Kyrgyz Republic	Qatar	United Arab Emirates
Cyprus	Latvia	Romania	Uruguay
Dominican Republic	Lebanon	St. Lucia	Vietnam

Source: U.S. Department of State, TIP Report, June 28, 2017, p. 46.

Table 3. Tier 3 Countries in the 2017 TIP Report

Belarus	Congo, Democratic Republic of	Iran	Sudan
Belize	Congo, Republic of	Korea, North	Syria
Burundi	Equatorial Guinea	Mali	Turkmenistan
Central African Republic	Eritrea	Mauritania	Uzbekistan
China	Guinea	Russia	Venezuela
Comoros	Guinea-Bissau	South Sudan	

Source: U.S. Department of State, TIP Report, June 28, 2017, p. 46.

Other Required Information in the TIP Report

In addition to the required country lists, the TVPA requires the State Department to include other information in the annual TIP Report. This includes[14]

- information on what the United Nations, Organization for Security and Cooperation in Europe, North Atlantic Treaty Organization, and other multilateral organizations, as appropriate, are doing to prevent their employees, contractors, and peacekeeping forces from engaging in human trafficking or exploiting victims of trafficking;
- information on changes in the global patterns of human trafficking, including prevalence data, disaggregated by source, transit, and destination countries, as well as nationality, gender, and age;
- information on emerging human trafficking issues; and
- information on "promising practices in the eradication of trafficking in persons."[15]

Reporting Requirements in the CSPA

FAQ: Who is a *child soldier*?

The CSPA of 2008 defines child solider (including those "serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave") to mean children:

(i) under 18 years who take direct part in hostilities as a member of government armed forces;

(ii) under 18 years who are compulsorily recruited into governmental armed forces;

[14] §110 of the TVPA, as amended; 22 U.S.C. 7107.

[15] §1205 of the Violence Against Women Reauthorization Act of 2013 (2013 VAWRA; P.L. 113-4) added this requirement to §110 of the TVPA; 22 U.S.C. 7107. The 2014 TIP Report contained a section entitled "Promising Practices in the Eradication of Trafficking in Persons." Although the phrase *promising practices* is used in the 2015 Report, subsequent TIP Reports do not contain a section on "Promising Practices in the Eradication of Trafficking in Persons." Moreover, the 2016 and 2017 TIP Reports do not contain the phrase *promising practices*.

> (iii) under 15 years who are voluntarily recruited into governmental armed forces; or
>
> (iv) under 18 years who are recruited or used in hostilities by non-state armed forces.

Congress enacted the Child Soldiers Prevention Act of 2008 (CSPA) as part of its 2008 reauthorization of the TVPA.[16] A key element of the CSPA is the requirement to include in the annual TIP Report an additional list of foreign governments that recruit and use child soldiers in their armed forces or in government-supported armed groups. Government-supported armed groups include paramilitaries, militias, and civil defense forces. The 2017 TIP Report identified eight countries on the CSPA list: the Democratic Republic of Congo, Mali, Nigeria, Somalia, South Sudan, Sudan, Syria, and Yemen.

Reporting Requirements Related to the Special Watch List

Apart from the TIP Report, the TVPA, as amended, requires the Secretary of State to submit to appropriate congressional committees a special watch list composed of countries determined by the Secretary of State to require special scrutiny during the following year. This requirement to develop a special watch list was first enacted in the TVPA reauthorization of 2003.[17]

The TVPA mandates that this list be composed of three types of countries: (1) countries upgraded in most recent TIP Report and now assessed to be fully compliant with the minimum standards (from Tier 2 to Tier 1); (2) countries upgraded in the most recent TIP Report and now assessed to be making significant efforts toward compliance with the minimum standards (from Tier 3 to Tier 2); and (3) a subset of Tier 2 countries in which

- the absolute number of victims is very significant or significantly increasing;
- there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons, compared to the previous year; or
- the determination that significant efforts are being made to become compliant is based on government commitments to take additional future steps over the next year.

Relationship to the Tier 2 Watch List

Although the TVPA, as amended, authorizes the special watch list to be submitted separately from the TIP Report, the State Department introduced it as a feature in the 2004 TIP Report.[18] Beginning with the 2004 TIP Report, the department included a fourth list of countries in its annual TIP Report, called the Tier 2 Watch List. This Tier 2 Watch List is composed of the special watch list countries whose governments would otherwise be listed on Tier 2, except that the

[16] Title IV of the 2008 TVPRA; 22 U.S.C. 2370c et seq.

[17] This criterion was added by §6 of the 2003 TVPRA and amended by §1205 of the 2013 VAWRA; 22 U.S.C. 7107. The 2004 TIP Report was the first TIP Report to include the "special watch list." Beginning with the 2005 TIP Report, the State Department termed the special watch list countries that were not upgraded as "Tier 2 Watch List." For further discussion, see subsection on "Relationship to the Tier 2 Watch List."

[18] §110 of the TVPA, as amended, specifically requires the special watch list to be submitted to appropriate congressional committees no later than the date when the President submits a notification and determination regarding which countries will be barred or waived from certain categories of foreign assistance due to their failure to comply with the minimum standards and make significant efforts toward compliance. The latter notification and determination is required to be made not less than 45 days or more than 90 days after submission of the TIP Report (due June 1) or an "Interim Report" pursuant to §110(b)(2) of the TVPA, which may be referring to a provision that was struck by §1205(2) of the 2013 VAWRA.

absolute number of victims is large or growing, or antitrafficking efforts appear to have stalled or have yet to be implemented. (See **Table 4** below.)

Table 4. Tier 2 Watch List Countries in the 2017 TIP Report

Algeria	Djibouti	Macau	Rwanda
Antigua and Barbuda	Gabon	Madagascar	Saudi Arabia
Bangladesh	The Gambia	Marshall Islands	Senegal
Benin	Ghana	Moldova	Serbia
Bolivia	Guatemala	Montenegro	Suriname
Bulgaria	Haiti	Mozambique	Swaziland
Burkina Faso	Hong Kong	Nicaragua	Thailand
Burma	Hungary	Niger	Zambia
Cabo Verde	Iraq	Nigeria	Zimbabwe
Cameroon	Kuwait	Oman	
Chad	Laos	Pakistan	
Cuba	Liberia	Papua New Guinea	

Source: U.S. Department of State, TIP Report, June 28, 2017, p. 46.

Mid-Year Interim Assessment

Due on February 1 each year, the TVPA, as amended, requires the Secretary of State to submit to appropriate congressional committees an interim assessment of the progress made by each special watch list country since the last TIP Report.[19] These mid-year assessments are typically brief, stating both positive and negative developments in each special watch list country. Readers are unable to predict, based solely on these reports, whether a country's ranking will improve, remain the same, or decline in the next TIP Report.

Watch List Downgrades

The TVPA, as amended, requires that a country on the special watch list (in practice, the Tier 2 Watch List) for two consecutive years be subsequently listed among those whose governments do not fully comply and are not making significant efforts to become compliant (Tier 3). The requirement to limit the length of time a country may remain on the watch list was enacted in the TVPA reauthorization of 2008.[20] The first year in which it came into effect was 2009 and the first year in which a Tier 2 Watch List country was downgraded for its duration in this tier category was 2013.

In the 2017 TIP Report, a total of five countries were downgraded to Tier 3 after two or more consecutive years on the Tier 2 Watch List:

- **China** (downgraded after three consecutive years on the Tier 2 Watch List);
- **Democratic Republic of Congo** (downgraded after two consecutive years);
- **Republic of Congo** (downgraded after two consecutive years);

[19] §110 of the TVPA, as amended by §6 of the 2003 TVPRA; 22 U.S.C. 7107.

[20] §110 of the TPVA, as amended by §107 of the 2008 TVPRA; 22 U.S.C. 7107.

- **Guinea** (downgraded after four consecutive years); and
- **Mali** (downgraded after four consecutive years).

Watch List Downgrade Waivers

Pursuant to the TVPA, as amended, the President may waive downgrades for up to two years if the President determines and reports credible evidence justifying a waiver because

- the country has a written plan to begin making significant efforts to become compliant with the minimum standards for the elimination of trafficking in persons;
- the written plan, if implemented, would constitute significant efforts to become compliant with the minimum standards; and
- the country is devoting sufficient resources to implement the plan.[21]

In the 2017 TIP Report, a total of nine countries received waivers to stay on Tier 2 Watch List for more than two consecutive years. (See **Table 5** below.)

FAQ: How Is Congress Notified of Watch List Downgrade Waivers?

Credible evidence in support of downgrade waivers is to be submitted to the Senate Foreign Relations and the House Foreign Affairs Committees. Within 30 days after such congressional notification, the TVPA, as amended, also requires the Secretary of State to provide a detailed description of such evidence on a publicly available website maintained by the State Department.[22]

Table 5. Tier 2 Watch List Countries for More than Two Consecutive Years

Country Rank Outcomes in the 2014-2017 TIP Reports

Country	2014 TIP Report	2015 TIP Report	2016 TIP Report	2017 TIP Report
Antigua and Barbuda	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Bolivia	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Bulgaria	Tier 2	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Cuba	Tier 3	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Gabon	Tier 2	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Ghana	Tier 2	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Laos	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Pakistan	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List
Saudi Arabia	Tier 3	Tier 2 Watch List	Tier 2 Watch List	Tier 2 Watch List

[21] Ibid. The President delegated this waiver authority to the Secretary of State. See 75 FR 67023.

[22] §110 of the TPVA, as amended by §107 of the 2008 TVPRA and §1205 of the 2013 VAWRA; 22 U.S.C. 7107. The 2013 VAWRA added the public notice provision. A December 2016 U.S. Government Accountability Office (GAO) report found that the State Department had not posted the requisite detailed description online until September 2016. See GAO, *Human Trafficking: State Has Made Improvements in Its Annual Report but Does Not Explicitly Explain Certain Tier Rankings or Changes*, GAO-17-56, December 2016. For the 2017 public notification, see State Department, Office to Monitor and Combat Trafficking in Persons, "Memorandum of Justification Consistent with Section 110(B)(2)(D) of the Trafficking Victims Protection Act of 2000," webpage, July 18, 2017, https://www.state.gov/j/tip/rls/reports/2017/272651.htm.

Source: U.S. Department of State, TIP Reports, 2014-2017, pp. 58, 54, 56, and 46, respectfully.

Reporting Requirements in the TPA

The President is required to submit to appropriate congressional committees additional information on countries upgraded from Tier 3 in the prior year's TIP Report. Pursuant to the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA), as amended, the President must submit detailed descriptions of credible evidence supporting these upgrades.[23] The detailed descriptions may be accompanied by copies of documents providing such evidence.

In the 2017 TIP Report, nine countries were upgraded from Tier 3 in the 2016 TIP Report: Algeria, Burma, Djibouti, The Gambia, Haiti, Marshall Islands, Papua New Guinea, Suriname, and Zimbabwe.

Expectations for the Elimination of Trafficking

As discussed above, a central and required element of each TIP Report is the evaluation of each government's commitment to eliminating severe forms of trafficking in persons. Countries are assessed on the basis of four *minimum standards* and 12 *criteria* prescribed by the TVPA, as amended.[24] While the four minimum standards have not been amended since the TVPA was first enacted, the criteria for evaluating what constitutes *serious and sustained efforts* to eliminate trafficking have been modified and expanded through multiple reauthorizations of the TVPA since 2000.[25] Although these provisions prescribe the means through which the State Department evaluates the efforts of foreign governments, country-specific considerations often leave State Department officials considerable discretion in categorizing countries (for further discussion, see section on "Ranking Dispute Resolution" below).

Four Minimum Standards

The TVPA identifies four *minimum standards* for the elimination of trafficking, which governments are expected to achieve:[26]

1. Governments should prohibit severe forms of trafficking in persons and punish such acts.
2. Governments should prescribe punishment commensurate with that of grave crimes for the knowing commission of any act involving sex trafficking induced by force, fraud, or coercion; sex trafficking involving a child; or any act that includes rape, kidnapping, or which causes death.

[23] The TPA is Title I of P.L. 114-26, the Defending Public Safety Employees' Retirement Act. The TIP Report-related provision in the TPA was amended by §914 of the Trade Facilitation and Trade Enforcement Act of 2015. See 19 U.S.C. 4205. The President delegated this reporting requirement to the Secretary of State. See 81 FR 35579.

[24] §108 of the TVPA, as amended; 22 U.S.C. 7106.

[25] Although the four minimum standards have not been amended since the TVPA was first enacted, §106 of the 2008 TVPRA revised a prefatory provision that specified the types of countries, which would be evaluated in TIP Reports for compliance with the minimum standards. Originally, §108 of the TVPA stated that the minimum standards were "applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking." §106 of the 2008 TVPRA removed from §108 of the TVPA the phrase *a significant number of*—a phrase that the State Department had previously used to limit the number of countries subject to rankings in the TIP Report.

[26] §108 of the TVPA; 22 U.S.C. 7106.

3. Governments should prescribe punishment for the knowing commission of any severe form of trafficking in persons that is sufficiently stringent to deter future acts and adequately reflect the heinous nature of the offense.
4. Governments should make *serious and sustained efforts* to eliminate severe forms of trafficking in persons.

Twelve Criteria for *Serious and Sustained Efforts*

In assessing whether governments are achieving the fourth minimum standard, that of making *serious and sustained efforts* to eliminate severe forms of trafficking in persons, the TVPA initially included seven criteria, or indicative factors.[27] Subsequent TVPA reauthorizations amended the TVPA to modify some of the original criteria and expand the list. There are currently 12 criteria:

1. **Enforcement and prosecution—**whether governments vigorously investigate and prosecute acts of severe forms of trafficking in persons, including convicting and sentencing those responsible for such acts.[28]
2. **Victim protection—**whether governments protect victims of severe forms of trafficking in persons, encourage their assistance in the investigation and prosecution of such trafficking, and ensure that victims are not inappropriately incarcerated, filed, or otherwise penalized for unlawful acts resulting directly from having been trafficked.[29]
3. **Trafficking prevention—**whether governments have adopted measures to prevent severe forms of trafficking in persons.[30]
4. **International cooperation—**whether governments cooperate with other governments in the investigation and prosecution of severe forms of trafficking in persons and whether governments have entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with others.[31]
5. **Extradition—**whether governments extradite those charged with acts of severe forms of trafficking in persons on terms and to an extent similar to those charged with other serious crimes.
6. **Trafficking patterns and human rights protections—**whether governments monitor migration patterns for evidence of severe forms of trafficking in persons and whether law enforcement responses to such evidence are both consistent with the vigorous investigation and prosecution of acts of such trafficking and with the protection of a victim's human rights.

[27] The Conference Report accompanying the TVPA clarified that countries are not required to meet all the listed criteria. Specifically it states: "The conferees do not expect that a government would be required to fulfill all the criteria... in order to be making 'serious and sustained efforts' to eliminate severe forms of trafficking in persons. Rather, the subsection requires only that the Secretary consider these factors in determining whether the government is making such efforts." See Conference Report to Accompany H.R. 3244, Victims of Trafficking and Violence Protection Act of 2000, H.Rept. 106-939, October 5, 2000, p. 96.

[28] This criterion was amended by §6 of the 2003 TVPRA and §106 of the 2008 TVPRA.

[29] This criterion was amended by §106 of the 2008 TVPRA.

[30] This criterion was amended by §104 of the 2005 TVPRA (P.L. 109-164), §106 of the 2008 TVPRA, and §1204 of the VAWRA of 2013.

[31] This criterion was amended by §1204 of the 2013 VAWRA.

7. **Enforcement and prosecution of public officials**—whether governments vigorously investigate, prosecute, convict, and sentence public officials who participate in or facilitate severe forms of trafficking in persons, as well as whether governments take all appropriate measures against officials who condone such trafficking.[32]
8. **Foreign victims**—whether noncitizen victims of severe forms of trafficking in persons are insignificant as a percentage of all victims in a country.[33]
9. **Partnerships**—whether governments have entered into effective and transparent partnerships, cooperative arrangements, or agreements that have resulted in concrete and measurable outcomes with the United States or other external partners.[34]
10. **Self-monitoring**—whether governments systematically monitor their efforts to satisfy certain above-listed criteria and publicly share periodic assessments of such efforts.[35]
11. **Progress**—whether governments achieve appreciable progress in eliminating severe forms of trafficking in persons, compared to the previous year's assessment.[36]
12. **Demand reduction**—whether governments have made serious and sustained efforts to reduce demand for commercial sex acts and international sex tourism.[37]

Actions Against Governments Failing to Meet Minimum Standards

The TVPA established that certain types of foreign assistance may not be provided to governments that are not committed to meeting the minimum standards for the elimination of severe forms of trafficking in persons (Tier 3 countries).

> It is the policy of the United States not to provide nonhumanitarian, non-trade-related foreign assistance to any government that—
>
> (1) does not comply with minimum standards for the elimination of trafficking; and
>
> (2) is not making significant efforts to bring itself into compliance with such standards.[38]

FAQ: What constitutes *significant efforts*?

In determining whether a government is making significant efforts to become compliant with the four minimum standards for the elimination of trafficking, the TVPA requires the Secretary of State to consider three factors:

- the extent to which a country is a source, transit, or destination for severe forms of trafficking in persons;

[32] This criterion was amended by §6 of the 2003 TVPRA, §104 of the 2005 TVPRA, and §1204 of the 2013 VAWRA.

[33] This criterion was added by §6 of the 2003 TVPRA.

[34] This criterion was added by §1204 of the 2013 VAWRA.

[35] This criterion was added by §6 of the 2003 TVPRA (and moved by §1204 of the 2013 VAWRA).

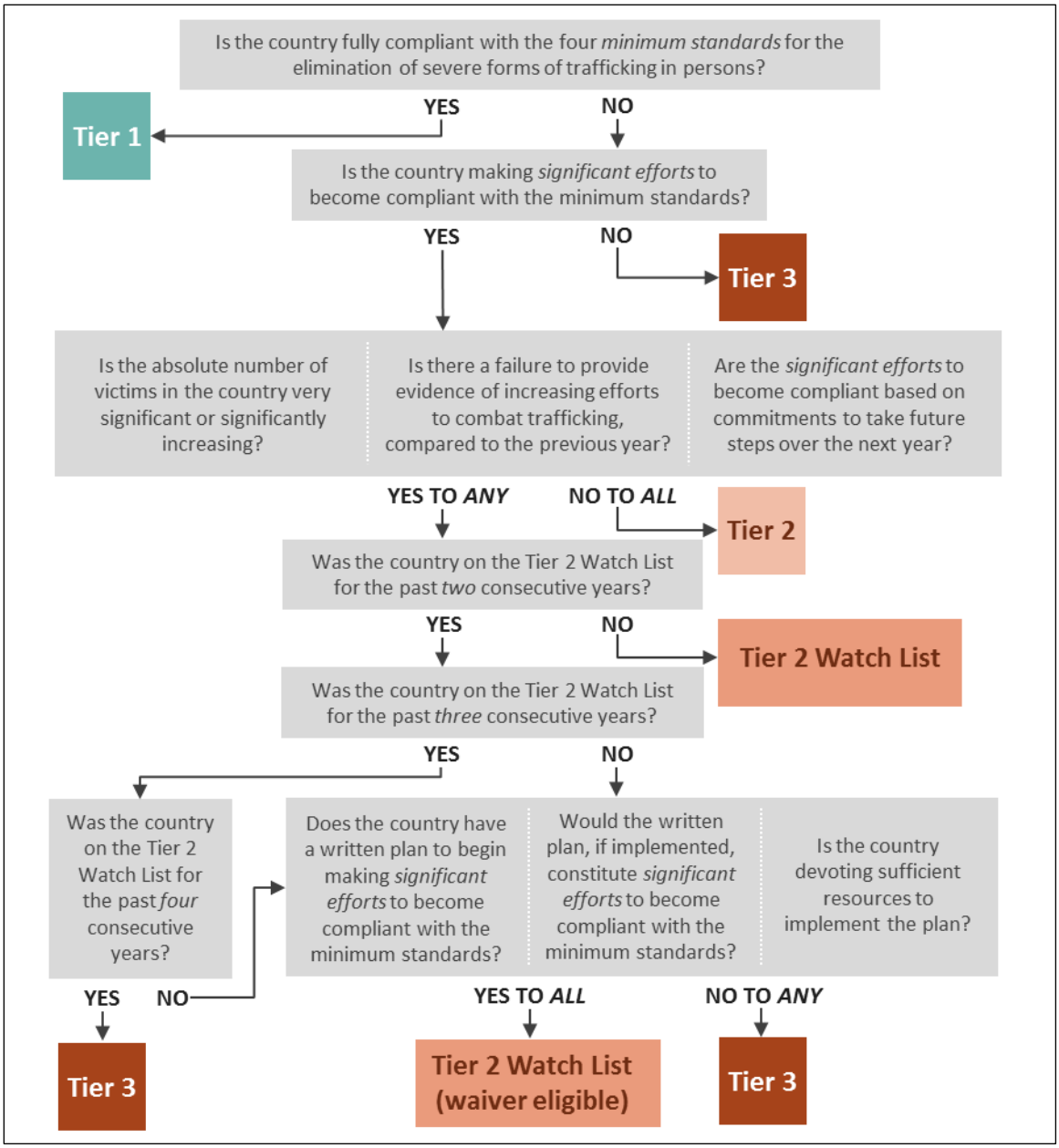
[36] Ibid.

[37] Key elements of this criterion had previously been included in the third criterion, as added by §104 of the 2005 TVPRA. It was later moved and modified by §106 of the 2008 TVPRA and then moved again by §1204 of the 2013 VAWRA.

[38] §110 of the TVPA; 22 U.S.C. 7107.

- the extent of noncompliance with the minimum standards by the countries, including in particular whether public officials are involved in severe forms of trafficking in persons; and
- what measures are reasonable, due to resource and capability constraints, to bring the government into compliance with the minimum standards.[39]

Figure 3. Country Ranking Decisions: Which Tier in the TIP Report?



Source: CRS, based on the TVPA, as amended.

[39] Ibid.

Aid Restrictions in the TVPA

The TVPA's provisions to restrict certain types of U.S. aid and certain other categories of U.S. and multilateral funding to Tier 3 countries began with the 2003 TIP Report. Funding subject to potential restriction includes *nonhumanitarian, non-trade-related foreign assistance* authorized pursuant to the Foreign Assistance Act of 1961, sales and financing authorized by the Arms Export Control Act (AECA), and educational and cultural exchange funding, as well as loans and other funding provided by multilateral development banks and the International Monetary Fund.

Aid Authorized by the Foreign Assistance Act of 1961

Nonhumanitarian, non-trade-related foreign assistance is defined in the TVPA[40] as assistance authorized pursuant to the Foreign Assistance Act of 1961 (FAA) except for the following:

- Assistance authorized under Chapter 4 of part II of the FAA in support of programs, projects, or activities conducted by nongovernmental organizations and eligible for Development Assistance under Chapter 1 of part I of the FAA;
- International Narcotics Control assistance authorized under chapter 8 of part I of the FAA;
- Any other counternarcotics assistance authorized under Chapters 4 or 5 of part II of the FAA (Economic Support Fund and International Military Education and Training), subject to certain congressional notification procedures;[41]
- Disaster relief assistance, including any assistance under Chapter 9 of part I of the FAA (International Disaster Assistance);
- Antiterrorism assistance authorized under Chapter 8 of part II of the FAA;
- Refugee assistance;
- Humanitarian and other development assistance in support of programs conducted by nongovernmental organizations under Chapters 1 and 10 of the FAA;[42]
- Overseas Private Investment Corporation programs authorized under Title IV of Chapter 2 of part I of the FAA; and
- Other trade-related or humanitarian assistance programs.

Sales and Financing Authorized by the Arms Export Control Act

Pursuant to the TVPA, *nonhumanitarian, non-trade-related foreign assistance* subject to aid restriction also includes

- Sales or financing on any terms authorized by the AECA—with the exception of sales or financing provided for narcotics-related purposes if congressionally notified.[43]

[40] §103 of the TVPA; 22 U.S.C. 7102.

[41] For the notification procedures, see Section 634 of the FAA, as amended (22 U.S.C. 2394-1).

[42] Pursuant to notes in the U.S. Code, the TVPA's reference to Chapters 1 and 10 of the FAA probably refers to Chapters 1 and 10 of part I of the FAA, which authorize development assistance and the Development Fund for Africa.

[43] For the notification procedures, see Section 634 of the FAA, as amended (22 U.S.C. 2394-1).

Funding for Educational and Cultural Exchanges

In the case of countries that do not receive such *nonhumanitarian, non-trade-related foreign assistance*, the TVPA authorizes the President to withhold funding for participation by officials or employees of Tier 3 in educational and cultural exchange programs.[44]

Loans and Other Funds Provided by Multilateral Development Banks and the International Monetary Fund

The TVPA authorizes the President to instruct the U.S. Executive Directors of each multilateral development bank and of the International Monetary Fund to vote against and otherwise attempt to deny loans or other uses of funds to Tier 3 countries.[45]

Presidential Determinations, Waivers, and Certifications

Between 45 and 90 days after submission of the annual TIP Report (due June 1), the TVPA[46] requires the President to make a determination regarding whether and to what extent antitrafficking aid restrictions are to be imposed on Tier 3 countries during the following fiscal year. (See **Table 6** below.) Typically issued near the beginning of the fiscal year and published in the *Federal Register*, the presidential determinations address the following:

- **Applicability of aid restrictions—**whether to withhold *nonhumanitarian, non-trade-related assistance* authorized by the FAA and the AECA, including whether to withhold funding for education and cultural exchanges and loans and other funds provided by multilateral development banks and the International Monetary Fund;
- **Duplication of aid restrictions—**whether ongoing, multiple, broad-based restrictions, comparable to those specified by the TVPA, on assistance in response to human rights violations are already in place;
- **Subsequent compliance**—whether the Secretary of State has found that the government of a Tier 3 country is now compliant with the minimum standards or is making significant efforts to become compliant; and
- **National interest concerns**—whether to continue assistance, in part or in whole, because it would promote the purposes of the TVPA or is otherwise in the national interest of the United States—including when the continuation of assistance is necessary to avoid significant adverse effects on vulnerable populations, such as women and children.

Pursuant to the TVPA, the President may selectively waive aid restrictions for national interest concerns, including exercise of the waiver for one or more specific programs, projects, or activities. Following the initial presidential determination required by the TVPA, as amended, the

[44] §110 of the TVPA; 22 U.S.C. 7107.

[45] Pursuant to §110 of the TVPA (22 U.S.C. 7107), the U.S. Executive Directors of each multilateral development bank and the International Monetary Fund may support loans and other uses of funds to Tier 3 countries for humanitarian assistance; trade-related assistance; or development assistance that directly addresses basic human needs, is not administered by the government of the Tier 3 country, and confers no benefit to that government.

[46] The TVPA specifies that Presidential determinations are to be made between 45 and 90 days after submission of the annual TIP Report or an "Interim Report" pursuant to §110(b)(2) of the TVPA. The Interim Report may be in reference to provision that was struck by §1205(2) of the 2013 VAWRA.

President may make additional determinations to waive, in part or in whole, aid restrictions on Tier 3 countries.[47]

As part of the President's determinations, the TVPA also requires the President to include a certification by the Secretary of State that no counternarcotics or counterterrorism assistance authorized by the FAA or arms sales and financing authorized by the AECA is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.[48]

Table 6. Aid Restrictions and Waivers for Tier 3 Countries, Pursuant to the TVPA, FY2004-FY2017

Fiscal Year	Aid Restricted	Full National Interest Waivers	Partial National Interest Waivers	Waivers Due to Subsequent Compliance
FY2004	Burma, Cuba, North Korea	none	Liberia, Sudan	Belize, Bosnia and Herzegovina, Dominican Republic, Georgia, Greece, Haiti, Kazakhstan, Suriname, Turkey, Uzbekistan
FY2005	Burma, Cuba, North Korea	none	Equatorial Guinea, Sudan, Venezuela	Bangladesh, Ecuador, Guyana, Sierra Leone
FY2006	Burma, Cuba, North Korea	Ecuador, Kuwait, Saudi Arabia	Cambodia, Venezuela	Bolivia, Jamaica, Qatar, Sudan, Togo, United Arab Emirates
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, Cuba, Syria	Algeria, Fiji, Kuwait, Papua New Guinea, Qatar, Saudi Arabia, Sudan	Iran, North Korea	Moldova, Oman
FY2010	Cuba, North Korea	Chad, Kuwait, Malaysia, Mauritania, Niger, Papua New Guinea, Saudi Arabia, Sudan	Burma, Eritrea, Fiji, Iran, Syria, Zimbabwe	Swaziland
FY2011	Eritrea, North Korea	Democratic Republic of Congo, Dominican Republic, Kuwait, Mauritania, Papua New Guinea, Saudi Arabia, Sudan	Burma, Cuba, Iran, Zimbabwe	none
FY2012	Eritrea, Madagascar, North Korea	Algeria, Central African Republic, Guinea-Bissau, Kuwait, Lebanon, Libya, Mauritania, Micronesia, Papua New Guinea, Saudi Arabia, Sudan, Turkmenistan, Yemen	Burma*, Cuba, Democratic Republic of Congo, Equatorial Guinea, Iran, Venezuela, Zimbabwe	none

[47] §110 of the TVPA, as added by §6 of the 2003 TVPRA; 22 U.S.C. 7107.

[48] §110 of the TVPA, as amended with technical edits by §1212 of the 2013 VAWRA; 22 U.S.C. 7107.

Fiscal Year	Aid Restricted	Full National Interest Waivers	Partial National Interest Waivers	Waivers Due to Subsequent Compliance
FY2013	Cuba, Eritrea, Madagascar, North Korea	Algeria, Central African Republic, Kuwait, Libya, Papua New Guinea, Saudi Arabia, Yemen	Democratic Republic of Congo, Equatorial Guinea, Iran, Sudan, Syria, Zimbabwe	none
FY2014	Cuba, Iran, North Korea	Algeria, Central African Republic, China, Guinea-Bissau, Kuwait, Libya, Mauritania, Papua New Guinea, Russia, Saudi Arabia, Uzbekistan, Yemen	Democratic Republic of Congo, Sudan, Equatorial Guinea, Eritrea, Syria, Zimbabwe	none
FY2015	Iran, North Korea, Russia	Algeria, Central African Republic, The Gambia, Guinea-Bissau, Kuwait, Libya, Malaysia, Mauritania, Papua New Guinea, Saudi Arabia, Thailand, Uzbekistan, Yemen	Cuba, Democratic Republic of Congo, Equatorial Guinea, Eritrea, Syria, Venezuela, Zimbabwe	none
FY2016	Iran, North Korea	Algeria, Belarus, Belize, Burundi, Central African Republic, Comoros, The Gambia, Guinea-Bissau, Kuwait, Libya, Marshall Islands, Mauritania, Thailand	Equatorial Guinea, Eritrea, Russia, South Sudan, Syria, Venezuela, Yemen, Zimbabwe	none
FY2017	Iran, North Korea	Algeria, Belarus, Belize, Burma, Burundi, Central African Republic, Comoros, Djibouti, The Gambia, Guinea-Bissau, Haiti, Marshall Islands, Mauritania, Papua New Guinea, Suriname, Turkmenistan, Uzbekistan	Equatorial Guinea, Eritrea, Russia, South Sudan, Sudan, Syria, Venezuela, Zimbabwe	none

Sources: Determination of the President of the United States, Nos. 2003-35 (68 FR 53871), 2004-46 (69 FR 56155), 2005-37 (70 FR 57481), 2006-25 (71 FR 64431), 2008-4 (72 FR 61037), 2009-5 (73 FR 63839), 2009-29 (74 FR 48365), 2010-15 (75 FR 67017, 68411), 2011-18 (76 FR 62599), 2012-16 (77 FR 58921, as amended by 77 FR 61046), 2013-16 (78 FR 58861), 2014-16 (79 FR 57699), 2016-01 (80 FR 62435), 2016-12 (81 FR 70311).

Notes: Following the President's delegation of authority on February 3, 2012 (see 77 FR 11375), the Secretary of State revised Presidential Determination No. 2011-18 on February 6, 2012, to waive prohibitions on U.S. support for assistance to Burma through international financial institutions. See U.S. Department of State Public Notice No. 7799 (77 FR 9295). Other presidential delegations of authority were issued on July 29, 2013, for Syria (78 FR 48027) and on October 5, 2015, for Yemen (78 FR 6505).

Security Assistance Restrictions in the CSPA

Countries listed in the current TIP Report as having recruited and used child soldiers are prohibited from receiving certain types of security assistance, including

- excess defense articles;[49]
- international military education and training;[50]

[49] As authorized by §516 of the FAA, as amended; 22 U.S.C. 2321j.

[50] As authorized by §541 of the FAA, as amended; 22 U.S.C. 2347.

- peacekeeping operations and other programs;[51]
- foreign military financing for the procurement of defense articles and services, as well as design and construction services;[52] and
- issuance of licenses for direct commercial sales of military equipment to countries listed in the current TIP Report for child soldiers recruitment and use.

(For further discussion about the CSPA's relationship to security cooperation programs and activities, see text box "FAQs on Child Soldiers Prohibitions" below.)

Exceptions and Presidential Determinations, Certifications, and Waivers

CSPA security assistance restrictions may not apply if one of four circumstances is invoked. (See **Table 7** below.)

- **Peacekeeping exception.** Assistance may continue to child soldier countries for peacekeeping operations that support military professionalization, security sector reform, heightened respect for human rights, peacekeeping preparation, or the demobilization and reintegration of child soldiers.
- **International military education and training and nonlethal supplies exception.** Assistance for international military education, training, and nonlethal supplies to child solider countries may continue for up to five years, if the President certifies to appropriate congressional committees that such assistance will directly support professionalization of the military. The President must also certify that the country is taking "reasonable steps to implement effective measures to demobilize child soldiers ... and is taking reasonable steps in the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers."
- **National interest waiver.** The President may waive the CSPA security assistance restrictions if it is determined that such a waiver is in the national interest of the United States and the President submits a notification and justification to appropriate congressional committees within 45 days of granting a waiver. The presidential determination is also typically published in the *Federal Register*, though the President's memorandum of justification is not. (See **Table 7** below.)
- **Reinstatement certification.** Security assistance otherwise prohibited by the CSPA may be reinstated if the President certifies to appropriate congressional committees that the government of the listed country has (1) implemented measures, including an action plan and actual steps to stop recruiting and using child soldiers, and (2) implemented policies and mechanisms to prohibit and prevent future use of child soldiers.

[51] As authorized by §551 of the FAA, as amended; 22 U.S.C. 2348.

[52] As authorized by §23 of the Arms Export Control Act, as amended; 22 U.S.C. 2763.

Table 7. Aid Restrictions and Waivers to Child Soldier Countries, Pursuant to the CSPA, FY2011-FY2017

Fiscal Year	Aid Restricted	Full National Interest Waivers	Partial National Interest Waivers	Waivers Due to Subsequent Compliance
FY2011	Burma, Somalia	Chad, Democratic Republic of Congo, Sudan, Yemen	none	none
FY2012	Burma, Somalia, Sudan	Yemen	Democratic Republic of Congo	Chad
FY2013	Burma, Sudan	Libya, South Sudan, Yemen	Democratic Republic of Congo, Somalia[a]	none
FY2014	Burma, Central African Republic, Rwanda, Sudan, Syria	Chad, South Sudan, Yemen	Democratic Republic of Congo, Somalia	none
FY2015	Burma, Sudan, Syria	Rwanda, Somalia, Yemen	Central African Republic, Democratic Republic of Congo, South Sudan	none
FY2016	Burma, Sudan, Syria, Yemen	Democratic Republic of Congo, Nigeria, Somalia	South Sudan	none
FY2017	Syria, Yemen, Sudan	Burma, Iraq, Nigeria	Democratic Republic of Congo, Rwanda, Somalia, South Sudan	none

Sources: Determination of the President of the United States, Nos. 2011-4 (75 FR 75855), 2012-01 (76 FR 65927), 2012-18 (77 FR 61509), 2013-17 (78 FR 63367), 2014-18 (79 FR 69755), 2015-13 (80 FR 62431), 2016-14 (81 FR 72683).

a. Following the President's delegation of authority on August 2, 2013 (see 78 FR 72789), the Secretary of State revised Presidential Determination No. 2012-18 on August 14, 2013, to partially waive restrictions on Somalia to allow for assistance under the Peacekeeping Operations authority for logistical support and troop stipends in FY2013. This State Department decision was not published in the *Federal Register*. In at least two other years, the President also delegated authority to the Secretary of State to make additional CSPA determinations with respect to Yemen: on September 29, 2015 (80 FR 62429), and on September 28, 2016 (81 FR 72681).

Security Assistance Restrictions in FY2017 Appropriations

The Consolidated Appropriations Act, 2017 (P.L. 115-31), contains two provisions that additionally prohibit certain types of security assistance from being used to support military training or operations that involve child soldiers. Similar provisions have also been included in prior appropriations measures in recent years.

- Section 8088 of the Department of Defense Appropriations Act, 2017 (Division C of P.L. 115-31), states that CSPA-listed countries may not receive certain funds appropriated by this act "to support any military training or operation that includes child soldiers" unless the President issues a determination pursuant to the CPSA that permits such assistance.[53]

[53] Specified funds, subject to restriction in Section 8088 of the FY2017 Defense Department Appropriations Act, include those made available for excess defense articles, assistance under Section 1206 of the National Defense

- Section 7034(b)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (Division J of P.L. 115-31), states that funds appropriated by this act "should not be used to support any military training or operations that include child soldiers."[54]

FAQs on Child Soldiers Prohibitions

Are countries that recruit and use child soldiers eligible to receive DOD security assistance?

Despite the CSPA and recent provisions in annual appropriations acts, it may be possible for CSPA-listed countries to receive U.S. security assistance. One category of such assistance may include security cooperation programs and activities authorized in Title 10 of the U.S. Code (Armed Forces), funded in annual Defense Appropriations, and executed by the U.S. Department of Defense (DOD). Although the FY2017 Defense Department Appropriations Act prohibits a few types of security assistance, most Title 10 security cooperation authorities are not addressed.

Has the President waived or partially waived DOD security assistance in annual CSPA determinations?

Presidential determinations to waive or partially waive CSPA security assistance restrictions have made reference in the past to some DOD security cooperation authorities that have been used to provide assistance to countries identified as recruiting and using child soldiers. In the most recent presidential determination with respect to the CSPA, issued by then-President Barack Obama on September 28, 2016, Somalia received a partial waiver to receive assistance in FY2017 authorized pursuant to 10 U.S.C. 2282.[55] South Sudan received a partial waiver to receive assistance in FY2017 authorized pursuant to Section 1208 of the FY2014 NDAA.[56]

Are security forces units that recruit and use children banned from assistance under the Leahy Laws?

The U.S. Leahy Laws—codified at 22 U.S.C. 2378d and 10 U.S.C. 362—prohibit U.S. security assistance otherwise provided by the U.S. Departments of State and Defense to foreign security forces when there is credible information that a recipient unit has committed a gross violation of human rights (GVHR). Although the recruitment and use of child soldiers is often described as a human rights concern, it is not specifically addressed by the Leahy Laws, which do not define GVHR. As a matter of policy, the U.S. government vets for credible information that indicates (1) torture, (2) extrajudicial killing, (3) enforced disappearance, or (4) rape under color of law.

Authorization Act for Fiscal Year 2006, and peacekeeping operations. Similar provisions have been included in recent past Defense Department Appropriations Acts. For FY2016, see Section 8088 of P.L. 114-113; for FY2015, see Section 8092 of P.L. 113-235; for FY2014, see Section 8116 of P.L. 113-76; for FY2013, see Section 8115 of P.L. 113-6; and for FY2012, see Section 8128 of P.L. 112-74.

[54] Similar provisions have been included in recent past Department of State, Foreign Operations, and Related Programs Appropriations Acts. For FY2016, see Section 7034(b)(1) of P.L. 114-113; for FY2015 see "peacekeeping operations" heading under Title IV of P.L. 113-235; for FY2014, see "peacekeeping operations" heading under Title IV of P.L. 113-76; for FY2013, see Section 1101 (extending Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012) of Title I, Division F of P.L. 113-6; for FY2012, see "peacekeeping operations" heading under Title IV of P.L. 112-74; and for FY2011, see Section 2111 (adding a child soldiers provision to the extension of FY2010 appropriations provisions for "peacekeeping operations") of Title XI of P.L. 112-10.

[55] See Determination of the President of the United States No. 2016-14 (81 FR 72683). 10 U.S.C. 2282, used by DOD to train, equip, and build the capacity of foreign security forces for counterterrorism and military or stability operations, may not be used to provide assistance "that is otherwise prohibited by any provision of law." Moreover, it may not be used to provide assistance "to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law."

[56] Section 1208 of the FY2014 NDAA, used by DOD to support operations to counter the Lord's Resistance Army, may not be used to provide assistance "that is otherwise prohibited by any provision of law."

Trade Restrictions in the TPA

Pursuant to the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA), as amended, trade authorities procedures may not apply to any implementing bill submitted with respect to an international trade agreement involving the government of a country listed as Tier 3 in the most recent annual TIP Report.[57] The trade authorities procedures described in the TPA are critical for the fast-tracking of international trade agreements, such as a free trade agreement.

The Trade Facilitation and Trade Enforcement Act of 2015 created an exception to the TPA's initial prohibitions.[58] This exception authorizes trade agreement negotiations to proceed with Tier 3 countries, but only if the President specifies in a letter to appropriate congressional committees that the country in question has taken "concrete actions to implement the principal recommendations with respect to that country in the past recent annual report on trafficking in persons."[59] The letter must include a description of the *concrete actions* and supporting documentation of *credible evidence* of each concrete action (e.g., copies of relevant laws, regulations, and enforcement actions take, as appropriate). Moreover, the letter must be made available to the public.

TIP Report Methodology

The TVPA created the Office to Monitor and Combat Trafficking in Persons (J/TIP) within the State Department, whose director holds the rank of Ambassador-at-Large.[60] The J/TIP director is charged with overseeing the annual publication of the TIP Report, among other responsibilities laid out in the TVPA. In parallel to the drafting of the introductory material and the country narratives, the department's Bureau of Democracy, Human Rights, and Labor (DRL) initiates the process for identifying countries to be included in the list of governments that recruit and use child soldiers. Although not specified in law, each TIP Report typically covers country developments beginning in April of each year and ending in March of the following year.

Information Sources

According to the State Department, information used to prepare the report is based on a variety of sources, including U.S. embassies, government officials, nongovernmental and international organizations, published reports, news articles, academic studies, and research trips. U.S. diplomatic posts and domestic agencies report on human trafficking issues throughout the year and the TIP Report incorporates information based on meetings with government officials, local and international nongovernmental representatives, officials of international organizations, journalists, academics, and survivors.

[57] §106 of the TPA added this statutory restriction; it was subsequently amended by §914 of the Trade Facilitation and Trade Enforcement Act of 2015; See 19 U.S.C. 4205.

[58] §914 of the Trade Facilitation and Trade Enforcement Act of 2015.

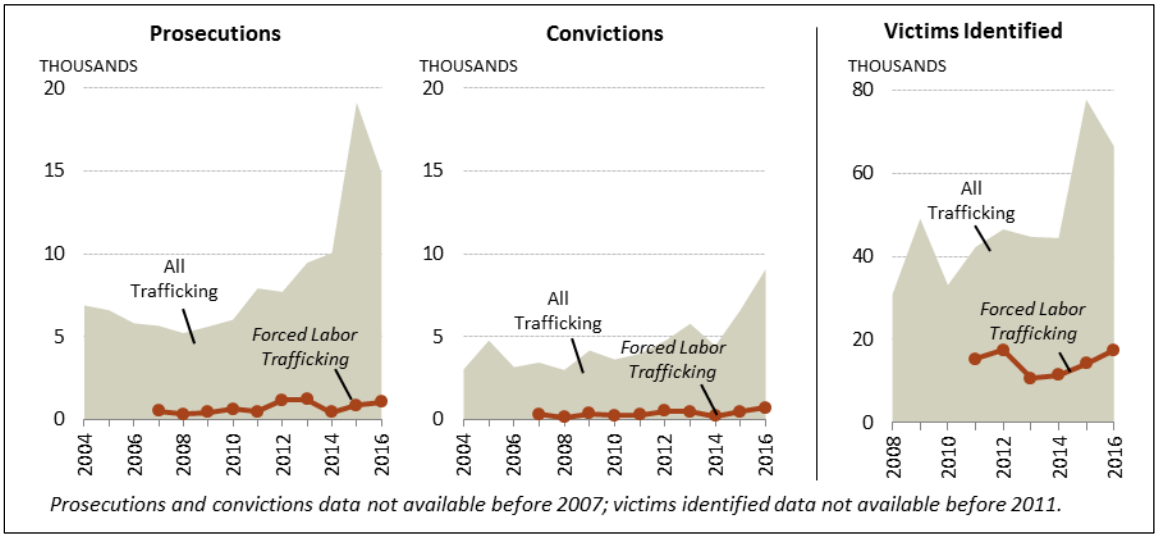
[59] *Appropriate congressional committees* in §106 of the TPA, as amended, refer to the Senate Finance Committee, SFRC, House Ways and Means Committee, and HFAC (the TVPA, in contrast, uses the term to refer to the SFRC, SJUD, HFAC, and HJUD). The definition was added by §914 of the Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4205. The President delegated this authority to the Secretary of State. See 81 FR 35579.

[60] §105 of the TVPA; 22 U.S.C. 7103.

Global Law Enforcement Data

Pursuant to the TVPA reauthorization of 2003, Congress added a new criterion for governments to achieve full compliance with the minimum standards for the elimination of severe forms of trafficking in persons: providing the State Department with data on trafficking investigations, prosecutions, convictions, and sentences.[61] (See **Figure 4** below.) Beginning with the 2004 TIP Report, the State Department has included this information in its TIP Reports—on a country-by-country basis, as well as in aggregate on a global and regional basis.

Figure 4. Global Law Enforcement Data from TIP Reports, 2004-2016



Source: CRS based on U.S. Department of State, TIP Reports, June 14, 2010, p. 45, and June 28, 2017, p. 34.

Notes: According to the most recent TIP Report (2017), with data covering the years 2009-2016:"The above statistics are estimates derived from data provided by foreign governments and other sources and reviewed by the Department of State. Aggregate data fluctuates from one year to the next due to the hidden nature of trafficking crimes, dynamic global events, shifts in government efforts, and a lack of uniformity in national reporting structures. The numbers in parentheses are those of labor trafficking prosecutions, convictions, and victims identified."

Information on Forced Labor

Pursuant to Title XII of the Violence Against Women Reauthorization Act of 2013, Congress requires the Departments of State and Labor to share information on forced labor, with the objective of informing both the State Department's TIP Report and the Labor Department's report on goods produced by forced or child labor in violation of international standards.[62]

Illustrative Draft Cycle

The annual process for drafting and releasing the TIP Report involves a period of worldwide information gathering, followed by an intense process of report drafting, led by J/TIP, but involving significant input from U.S. diplomatic missions and consular posts overseas as well as regional and functional bureaus. (See **Figure 5** below.) According to the State Department's

[61] §108 of the TPVA, as amended by §6 of the 2003 TVPRA.

[62] §105 of the 2005 TVPRA, as amended by §1232 of the 2013 VAWRA; 22 U.S.C. 7112.

Office of Inspector General (OIG), the annual rush to meet the report's statutory release deadline has often led to tensions and disagreements between bureaus and J/TIP regarding the draft country narratives and proposed tier rankings.[63]

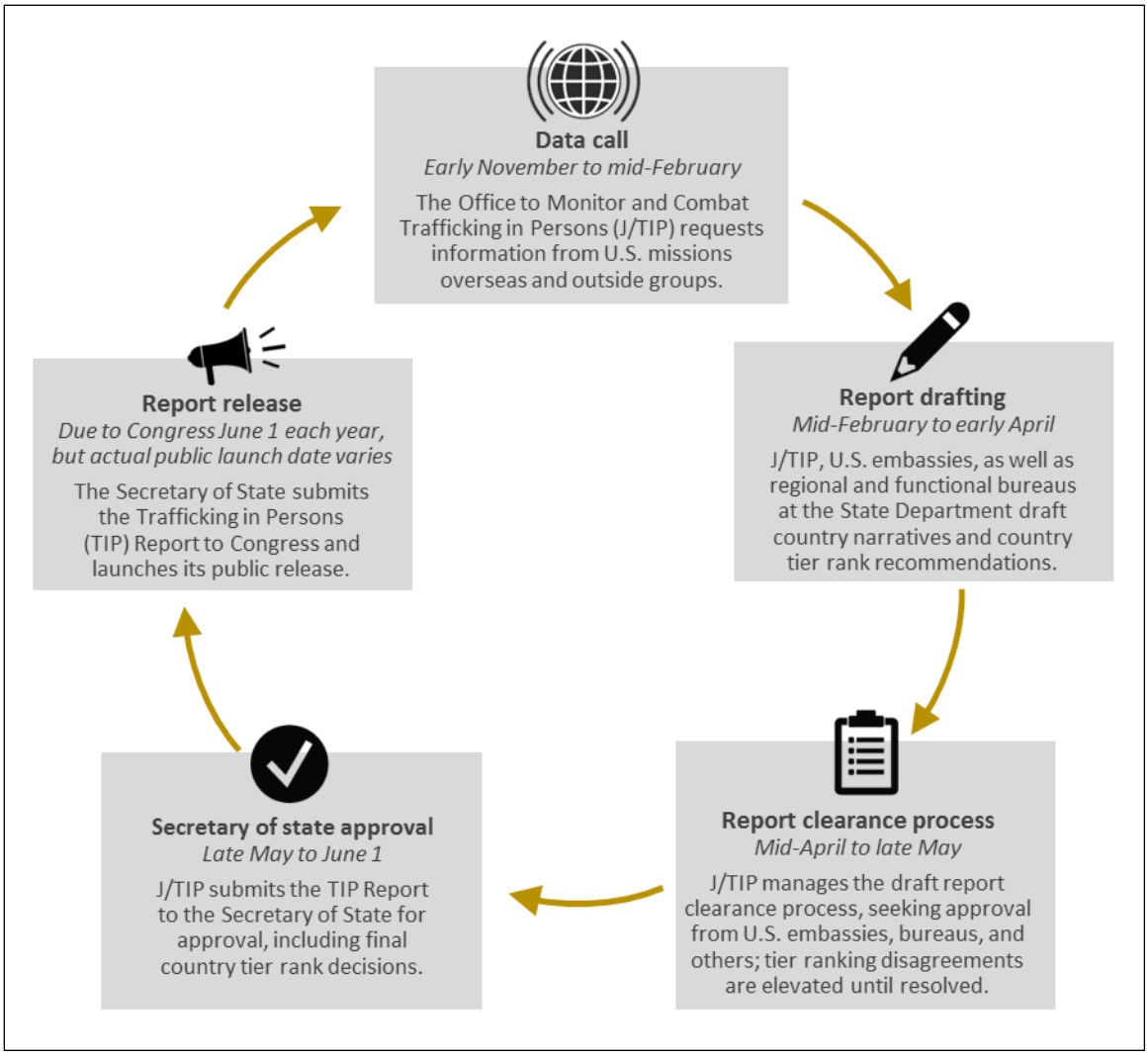
Over time, the report draft cycle has evolved. Beginning with preparations for the 2010 TIP Report, for example, the State Department began to issue annual notices in the *Federal Register*, requesting information from nongovernmental groups on whether governments meet the TVPA's minimum standards for the elimination of trafficking.[64] A 2012 OIG inspection report of the J/TIP Office identified several other internal process changes that resulted in a significant reduction of tier ranking disputes.[65]

[63] U.S. Department of State and the Broadcasting Board of Governors, Office of Inspector General, *Inspection of the Office to Monitor and Combat Trafficking in Persons*, ISP-I-12-37, June 2012.

[64] For the 2017 TIP Report, see 81 FR 90039.

[65] Ibid, p. 8. Among the changes identified by the OIG report were the inclusion of footnotes in internal drafts and the use of SharePoint software to make country-specific information accessible across different parts of the State Department.

Figure 5. TIP Report: Typical Draft and Review Process



Source: U.S. Government Accountability Office (GAO), *Human Trafficking: State Has Made Improvements in Its Annual Report but Does Not Explicitly Explain Certain Tier Rankings or Changes*, GAO-17-56, December 2016 and U.S. Department of State and the Broadcasting Board of Governors, Office of Inspector General, *Inspection of the Office to Monitor and Combat Trafficking in Persons*, ISP-I-12-37, June 2012.

Ranking Dispute Resolution

Although Congress has prescribed a range of expectations for the elimination of trafficking, ranking designations are not based on a concrete formula. Rather, country-specific considerations often leave State Department officials considerable discretion in categorizing countries. Consequently, some country rankings, initially proposed by J/TIP in early drafts of the TIP Report, have reportedly been disputed by other parts of the State Department, including regional bureaus and senior leadership. According to the 2012 OIG report, "the number of tier-ranking disputes between regional bureaus and J/TIP declined from 46 percent of all countries ranked in 2006 to 22 percent of those ranked in 2011."[66]

[66] Ibid.

On August 3, 2015, a *Reuters* news article reported that tier-ranking disputes for 2015 TIP Report involved 17 countries and that the J/TIP Office "won only three of those disputes, the worst ratio in the 15-year history of the unit."[67] The article indicated that countries whose rankings were disputed included China, Cuba, India, Malaysia, Mexico, and Uzbekistan—all of which reportedly received better rankings than the J/TIP Office had recommended. The article further reported that, typically, J/TIP "wins more than half" of the tier-ranking disputes.

In testimony before the Senate Foreign Relations Committee, J/TIP Director and Ambassador-at-Large Susan Coppedge declined to identify the specific number of tier-ranking disputes that preceded the release of the 2016 TIP Report. She noted, however, that the "vast majority" of the State Department's staff recommendations to the Secretary of State—encompassing those of J/TIP and the regional bureaus—were consensus recommendations.[68] In testimony before the Senate Foreign Relations Committee on the 2017 TIP Report, Coppedge noted that department staff could not agree on five countries' tier rankings.[69]

On June 24, 2017, a *Reuters* news article reported that Secretary of State Tillerson removed Burma and Iraq from the child soldiers list, overruling his own staff's assessments that children remain in the ranks of the Burmese Army and Iraqi government-affiliated militias.[70] Advocacy groups have also long suggested that Afghanistan be included on the child soldiers list—a proposal that was reportedly floated within the State Department this year as well.[71] According to the same *Reuters* article, an anonymous official stated that Tillerson's decision to leave Iraq and Afghanistan off the list was "made following pressure from the Pentagon to avoid complicating assistance to the Iraqi and Afghan militaries."

Allegations of Political Influence in Country Rankings

Although many observers view the TIP Report as a credible reflection of global efforts to address human trafficking, some have been critical of the methodology used to evaluate foreign country efforts and assign tier rankings. In a 2012 OIG report, the TIP Report was praised as having "gained wide credibility for its thoroughness" and "recognized as the definitive work by the anti-trafficking community on the status of anti-trafficking efforts."[72] The OIG report, however, also noted that some view the TIP Report as subjective and influenced by political pressures.

In December 2016, the U.S. Government Accountability Office (GAO) issued a report assessing the State Department's TIP Report and country ranking procedures.[73] In general, the State Department describes its tier ranking designations as not based on a concrete formula, but rather country-specific considerations that leave department officials considerable discretion. In analyzing its TIP Report methodology, the December 2016 GAO report assessed that the State Department lacked consistent and explicit explanations to justify upgrades and downgrades, which the report found problematic. It stated: "The lack of an explicit explanation for most of State's decisions to upgrade or downgrade countries to a different tier could limit the ability of

[67] Jason Szep and Matt Spetalnick, "Special Report: State Department Watered Down Human Trafficking Report," *Reuters*, August 3, 2015.

[68] CQ transcript of SFRC hearing on "Review of the 2016 Trafficking in Persons Report," July 12, 2016.

[69] CQ transcript of SFRC hearing on "Review of the 2017 Trafficking in Persons Report," July 13, 2017.

[70] Szep and Spetalnick, "Exclusive: Overruling Diplomats, U.S. to Drop Iraq, Myanmar from Child Soldiers' List," *Reuters*, June 24, 2017.

[71] See for example "U.S.: Return Burma, Iraq to Child Soldier List," *Human Rights Watch*, June 26, 2017.

[72] ISP-I-12-37 (June 2012).

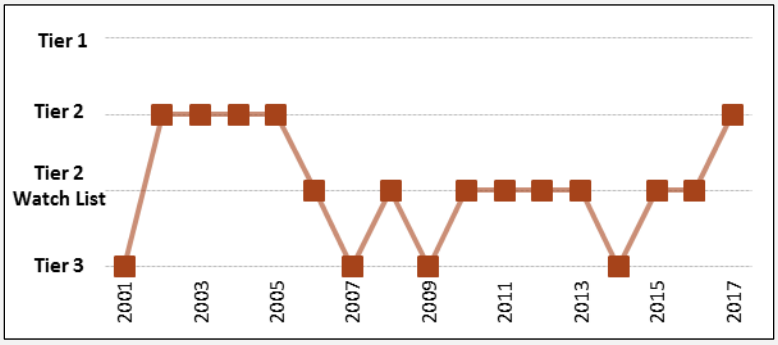
[73] GAO-17-56 (December 2016).

internal and external stakeholders to understand the justification for tier changes and, in turn, use the report as a diplomatic tool to advance efforts to combat trafficking."[74]

FAQ: How has Congress reacted to Malaysia's ranking in recent TIP reports?

Many observers alleged that Malaysia's rankings in the 2015 and 2016 TIP Reports were influenced by factors unrelated to the Malaysian government's efforts to eradicate human trafficking. After four consecutive years on the Tier 2 Watch List from 2010 through 2013, Malaysia was downgraded in 2014, as required by law, to Tier 3 for lack of significant progress to combat human trafficking. In 2015 and 2016, however, the State Department ranked Malaysia as a Tier 2 Watch List country (see **Figure 6** below).

Figure 6. Malaysia: Historical TIP Rankings, 2001-2017



Source: U.S. Department of State, TIP Reports, 2001-2017.

Notes: Malaysia received full waivers from aid restrictions when it was rated Tier 3 in 2007, 2009, and 2014.

The timing of the State Department's upgrade in 2015 was criticized by outside advocacy groups and many Members of Congress as politically motivated by the Trans-Pacific Partnership (TPP) trade deal negotiations with Malaysia, which were ongoing at the time. Just before release of the 2015 TIP Report, the 114th Congress enacted the TPA, which specified that authorities for fast-tracking trade deals like the TPP would not be applicable to Tier 3 countries.

Following the June 30, 2016, release of the 2016 TIP Report, in which Malaysia remained on the Tier 2 Watch List for a second consecutive year, several Members of Congress continued to express concerns over Malaysia's ranking. In the 2017 TIP Report, the department upgraded Malaysia to Tier 2. While Malaysian officials point to this year's TIP Report ranking as proof of the country's improved commitment to combating human trafficking, advocacy groups have expressed skepticism.

Report Release

Although not required by law, the State Department has always publicly released the report and the Secretary of State has personally presided over the launch of the annual TIP Report. The report, however, has never been published by its statutory June 1 deadline.[75] In addition to the statutory deadline for the annual release of the report, current law includes two other provisions related to the TIP Report's release, one that requires its translation and a second that connects the report's release with the presentation of the *Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons*.

[74] Ibid.

[75] Publications dates of the TIP Report were as follows: July 12, 2001; June 19, 2002; June 11, 2003; June 14, 2004; June 3, 2005; June 5, 2006; June 12, 2007; June 4, 2008; June 16, 2009; June 14, 2010; June 27, 2011; June 19, 2012; July 11, 2013; June 20, 2014; July 27, 2015; June 30, 2016; and June 28, 2017.

- **Translation requirement.** Pursuant to the Advance Democratic Values, Address Nondemocratic Countries, and Enhance Democracy Act of 2007, the Secretary of State is required to "expand the timely translation of applicable parts" of the TIP Report, among other reports prepared by the State Department.[76] Current law further specifies that the applicable parts of the TIP Report are to be translated "into the principal languages of as many countries as possible, with particular emphasis on nondemocratic countries, democratic transition countries, and countries in which extrajudicial killings, torture, or other serious violations of human rights have occurred."[77]
- **Award ceremony.** Pursuant to the TVPA reauthorization of 2008, the timing of the TIP Report's release corresponds to a requirement for the Secretary of State to host an annual ceremony for recipients of the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons.[78] Current law provides that the Secretary-hosted ceremony occur "as soon as practicable after the date on which the Secretary submits to Congress the [TIP R]eport.... "[79]

FAQ: What other required reports address international human trafficking matters?

Congress requires the executive branch to prepare and submit several other reports that address, at least in part, human trafficking matters. These include reports prepared by the Departments of State, Justice, and Labor.

- **State Department.** The TVPA and the CSPA require the State Department's annual Country Reports on Human Rights Practices to include information on human trafficking and child soldiers. In practice, the State Department satisfies this requirement by including a heading on *Trafficking in Persons* for each country in the report and a subheading on *Child Soldiers* for the CSPA-listed countries, referring and hyperlinking to the TIP Report. The most recent version of this report was released in 2017, covering human rights practices in 2016.
- **Justice Department.** The TVPA's reauthorization in 2003 added a provision to require the Attorney General to annually report, beginning in 2004, on U.S. government efforts to combat trafficking in persons.[80] The most recent publicly available edition of this report covers FY2015.
- **Labor Department.** The TVPA's reauthorization in 2005 added a provision to require the Bureau of International Labor Affairs to develop and make available a public list of goods from countries it has reason to believe are produced by forced labor or child labor in violation of international standards.[81] The list was most recently updated in September 2016. The Labor Department is also responsible for preparing an annual report on the Worst Forms of Child Labor.[82]

[76] See §2122 of Title XXI of the Advance Democratic Values, Address Nondemocratic Countries, and Enhance Democracy Act of 2007 (P.L. 110-53); 22 U.S.C. 8222. See also §107 of the 2008 TVPRA; 22 U.S.C. 7107 note.

[77] The provision, codified at 22 U.S.C. 8222, additionally required the Secretary of State to submit annual reports to appropriate congressional committees in 2008 through 2010 on the status of the law's implementation.

[78] §112B of the TVPA, as added by §109 of the 2008 TVPRA; 22 U.S.C. 7109b.

[79] The provision, codified at 22 U.S.C. 7109b, additionally authorizes the Secretary of State to pay the travel costs for each award recipient and for a guest of each recipient who attends the ceremony. For the fiscal years 2008 through 2011, Congress had authorized to be appropriated such sums as may be necessary to carry out the provision. This authority has since lapsed.

[80] §6 of the 2003 TVPRA amended §105 of the TPVA; it was also amended by §205 of the 2005 TVPRA, §§231 and 304 of the 2008 TVPRA, and §1231 of the 2013 VAWRA. See 22 U.S.C. 7103.

[81] §105 of the 2005 TVPRA, as amended by §§1232 and 1233 of the 2013 VAWRA; 22 U.S.C. 7112.

[82] §412 of the Trade and Development Act of 200 (P.L. 106-200) amended the Trade Act of 1974 (P.L. 93-618) to create this reporting requirement on the worst forms of child labor; 19 U.S.C. 2464.

Human Trafficking Trends

An implicit objective of the TVPA was to leverage the country ranking process of the TIP Report as a foreign policy tool to motivate foreign governments to prioritize and address human trafficking. Some suggest the TIP Report can be used as a potent form of soft power as both a "name-and-shame" or "blacklist" process and a mechanism for country-by-country monitoring of antitrafficking progress. In theory, publications like the TIP Report can mobilize domestic and international pressure for policy change.[83] In practice, while some countries appear to be responsive to the TIP Report, others remain intractable.

Out of 187 countries ranked in the 2017 TIP Report, 36 countries were ranked Tier 1 and more than 80% of the ranked countries in this year's TIP Report remained noncompliant with the minimum standards laid out by the TVPA for eliminating trafficking in persons.

Pathways to the Top. Several countries' rankings have improved from noncompliant to Tier 1, including

- **Armenia**, which was rated Tier 3 in 2002 and eventually improved to Tier 1 by 2013.
- **Guyana**, which was rated Tier 3 in the 2004 and experienced multiple years on the Tier 2 Watch List before attaining a Tier 1 rating for the first time in 2017.
- **Israel**, which was rated Tier 3 in 2001 and eventually improved to Tier 1 by 2012.
- **South Korea**, which was rated Tier 3 in 2001 and immediately improved to Tier 1 the following year.

Progress in Reverse. Other countries, which used to be fully compliant with the minimum standards to eliminate trafficking (Tier 1), have since become noncompliant, including

- **Benin**, which attained Tier 1 status in 2003, but after many years on Tier 2, further declined to the Tier 2 Watch List in 2016 and 2017.
- **Bosnia and Herzegovina**, which began as a Tier 3 country in 2001, attained Tier 1 status in 2010, but later declined to Tier 2 Watch List in 2014. It has been a Tier 2 country since 2015.
- **Cyprus**, which attained Tier 1 status in 2016 after many years vacillating between Tier 2 and Tier 2 Watch List, dropped back down to Tier 2 in 2017.
- **Hong Kong**, which began as a Tier 1 country in 2001 and remained so until 2008. In 2009, it dropped to Tier 2 and dropped again in 2016 to Tier 2 Watch List, where it remained in 2017.
- **Hungary**, which attained Tier 1 status in 2007, but dropped to Tier 2 Watch List in 2017.
- **Iceland**, which attained Tier 1 status in 2012, but dropped to Tier 2 in 2017.
- **Mauritius**, which began as a Tier 1 country in 2003 and has since vacillated between compliant and noncompliant. After dropping to Tier 2 Watch List in 2015, it rose to Tier 2 in 2016, where it remained in 2017.

[83] Judith G. Kelley and Beth A. Simmons, "Politics by Numbers: Indicators of Social Pressure in International Relations," *American Journal of Political Science*, Vol. 59, No. 1 (January 2015), pp. 55-70.

- **Morocco**, which attained Tier 1 status in 2003, but has been rated Tier 2 since 2015.
- **Nepal**, which attained Tier 1 status in 2005, but has since been rated Tier 2.
- **Nigeria**, which attained Tier 1 status in 2009, but dropped to Tier 2 Watch List in 2017.

No Change. The rankings of several other countries have been unchanged.

- **Unchanged Tier 1:** Australia, Austria, Belgium, Denmark, Germany, Italy, the Netherlands, New Zealand, Norway, Spain, United Kingdom, and United States.[84]
- **Unchanged Tier 2:** Aruba, Bhutan, El Salvador, Kosovo, Mongolia, Palau, and Uganda.[85]
- **Unchanged Tier 3:** Eritrea and North Korea.[86]

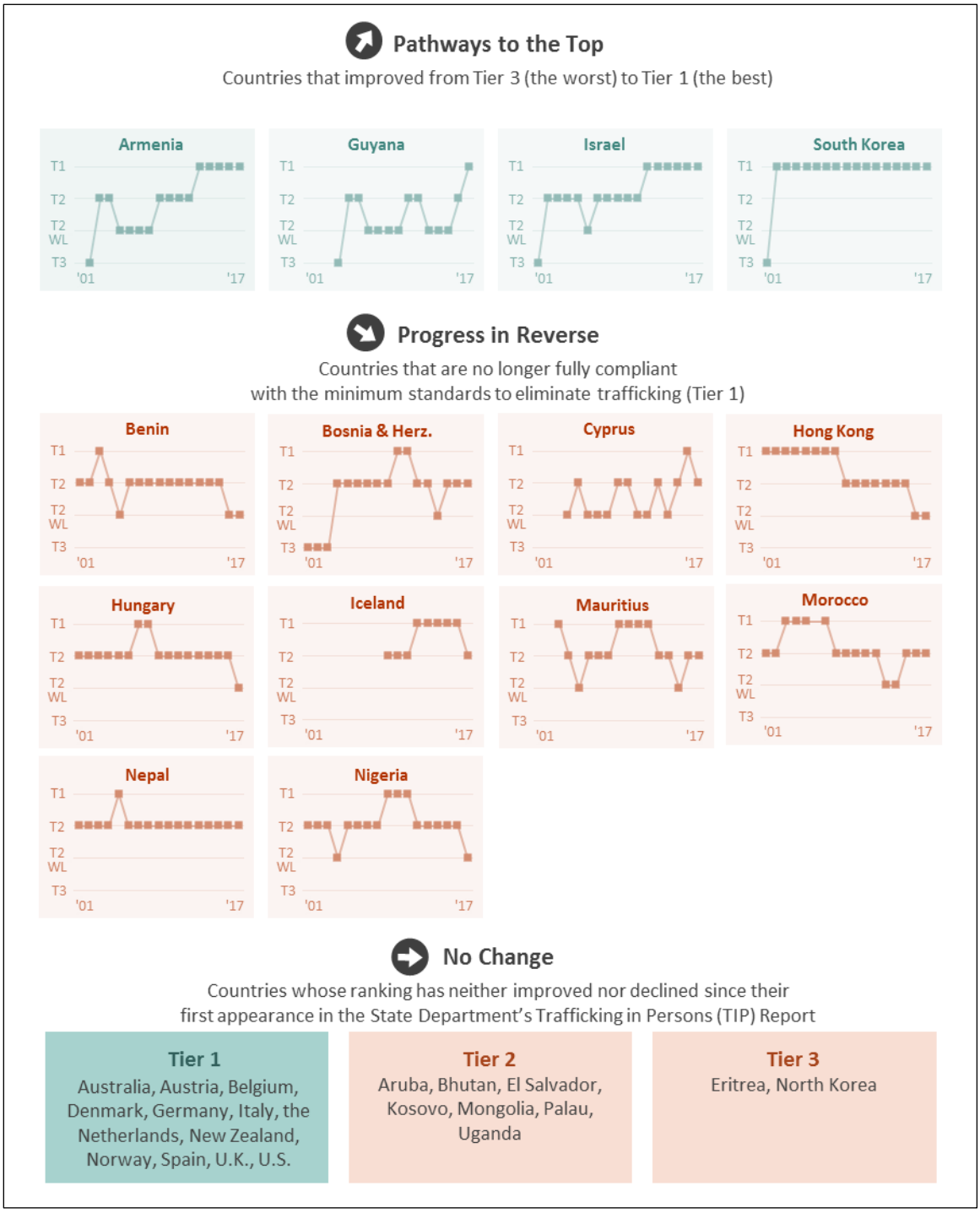
Of the 45 countries on the Tier 2 Watch List in the 2017 TIP Report, 22 had been Tier 2 Watch List in 2016 and 9 required waivers to remain on the Tier 2 Watch List for their third or fourth consecutive year. (See **Table 4** above for the list of Tier 2 Watch List countries in the 2017 TIP Report and discussion in section on "Watch List Downgrades" above.)

[84] Denmark and Norway were first ranked in 2003, Australia and New Zealand were first ranked in 2005, and the United States was first ranked in 2010.

[85] Mongolia was first ranked in 2005, Kosovo and Palau were first ranked in 2009, Aruba was first ranked in 2011, and Bhutan was first ranked in 2013.

[86] North Korea was first ranked in 2003 and Eritrea was first ranked in 2009.

Figure 7. Selected TIP Report Country Ranking Trends: Pathways, Progress, and Change, 2001-2017



Source: U.S. Department of State, TIP Reports, 2001-2017.

Legislative Oversight and Outlook

The State Department's TIP Report is highly anticipated each year in Congress, with congressional oversight and evaluation taking the form of hearings, requests for GAO reports, and legislation.

- **Hearings.** In recent years, the Senate Foreign Relations Committee has held closed briefings with State Department officials in anticipation of the TIP Report's release as well as public hearings after its publication.[87] The House Foreign Affairs Committee, particularly its Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, has also long held hearings on the TIP Report.[88]
- **Comptroller reports.** To date, GAO has prepared two reports that directly address the State Department's TIP Report, one in 2006 and a second in 2016.[89] Both contain GAO recommendations that remain pending or unimplemented.
- **Legislation in the 115th Congress.** Several bills in the 115th Congress have been introduced to further modify requirements associated with the TIP Report, including H.R. 2200, the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2017, which passed the House on July 12, 2017, and contains several changes to the TIP Report's country ranking process. Other bills introduced in the 115th Congress that, if passed, would modify requirements associated with the TIP Report include H.R. 436, the Human Trafficking Prioritization Act; S. 377, the Trafficking in Persons Report Integrity Act; H.R. 1191, the Child Soldier Prevention Act of 2017; and H.R. 2219 and S. 952, the End Banking for Human Traffickers Act of 2017.

Common themes in the legislative proposals to modify the TIP Report's methodology focus on reducing the prospects for political interference, while also increasing public transparency and congressional oversight into the State Department's country ranking process.

A key focus of the proposals involves changes to the special watch list or Tier 2 Watch List. Various bills seek to modify:

- the number of years a country may remain on the Tier 2 Watch List, from a maximum of four years (two consecutive years on Tier 2 Watch List, plus a maximum of two waivers to remain on the list for two more years) to three (two consecutive years on Tier 2 Watch List, plus one waiver);

[87] See SFRC hearings in the 115th and 114th Congresses: "Review of the 2017 Trafficking in Persons Report," July 13, 2017; "Closed: Preparing for the 2017 Trafficking in Persons Report," June 21, 2017; "Ending Modern Slavery: Building on Success," February 15, 2017; "Closed/Secret: Trafficking in Persons: Preparing the 2016 Annual Report," May 25, 2016; "Review of the 2016 Trafficking in Persons Report," July 12, 2016; "Closed Briefing: State Department Processes in Establishing Tier Rankings for the 2015 Trafficking in Persons Report," September 17, 2015; "Review of the 2015 Trafficking in Persons Report," August 6, 2015.

[88] See HFAC Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations hearings in the 115th and 114th Congresses: "Winning the Fight Against Human Trafficking: The Frederick Douglass Reauthorization Act," May 2, 2017; "Accountability Over Politics: Scrutinizing the Trafficking in Persons Report," July 12, 2016; and "Demanding Accountability: Evaluating the 2015 Trafficking in Persons Report," November 4, 2015.

[89] GAO-17-56 (December 2016); GAO, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*, GAO-06-825, July 18, 2006.

- the conditions under which a country may remain on the Tier 2 Watch List (excluding those that have committed to take future antitrafficking steps, but have not already taken concrete steps to implement policies that would constitute significant efforts toward becoming compliant with the TVPA's minimum standards for eliminating trafficking);
- expectations for upgrading a Tier 2 Watch List country that exhausted its permitted time on that list and was subsequently downgraded to Tier 3 for lack of progress, including whether or how long it would be permitted to return to the Tier 2 Watch List in the future;
- public documentation requirements to justify the continued listing of a country on the Tier 2 Watch List; and
- country narratives in the TIP Report to explicitly rationalize a country's upgrade or downgrade compared to its previous-year ranking.

Some bills also seek to further define key terms in the TVPA used by the State Department to determine country rankings, including proposed

- changes to the scope of foreign assistance subject to restriction;
- changes to the TVPA's four minimum standards for the elimination of trafficking;
- additions to the currently 12 criteria used to evaluate whether a country is making serious and sustained efforts to eliminate trafficking (the fourth minimum standard);
- revisions to what constitutes *significant efforts* to become compliant with the four minimum standards for the elimination of trafficking; and
- new definitions for the terms *concrete actions* and *credible evidence*.

If these proposals are enacted, they would constitute significant changes to the current TIP Report's methodology. A critical issue is whether changes to the TIP Report's methodology would motivate countries to do more to combat human trafficking or, in contrast, could undermine its value as a tool of soft power diplomacy. Some countries, which criticize the current ranking process as opaque, may prefer more detailed statutory instructions for how to assign tier rankings. Additional transparency in the TIP Report's rankings and country narratives could clarify expectations for future upgrades. Other countries, particularly those with limited resources and capabilities to address human trafficking, may have more difficulty proving progress in the report. If changes to the TIP Report's ranking process result in more countries falling to Tier 3, additional policy question may arise, including whether the President would subject more Tier 3 countries to foreign aid restrictions or whether the Administration would use waivers to minimize the consequences of poor rankings in the TIP Report.

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