

**Determination under Section 107(a) of the William Wilberforce Trafficking  
Victims Protection Reauthorization Act of 2008**

Pursuant to the authority vested in me by Section 107(a) of the William Wilberforce Trafficking Victims Protection Act of 2008 (P.L. 110-457) and Delegation of Waiver Authority Pursuant to Section 107(a) of Public Law 110-457, I hereby determine that a waiver of the application of clause (i) of Section 110(b)(3)(D) of the Trafficking Victims Protection Act of 2000, as amended (P.L. 106-386), is justified with respect to Azerbaijan, Bangladesh, Cameroon, China, Republic of the Congo, Guinea, Iraq, Mali, Qatar, Russia, St. Vincent and Grenadines, Tunisia, and Uzbekistan.

This Determination shall be reported to Congress and published in the Federal Register.

JUN 27 2011

Date

  
Hillary Rodham Clinton  
Secretary of State

**MEMORANDUM OF JUSTIFICATION  
CONSISTENT WITH SECTION 107(a) OF THE  
WILLIAM WILBERFORCE TRAFFICKING VICTIMS PROTECTION  
REAUTHORIZATION ACT OF 2008**

Section 107(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110-457) (2008 TVPRA) requires that a country that has been ranked Tier 2 Watch List for any two consecutive years after the enactment of the 2008 TVPRA (i.e., starting with the 2009 TIP Report), be included in the following year's report on the "Tier 3" list of countries whose governments do not, and are not making significant efforts to, fully comply with the minimum standards for the elimination of trafficking. Section 107(a) authorizes the President to waive application of this automatic downgrade for up to two years if he determines and reports credible evidence to the Committees on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, that such a waiver is justified because – "(I) the country has a written plan to begin making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking; (II) the plan, if implemented, would constitute making such significant efforts; and (III) the country is devoting sufficient resources to implement that plan." On September 20, 2010, the President delegated his waiver authority under Section 107(a) to the Secretary of State.

This Memorandum provides the justification for the invocation of the Section 107(a) waiver authority with respect to Azerbaijan, Bangladesh, Cameroon, China, Republic of Congo, Guinea, Iraq, Mali, Qatar, Russia, St. Vincent and Grenadines, Tunisia, and Uzbekistan.

**Explanations of the determinations regarding each of the thirteen countries follow:**

**Azerbaijan**

In February 2009, the Government of Azerbaijan produced a written plan covering the years 2009-2013 that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The President of Azerbaijan approved the national action plan which has been partially implemented and the National TIP Coordinator provided verbal assurances that the action plan encompasses forced labor. The plan promises to improve victim identification, a key weakness in Azerbaijan's anti-trafficking efforts, through training law enforcement and other public employees. The plan describes improved services to trafficking victims and more extensive awareness campaigns, particularly targeted toward government officials. The plan also describes increased coordination during criminal investigations and prosecutions to more efficiently prosecute trafficking offenders. The Government of Azerbaijan's action plan allocates funding for the entire plan out of the national budget, to be requested each year by implementing agencies during the creation of the yearly national budget; the National TIP Coordinator also provided verbal assurances that the 2011 allocation for anti-trafficking activities will likely increase from the 2010 level of \$625,000. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Azerbaijan is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Azerbaijan in 2011.

**Bangladesh**

In May 2011, the Government of Bangladesh submitted two documents to the United States that together serve as a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The Ministry of Home Affairs attached the draft anti-trafficking law to its submission, and described its plan to collaborate with other government agencies and the Parliament to pass the anti-trafficking law that is currently in its final stages; the draft law criminalizes the forced labor of men, a current gap in Bangladesh's legal framework. The Ministry of Home Affairs also described its commitment to combat trafficking through improving its district-level counter-trafficking committees that address preventing and combating trafficking, and through a joint task force with India on the rescue, recovery, repatriation, and integration of child victims of trafficking.

The Ministry of Foreign Affairs on behalf of the whole Government, submitted another document that reiterated the commitment to work to pass the anti-trafficking law; strengthen its anti-trafficking task force in an effort to ensure that recruiting agencies do not contribute to human trafficking; improve protective services, including for victims of labor trafficking; and institute reforms in the government's control over labor recruiters to lower migration costs and prevent conditions that contribute to forced labor, all key anti-trafficking efforts for Bangladesh.

The draft anti-trafficking law includes a provision establishing an "Anti-Human Trafficking Fund" that would provide resources for the Government of Bangladesh's anti-trafficking activities. Commentary in the draft law explains that this fund can be used for "any purpose under the Act or by an agency (governmental or non-governmental) including the Police or the Bangladeshi foreign mission on a rational basis." The Ministry of Foreign Affairs' document assures the United States that this provision of the anti-trafficking law "ensure[s] that the Government's mandate is properly funded." In addition to the commitment of resources in the draft law, the Government of Bangladesh has devoted resources toward the implementation of the plan through its district-level anti-trafficking committees and its joint task force with India. The Department of State's Bureau of South and Central Asian Affairs has communicated with authorities of the Bangladeshi government and confirmed that the government is committed to implementing the plan and is allocating sufficient resources. Therefore, because implementation of the written plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Bangladesh is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Bangladesh in 2011.

### **Cameroon**

In December 2010, the Government of Cameroon issued a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The Inter-Ministerial Committee, established in November 2010, adopted the plan and has been charged with its implementation. The plan incorporates short-term, medium-term, and long-term implementation goals and focuses largely on prosecution, including law enforcement training and revising the penal code to include the trafficking of adults, both key anti-trafficking efforts for Cameroon. The plan tasks the government with tangible deliverables, including: seeking additional funding for trafficking in persons work, which will allow for continuous

training, the revision of the penal code, and the creation of progress reports on the government's anti-trafficking efforts.

The goals set forth in the action plan are consistent with the Government's resources and capabilities. Cameroon's 2011 Budget, which was approved in February 2011 and funds the 2011 calendar year, includes \$45,000 allocated to the Office of the Prime Minister for the activities of the Inter-Ministerial Committee to prevent and combat trafficking in persons. Additionally, the 2011 Budget contains line items to combat trafficking for the various ministries and other institutions represented on the Inter-Ministerial Committee, though these individual figures, per ministry, could not be confirmed. These commitments of resources, in addition to dedication of existing human resources and facilities, including those of the Inter-Ministerial Committee and relevant government officials, appear sufficient to implement the goals of the plan. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Cameroon is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Cameroon in 2011.

### **China**

In 2010 and 2011, the Government of China promulgated and supplemented documents that together comprise a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The Chinese government has a written Action Plan for Combating Abduction and Trafficking of Women and Children covering the period of 2008-2012, which notes China's plan to improve operational coordination at the local level to investigate trafficking crimes, collect data on its efforts to combat trafficking, establish new victim protection services to ensure greater numbers of victims receive care, improve victims' reintegration into society, enhance international cooperation on trafficking issues, and prevent trafficking crimes, important actions that would improve China's anti-trafficking efforts. In April 2010, the Ministry of Public Security, the Supreme Peoples' Court, and the Supreme Peoples' Congress published written guidelines stating their intent to strengthen sentences for those who traffic women and children, and better coordinate law enforcement activities in these areas. Additional written commitments promulgated or supplemented by the Chinese Government, and reported by Embassy Beijing during the relevant period include 1) Ministry of Civil Affairs guidelines for shelter staff setting forth protocols for working with trafficking victims on temporary relief, return, and reintegration; 2) guidelines

directing law enforcement to acknowledge that women engaging in prostitution might be victims of forced commercial sexual exploitation by protecting the identities and assuming that women in prostitution are victims of human trafficking at the outset of an investigation; and 3) guidelines issued by the Ministry of Public Safety and the All China Women's Federation directing local women's organizations to report suspected trafficking cases to the national "12338" hotline or the "110" police emergency hotline to report cases of suspected human trafficking and instructing police to work with local women's federations to refer victims of trafficking for assistance in accordance with standards in the National Action Plan. These various guidelines will improve government officials' ability to identify victims of trafficking, refer them to available protection services, and provide adequate protection to victims of trafficking. Fulfillment of these commitments would address current weaknesses in China's anti-trafficking efforts.

The Chinese Government's 2008-2012 National Plan of Action addresses funding of its activities through multiple fundraising channels using contributions from the government and supplemented by donations to implement the plan. The Chinese Government also reports that it has dedicated resources to accomplishing the goals of this plan, including through allocating 4.5 million dollars to fund special investigators for labor inspections and by funding a nationwide network of shelters where victims can receive referrals for counseling and legal services. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Chinese Government is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for China in 2011.

### **Republic of the Congo**

Following the full implementation of their 2009-2010 Action Plan to combat child trafficking, the Government of the Republic of the Congo drafted a 2011-2013 action plan to combat child trafficking that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The plan addresses key weaknesses in the government's anti-trafficking efforts, including increased identification of trafficking victims and referrals to appropriate care. It provides for targeted awareness raising on child trafficking, as well as the continuation and amplification of efforts put forth in the 2009-2010 plan, including the care, support, reinsertion, and judicial assistance to more children with continued support to care centers and foster families. The 2011-2013 plan aims to identify, care and reintegrate at least 200 child victims of trafficking, an increase from 50

child victims of trafficking in the 2009-2010 plan. The *Direction Departmental des Affaires Sociales* (DDAS) under the Ministry of Social Affairs heads the interagency taskforce charged with implementation of the plan. DDAS established victim care as the plan's main objective. In the context of the resources and capabilities of the Government of the Republic of the Congo, the actions in this plan would constitute significant efforts to eliminate trafficking. Various government and non-government agencies will carry out implementation of the plan, and funding will be allocated both through governmental and non-governmental sources. The government's assurances of funding are corroborated by its full funding and implementation of the 2009-2010 Action plan, to which the government provided \$60,500 and UNICEF contributed \$140,000. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of the Republic of the Congo is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for the Republic of the Congo in 2011.

### **Guinea**

On April 7, 2011, the Government of Guinea produced a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The National Action Plan to Combat Trafficking in Persons in Guinea to cover the years 2009-2013 was signed and certified by the Minister of the Ministry of Social Affairs and Promotion of Women and Children, the ministry which chairs the country's anti-trafficking committee. This plan is an updated version of an earlier plan that was created in 2009 but not implemented. In 2010, the government took action on one item in the plan—to establish special groups within existing law enforcement services to design and effectively target operational activities to combat human trafficking—with the creation of a specialized unit of the police force to be responsible for child labor and child trafficking crimes. The plan broadly covers prosecution, protection, and prevention measures. The plan commits the Government of Guinea to, among other things, pass an anti-trafficking law, implement a National Policy to Combat Trafficking in Persons, and conduct anti-trafficking awareness campaigns by December 2011; develop measures to offer permanent residency to trafficking victims, open reception centers for trafficking victims with assistance from NGOs, improve efforts to collect and analyze data on trafficking, and train law enforcement and other government personnel to prosecute traffickers and care for victims by December 2012; and to prosecute suspected trafficking offenders by December 2013. The plan designates costs associated with each item and includes an action item to mobilize the

resources needed to carry out programs and ensure smooth operation of structures to combat trafficking in persons in Guinea by December 2011. Funding will come from both governmental and non-governmental sources, including UNICEF and the U.S. Embassy. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Guinea is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Guinea in 2011.

### **Iraq**

In April 2011, the Government of Iraq submitted to the United States a collection of documents that together comprise a written plan to combat trafficking in persons that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The Ministry of Human Rights, Ministry of Interior, and High Judicial Court each have indicated in writing the intention to participate in training law enforcement and judicial officers to build on current training provided to the Baghdad Police College. Through the training the GOI would seek, to strengthen the investigation of human trafficking cases, improve the identification and protection of victims of trafficking, key weaknesses in Iraq current anti-trafficking efforts. The Ministry of Human Rights also noted in writing its intent to embark upon public awareness campaigns to prevent human trafficking. The Council of Ministers adopted and sent for approval to the Council of Representatives a draft anti-trafficking law; an essential part of the Government of Iraq's plan of action is to see this law enacted as it would criminalize all forms of trafficking in persons. U.S. Embassy Baghdad has assessed the capacity and commitment of the relevant ministries; the Government of Iraq is dedicating sufficient human resources to accomplish these goals as well as seeking support from the United States for assistance in training. In the context of the current resources and capabilities of the Government of Iraq, passing a law, developing a public awareness campaign, improving victim protection policies, and strengthening anti-trafficking investigations constitute significant efforts. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Iraq is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Iraq in 2011.

## **Mali**

On May 2, 2011, the Government of Mali produced a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The Minister of Justice produced a signed letter certifying that the “National Priority Activities for Combating Trafficking in Persons for 2010,” a document created by the Ministry for the Promotion of Women, Children and Families when this ministry chaired Mali’s anti-trafficking coordinating committee, remains the country’s de facto national action plan to fight trafficking until such time that the new anti-trafficking committee creates an updated action plan. The National Coordination Committee to Combat Trafficking in Persons and Similar Practices was established on February 3, 2011, under the authority of the Minister of Justice. Taken together, the Minister of Justice’s letter, the National Priority Activities document, and Decree No. 2011-036 establishing the National Coordination Committee to Combat Trafficking in Persons and Similar Practices, represent a commitment from the government to adopt an anti-trafficking law; to develop a data collection system; to pursue judicial charges against criminals who commit trafficking crimes, including cases of hereditary slavery; to strengthen assistance to trafficking victims; and to implement public awareness campaigns about the dangers of trafficking – these commitments address current key weaknesses in Mali’s anti-trafficking efforts. The Minister of Justice reported that funds were allocated by the government to implement items contained in the National Priority Activities document, and the government began implementation in February 2011 through the creation of the National Coordination Committee to Combat Trafficking in Persons and Similar Practices. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Mali is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Mali in 2011.

## **Qatar**

In February 2011, the Government of Qatar adopted a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The action plan for the years 2010 to 2015 to combat trafficking in persons that addresses many of the recommendations in the 2010 Trafficking in Persons Report. The Qatar Foundation for Combating Human Trafficking approved the national action plan. The plan promised to strengthen the investigation of human trafficking cases through training of government officials, improve the identification and protection of victims of trafficking, embark upon public

awareness campaigns to prevent human trafficking, and undertake research on the broader causes and circumstances of trafficking in Qatar, a comprehensive approach that would significantly improve Qatar's anti-trafficking efforts. The Government of Qatar's action plan provides a detailed explanation of the sources of funding to implement the provisions of the action plan, including through human and tangible resources. Therefore, because implementation of the action plan would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Qatar is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Qatar in 2011.

### **Russia**

The Government of Russia has a written plan that, if implemented, would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. On December 10, 2010, Russian President Medvedev signed the Programme of Cooperation of Commonwealth of Independent States Members in Combating Trafficking in Human Beings for 2011-2013. In addition to enhancing inter-governmental collaboration on anti-trafficking efforts, the Programme addresses national anti-trafficking measures such as the establishment of a State Fund to assist victims of trafficking and provide for the rehabilitation of victims; the introduction of procedures for the safe return of trafficked persons; amendments to counter-trafficking legislation; and the development of national standards and practical mechanisms for providing guaranteed free medical, psychological and other emergency assistance to victims – implementation of these commitments would address key gaps in Russia's anti-trafficking efforts. The Programme further calls for the development and implementation of preventive measures on counteracting human trafficking, such as biometric or other technologies used for protecting documents used at state border crossings.

The Russian Embassy confirmed that Russia was the principal author of the Programme of Cooperation of Commonwealth of Independent States Members in Combating Trafficking in Human Beings for 2011-2013, and that the government considers itself bound to implement the requirements of the Programme, including through development of a subsequent formal plan specific to the Russian Federation. The Programme addresses funding both in the Decision and in the text of the Programme, providing that funding for joint activities of the Programme will be carried out by the CIS member states in accordance with the agreements within the range of finance annually provided by national budgets to corresponding state bodies for execution of their functions. The Russian government has indicated on

multiple occasions to U.S. diplomats and personnel of the Department of State, Bureau of European and Eurasian Affairs, their seriousness about implementing the Programme and their commitment to allocate sufficient resources to that end. The Russian government is ensuring high-level direction of the effort through the Prosecutor General's naming of his Deputy Prosecutor General, Alexander Zvyagintsev, to be the point person in the Procuracy on the issue of trafficking in persons and a counterpart to Ambassador CdeBaca. Therefore, because implementation of the Programme would constitute making significant efforts to bring the country into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Russia is devoting sufficient resources to implement the plan, a waiver of the application of Section 107(a) of the 2008 TVPRA to Russia is justified in 2011.

### **St. Vincent and Grenadines**

The Government of St. Vincent and Grenadines produced a written plan whose implementation would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The Prime Minister of St. Vincent and Grenadines endorsed an anti-TIP "Work Programme" that the government released on February 7, 2011. The document was the result of collaborative efforts from the Ministry of National Security, the Ministry of Social Mobilization, the Attorney General, the Director of Public Prosecutions, the Commissioner of Police, the Director of Immigration, and a local NGO. The document calls for the development of an anti-trafficking law, implementation of the law, and public awareness – these are fundamental necessary steps to improve the government's anti-trafficking framework and efforts. While the document does not address specific monetary outlays, it tasks specific ministries with implementation of each objective with the understanding that the resources for the plan's implementation would originate in the budget of the ministries tasked. In the context of the current resources and capabilities of the government, the devotion of the ministries' budgetary outlays will be sufficient for the implementation of the proposed tasks. Therefore, because implementation of the action plan would constitute making significant efforts to bring St. Vincent and Grenadines into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of St. Vincent and Grenadines is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for St. Vincent and Grenadines in 2011.

### **Tunisia**

In April 2011, the Government of Tunisia delivered to the United States a paper coordinated by the Ministry of Foreign Affairs, setting forth intended anti-

trafficking activities for the upcoming years; the plan's implementation would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The interim government pledged to strengthen law enforcement mechanisms for human trafficking, identify trafficking victims, and raise public awareness of trafficking, none of which had been undertaken by the Ben Ali government prior to the January revolution and which are key to combating trafficking in Tunisia. The Government of Tunisia's paper relies on existing resources, including personnel, to implement its provisions, as well as the formation of a National Commission to Combat Trafficking in Persons to be composed of representatives of relevant ministries and civil society that will oversee and monitor implementation of the national strategy, coordinate government action and raise awareness. The Tunisian government presented the plan to the United States in an unprecedented interagency meeting of relevant actors who had previously been unable to coordinate or to work with civil society under the previous government. Therefore, because implementation of this written plan would constitute making significant efforts to bring the Government of Tunisia into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Tunisia is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Tunisia in 2011.

### **Uzbekistan**

In March 2011, the Government of Uzbekistan set forth a written plan of action for an Interagency Working Group on the execution of Conventions of the International Labor Organization ratified by Uzbekistan; the plan's implementation would constitute making significant efforts to bring the country into compliance with the minimum standards for the elimination of trafficking. The written plan describes measures to protect the rights of workers, including children and prevent child and forced labor. One of the main objectives is to ensure the protection of rights of minors at employment and protect working conditions, an essential step for the government to address trafficking in Uzbekistan. The plan tasks the interagency working group with exercising control over the working conditions of minors, including by observance of the minimum age of employment, coordinating state activities on labor relations, and preparing subsequent formal National Action Plans. One function of the group is to analyze local authorities' observance of labor legislation. The Uzbek government granted the working group the power to make obligatory decisions for government bodies, institutions, officials, and citizens. The Department of State's Bureau of South and Central Asian Affairs has communicated with authorities of Uzbek government and confirmed that the government is committed to implementing the plan and is

allocating sufficient resources. Therefore, because implementation of the action plan would constitute making significant efforts to bring Uzbekistan into compliance with the Minimum Standards for the Elimination of Trafficking, and because the Government of Uzbekistan is devoting sufficient resources to implement the plan, a waiver is justified under Section 107(a) for Uzbekistan in 2011.