

trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) Construction

Nothing in subsection (c) of this section shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) Protection from removal for certain crime victims

(1)–(4) Omitted

(5) Statutory construction

Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 1229a of title 8 against an alien admitted as a nonimmigrant under section 1101(a)(15)(T)(i) of title 8, as added by subsection (e) of this section, for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 1101(a)(15)(T)(i) of title 8.

(f) Omitted

(g) Annual reports

On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 1101(a)(15)(T) of title 8, as added by subsection (e) of this section, or who were unable to adjust their status under section 1255(l) of title 8, solely on account of the unavailability of visas due to a limitation imposed by section 1184(n)(1) or 1255(l)(4)(A) of title 8.

(Pub. L. 106–386, div. A, § 107, Oct. 28, 2000, 114 Stat. 1474; Pub. L. 107–228, div. A, title VI, § 682(a), Sept. 30, 2002, 116 Stat. 1409.)

REFERENCES IN TEXT

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (b)(1)(A), is title IV (§ 400 et seq.) of Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2260, as amended. For complete classification of title IV to the Code, see Tables.

For the amendments made by this section, referred to in subsec. (e)(5), see Codification note below.

CODIFICATION

Section is comprised of section 107 of Pub. L. 106–386. Subsec. (e)(1)–(4) of section 107 of Pub. L. 106–386 amended sections 1101, 1182, and 1184 of Title 8, Aliens and Nationality, and subsec. (f) of section 107 of Pub. L. 106–386 amended section 1255 of Title 8.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–228 inserted “In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:” at end of introductory provisions and added subpars. (A) to (E).

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related

references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7110 of this title.

§ 7106. Minimum standards for the elimination of trafficking

(a) Minimum standards

For purposes of this chapter, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) Criteria

In determinations under subsection (a)(4) of this section, the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(5) Whether the government of the country extradites persons charged with acts of severe

forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

(Pub. L. 106-386, div. A, § 108, Oct. 28, 2000, 114 Stat. 1480.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7102 of this title.

§ 7107. Actions against governments failing to meet minimum standards

(a) Statement of policy

It is the policy of the United States not to provide nonhumanitarian, nontrade-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.

(b) Reports to Congress

(1) Annual report

Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

- (A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;
- (B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and
- (C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) Interim reports

In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

- (A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or
- (B) have begun or ceased to make significant efforts to bring themselves into compliance,

since the transmission of the last annual report.

(3) Significant efforts

In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

- (A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;
- (B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and
- (C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) Notification

Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1) of this section, or an interim report under subsection (b)(2) of this section, the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) of this section with respect to each foreign country whose government, according to such report—

- (A) does not comply with the minimum standards for the elimination of trafficking; and
- (B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C) of this section.

(d) Presidential determinations

The determinations referred to in subsection (c) of this section are the following:

(1) Withholding of nonhumanitarian, nontrade-related assistance

The President has determined that—

- (A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or
- (ii) in the case of a country whose government received no nonhumanitarian,