



American ideals. Universal values.

BLUEPRINT

# How to Dismantle the Business of Human Trafficking

**BLUEPRINT FOR CONGRESS**

February 2017

## Human Rights First

### American ideals. Universal values.

On human rights, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

*Human Rights First is a nonprofit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding.*

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*“As I have seen firsthand, the stark reality of modern slavery is unconscionable, demanding the United States and civilized world make a commitment to end it for good.”*

**Senator Bob Corker**

February 24, 2015

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## Introduction

The United States abolished slavery with the ratification of the 13<sup>th</sup> Amendment more than 150 years ago, and slavery is illegal everywhere. However, the International Labor Organization estimates that there are more than 20 million slaves in the world today<sup>1</sup>—about twice as many as there were during the time of the transatlantic slave trade. The United States is both a source and destination for victims.

Since passage of the Trafficking Victims Protection Act (TVPA) of 2000—and its subsequent reauthorizations—the U.S. government has taken steps to build an anti-human trafficking infrastructure. Through annual publication of the Department of State’s (DOS) Trafficking in Persons (TIP) report,<sup>2</sup> the United States has led the movement to call worldwide attention to this problem. The DOS Office to Monitor and Combat Trafficking in Persons (J/TIP) provides grants to both American and foreign institutions involved in prevention and awareness raising, protection and victim services, law enforcement and efforts to increase prosecutions, research and data collection, and evaluation. J/TIP also facilitates coordination between U.S. agencies, both at home and abroad, including those on the President’s Interagency Task Force (PITF).<sup>3</sup>

Despite these efforts, human trafficking continues to be a massive human rights problem across the globe, one that inflicts suffering on millions and undermines legitimate, law-abiding U.S. businesses and their workers. Victims are forced to work in fields and factories and on fishing boats for little to no pay, while others are held captive in private homes. Forced prostitution rings imprison women, girls, and boys in brothels or make them to work on the streets under threat of abuse.

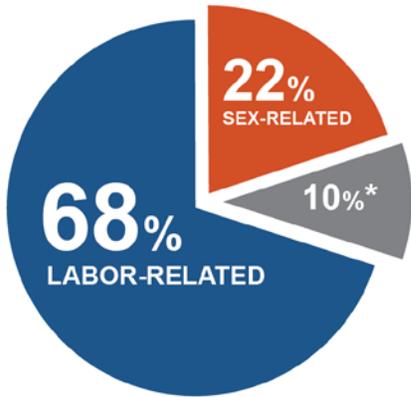


**GLOBALLY,  
there are 20.9 million  
trafficking victims,  
BUT  
there were only 6,609  
trafficking-related  
convictions in 2015.**

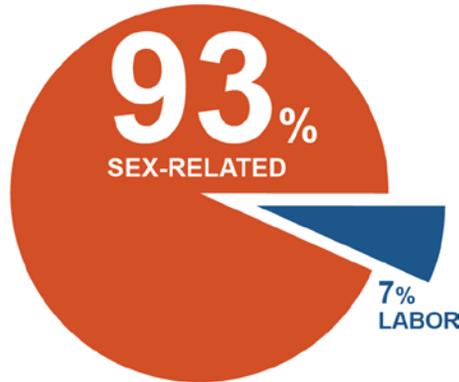
The primary reason for the persistence of slavery is clear: the crime pays. Operating with virtual impunity, traffickers earn an estimated \$150 billion annually in illicit profits worldwide.<sup>4</sup> The 2016 DOS TIP report used law enforcement data to determine that there were only 6,609 human trafficking convictions globally in 2015—a paltry figure considering the millions of victims. The U.S. government reported just 297 convictions in 2015.<sup>5</sup>

The United States should flip the financial equation for traffickers: dismantle the business of human trafficking by increasing the risks and decreasing the profits. To that end, the 115<sup>th</sup> U.S. Congress has an opportunity to prioritize policies that will increase prosecutions through the annual appropriations process and the Trafficking Victims Protection Act, which is up for reauthorization this fall. These policies should strengthen partnerships across federal, state and local law enforcement and related agencies, and increase funding to create more effective and sustainable efforts to combat this horrific crime.

Globally, millions of labor-trafficking crimes—and victims—are slipping through the cracks because of lack of funding.



**VICTIMS PER TRAFFICKING TYPE**  
20.9 million world-wide



**CONVICTIONS PER TRAFFICKING TYPE**  
6,609 world-wide

\*STATE-IMPOSED: Labor, military or paramilitary forces (including child soldiers and the like).

percent of DOJ human trafficking prosecutions, but there has been a steady decline in these cases since 2009.<sup>6</sup>

■ Human trafficking cases, which require sustained effort and collaboration, are usually difficult to prosecute. While sex trafficking cases often involve prostitution, which is illegal across most of

the United States, labor cases can hide in legitimate businesses, making them harder to identify. Labor trafficking is especially hard to prosecute, in part because these cases require more resources, more investigation, and more coordination with other agencies. The number of human trafficking cases filed has increased 119 percent in areas where there is interagency coordination between representatives from DOJ, the Department of Homeland Security (DHS) and the Department of Labor (DOL). This is compared to only an 18 percent increase where this collaborative anti-trafficking infrastructure does not exist.<sup>7</sup>

■ Prosecutors, overwhelmed by their caseload, are often unable to prioritize labor trafficking cases because they take longer and require more coordination with agencies that have the access and skills to investigate. A designated trafficking prosecutor in U.S. Attorney’s Offices would enable time-consuming and challenging investigation of these cases. By utilizing

## Legislative Recommendations

### Trafficking Victims Protection Act Reauthorization

#### Designate Human Trafficking Prosecutors

Congress should authorize a pilot program to designate one prosecutor in the U.S. Attorney’s Offices in twelve key districts to proactively investigate and prosecute human trafficking cases.

■ The 2016 State Department TIP report states that of the 6,609 trafficking-related convictions globally in 2015, only 7 percent (456) were labor trafficking cases. The U.S. Department of Justice (DOJ) reported 297 convictions in the United States in 2015, only 2 percent of which were labor trafficking cases. In the past, labor trafficking cases constituted up to 49

anti-trafficking interagency coordination between federal agencies, local law enforcement and victim service providers that exists in these areas, a designated trafficking prosecutor would increase accountability for traffickers across the United States.

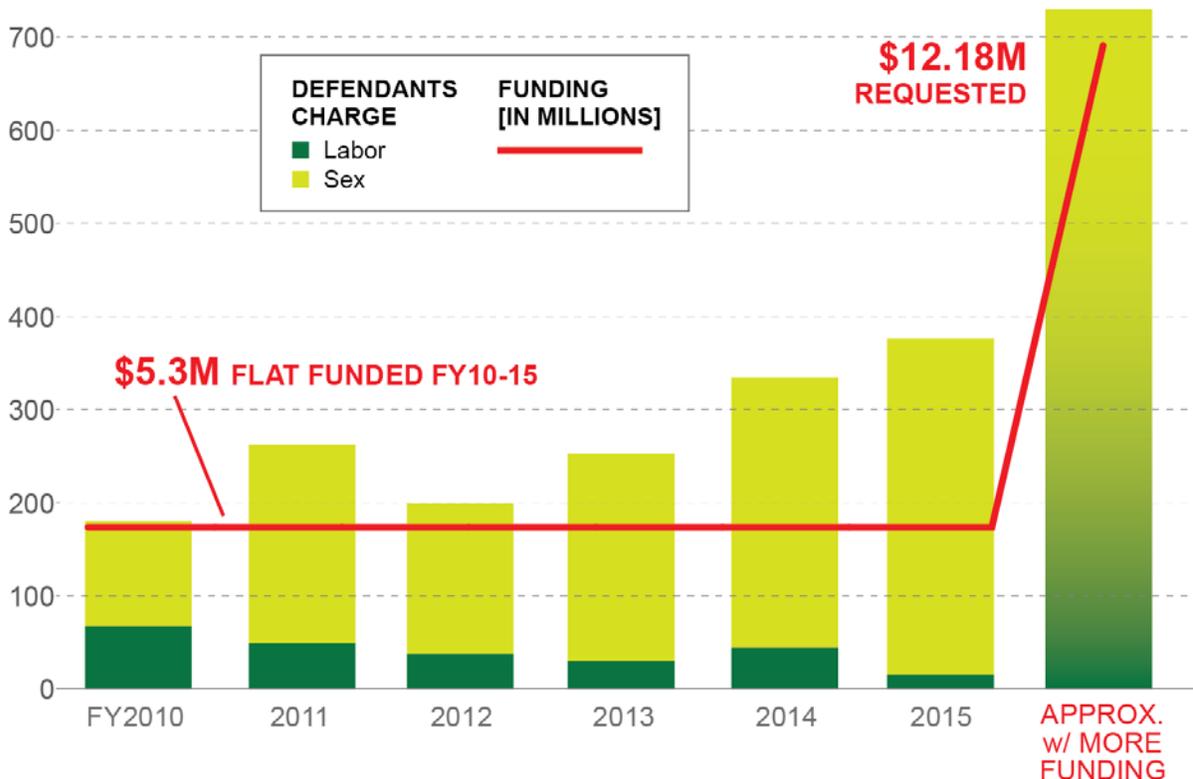
### Pass the Trafficking in Persons Report Integrity Act

The Trafficking in Persons Report Integrity Act, introduced in the 114<sup>th</sup> Congress by Senators Marco Rubio (R-FL) and Bob Menendez (D-NJ), would bring much needed transparency and oversight to the State Department’s annual TIP report. The report details the progress of governments around the world in combatting human trafficking, issuing a ranking of Tier 1, Tier 2, Tier 2 Watch List, or Tier 3. This bill sets out what constitutes credible evidence for

determining a country’s ranking and specifies that the determination must be made based on concrete progress during the reporting period, rather than on the promise of future action. Also, the bill requires any government that sponsors forced labor to be ranked Tier 3, the lowest ranking, which could trigger sanctions. Congress should pass this bill either as a standalone or as a provision of the Trafficking Victims Protection Reauthorization Act.

- The ranking process has sometimes been politicized, with lenient rankings of countries with strong ties to the United States. For example, India, the 11<sup>th</sup> largest U.S. trade partner, was given a Tier 2 ranking in 2014, signifying that the country was making significant efforts to meet the minimum standards to eliminate trafficking. The State Department reached this determination

Additional funding could nearly double the cases being investigated and defendants charged and result in a significant increase in convictions, especially in labor-related trafficking cases.



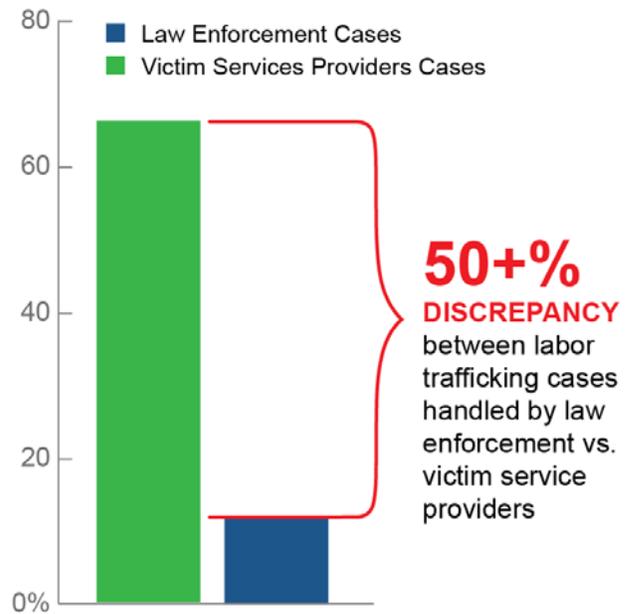
despite presenting little evidence reflecting such "significant efforts" to reduce India's "estimated 20 to 65 million citizens" subject to trafficking, and further noted that while "some courts in some states" have pursued convictions, government officials are often complicit in enabling trafficking, and generally lack political will to tackle the problem.<sup>8</sup> Similarly, Malaysia was given a ranking of Tier 2 in 2015 at a time when the Obama Administration was negotiating the Trans Pacific Partnership (TPP) trade deal. The United States imports almost \$20 billion worth of electronics goods and palm oil from Malaysia, a country with a high prevalence of forced labor, particularly in those sectors.<sup>9</sup>

### Establish Human Trafficking Compliance Advisors

Title XVII of the National Defense Authorization Act of 2013<sup>10</sup> and Executive Order 13627<sup>11</sup> require U.S. government contractors with contracts exceeding \$500,000 to have compliance plans that protect vulnerable workers from trafficking. To enhance enforcement of section XVII of the National Defense Authorization Act of 2013, *Ending Trafficking in Government Contracting*, Congress should direct each federal agency to appoint or hire a Human Trafficking Compliance Advisor to ensure that senior agency officials, contracting officers, and contractors comply with trafficking regulations.

- The Federal Acquisition Regulations system released new rules on January 29, 2015 and has been responsible for implementing these changes since March 2, 2015, when the rules went into effect.<sup>12</sup> Unfortunately, enforcement has lagged.

Significant discrepancy apparent between labor trafficking cases served by victim service providers and law enforcement.



- Although basic training is available for contracting officers on the documentation that should be included in all contractors' compliance plans, these government officials are not trained to ensure that these plans are preventing human trafficking. The Office of Federal Procurement Policy is working on providing a list of indicators that contracting officers can use to evaluate whether a contractor has an adequate program to protect vulnerable workers.
- One challenge is that the regulations prohibit, but fail to define, recruitment fees. In a 2014 report, the Government Accountability Office (GAO) identified this as a primary challenge to implementation and enforcement of the new regulations.<sup>13</sup>
- Another challenge is that the regulations rely on contractors to self-enforce. Instead, a staff person should be appointed at a senior level within all key agencies (e.g.

Department of Defense, Department of State, Department of Labor, and USAID) to ensure that contracting officers and procurement officials have the tools and resources necessary to robustly enforce this provision.




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## Appropriations

### Commerce, Justice, Science and Related Agencies

#### Adequately Fund the Human Trafficking Prosecution Unit

Congress should fund the Human Trafficking Prosecution Unit (HTPU) at \$12.181 million. Within the Department of Justice's (DOJ) Civil Rights Division, the HTPU has overseen a 62 percent increase in cases filed in the last five years (FY 2011-2015) over the previous five years (FY 2006-2010). Despite this significant increase in caseload, funding for the HTPU has been flat at \$5.3 million since FY 2010.

- Such an increase to the General Legal Activities account is necessary to help the agency keep pace with HTPU's increasing workload, and to ensure that the office delves into more complex cases, such as

those involving labor trafficking. DOJ reported that 83 percent of the cases its law enforcement task force partners handle are sex trafficking cases. Yet service providers funded by the Office for Victims of Crime report that 64 percent of their clients are trafficked for non-sexual labor.<sup>14</sup>

- With an increase of \$6.881 million (up to \$12.181 million) in funding, HTPU could hire an additional forty-seven attorneys and increase the number of trafficking cases filed by 37 percent and the number of trafficking defendants charged by 73 percent.<sup>15</sup>
- HTPU also leads twelve Anti-Trafficking Coordination Teams (ACTeams) that enhance DOJ coordination with the Department of Homeland Security (DHS) and Department of Labor (DOL). The ACTeams were piloted in six districts in FYs 2012-2013. Districts with ACTeams saw a 119 percent increase in cases filed, compared to only an 18 percent increase elsewhere. Similarly, convictions of human trafficking defendants charged increased by 86 percent in ACTeam districts compared to only a 14 percent increase elsewhere. In December 2015, DOJ, DHS and DOL added six additional teams. These teams require significantly more funding to fulfill their potential for investigating and prosecuting new cases of human trafficking.

### Homeland Security

#### Enforce Ban on Goods Produced with Forced or Child Labor

Congress has funded the Department of Homeland Security Immigration and Customs Enforcement (ICE) to enforce laws against forced child labor for fifteen years; for the last

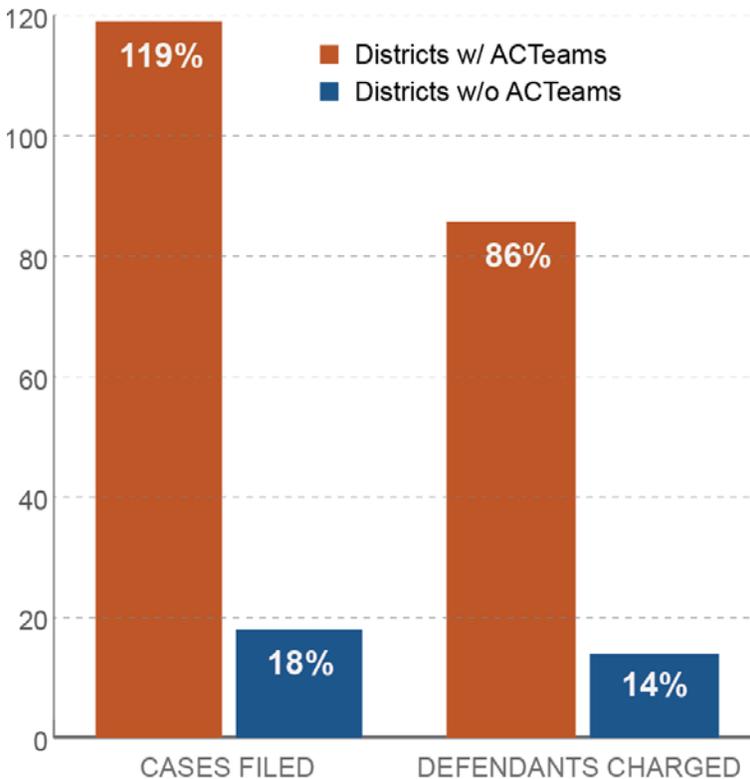
twelve years, Congress has appropriated \$15.7 million annually. By statute, ICE Homeland Security Investigations (HSI) is the only U.S. government law enforcement agency authorized to investigate criminal allegations of forced child labor and forced labor in the manufacture or production of goods imported into the United States.

These investigations are even more important now that Congress has taken steps to prevent the United States from supporting slave labor. Section 307 of the Tariff Act, which bans the import of goods produced with forced labor, was recently amended by the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125).<sup>16</sup> This Act finally eliminated an overly broad exception that had allowed such goods to continue to be imported in cases in which their consumption exceeded domestic production

capacity. With that loophole now closed, it is vitally important that ICE HSI has the capacity to investigate allegations of forced labor to ensure that the United States is not providing a market for slavery.

- ICE HSI has 26 offices in the United States and 63 offices that work side-by-side with foreign law enforcement in 46 countries. This wide reach is critical to the success of investigations into forced child labor and forced labor generally, because these investigations often involve criminal networks or individuals in other countries.
- Congress should press ICE for an assessment of how the \$15.7 million annual appropriation of funds has addressed forced child labor and which efforts have been most effective, given the agency's critical

**Increase in cases filed and defendants charged in districts with / without formal collaboration between federal law enforcement agencies**



role in enforcing Section 307 of the Tariff Act. This information will help ICE and the Department of Homeland Security develop a comprehensive government-wide strategy to prevent goods produced with forced child labor from entering the U.S. market.

- Congress should continue supporting ICE's forced child labor investigations by fully funding the program. Although there are other agencies within DHS that have authority to enforce this through regulatory actions, without this language in the appropriations bill, enforcement of Section 307 of the Tariff Act will be hindered, as no other agency has the authority to conduct these critical criminal investigations.

- To ensure that the Department of Homeland Security Customs and Border Protection (CBP) is fully enforcing the civil ban on imports produced with forced labor, Congress should continue requiring an annual report on CBP's enforcement activity as outlined in section 910 of the *Trade Facilitation and Trade Enforcement Act of 2015* (P.L. 114-125). In addition to reporting the number of instances in which merchandise was denied entry pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307), this report should be made publicly available and also include the number of petitions filed with CBP during the reporting period and the results of those petitions, including the number that resulted in investigations, Withhold Release Orders (WROs) and findings, and any criminal prosecutions and convictions related to activities prohibited under section 307. Because the first annual report was due August 24, 2016, but has not yet been released, Congress should hold a hearing on the first year of enforcement to ensure this section is being implemented and robustly enforced. ■

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## Endnotes

- <sup>1</sup> ILO, “*ILO Global Estimate of Forced Labour*,” June 1, 2012, available at: <[http://www.ilo.org/global/topics/forced-labour/news/WCMS\\_182109/lang-en/index.htm](http://www.ilo.org/global/topics/forced-labour/news/WCMS_182109/lang-en/index.htm)>
- <sup>2</sup> U.S. Department of State, “*Trafficking in Persons Report*,” annual, available at: <<http://www.state.gov/j/tip/rls/tiprpt/>>
- <sup>3</sup> This includes, but is not limited to the Department of State (DOS), Department of Justice (DOJ), Department of Health and Human Services (HHS), Department of Labor (DOL), Department of Homeland Security (DHS), Department of Defense (DOD), Department of Agriculture (USDA), Department of Treasury (Treasury), Department of Education (DOED), Department of Transportation (DOT), and the U.S. Agency for International Development (USAID). A full list can be found here: <<http://www.state.gov/j/tip/rls/reports/pitf/>>
- <sup>4</sup> ILO, “*Profits and Poverty: The Economics of Forced Labour*,” May 20, 2014, available at: <[http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS\\_243391/lang-en/index.htm](http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang-en/index.htm)>
- <sup>5</sup> U.S. Department of State, “*2016 Trafficking in Persons Report*,” July 2016, available at: <<https://www.state.gov/j/tip/rls/tiprpt/2016/index.htm>>
- <sup>6</sup> U.S. Department of Justice, “Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons,” FY 2015, available at: <<https://www.justice.gov/ag/file/870826/download>>
- <sup>7</sup> U.S. Department of Justice, “*Departments of Justice, Homeland Security and Labor Announce Selection of Phase II Anti-Trafficking Coordination Teams*,” December 17, 2015, available at: <<https://www.justice.gov/opa/pr/departments-justice-homeland-security-and-labor-announce-selection-phase-ii-anti-trafficking>>
- <sup>8</sup> U.S. Department of State, “*2014 Trafficking in Persons Report*,” June 2014, available at: <<https://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>>
- <sup>9</sup> U.S. Trade Representative, “*Country & Regions*,” available at: <<https://ustr.gov/countries-regions/southeast-asia-pacific/malaysia>>
- <sup>10</sup> See “*National Defense Authorization Act of 2013*,” available at: <<https://www.congress.gov/bill/112th-congress/house-bill/4310/text>>
- <sup>11</sup> The White House, “*Executive Order – Strengthening Protections Against Trafficking in Persons in Federal Contracts*,” September 25, 2012, available at: <<https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe>>
- <sup>12</sup> See Federal Acquisition Regulations Subpart 22.17—*Combatting Trafficking in Persons*, available at: <[https://www.acquisition.gov/far/current/html/Subpart%2022\\_17.html](https://www.acquisition.gov/far/current/html/Subpart%2022_17.html)>
- <sup>13</sup> Government Accountability Office, “*Oversight of Contractors’ Use of Foreign Workers in High-Risk Environments Needs to Be Strengthened*,” November 2014, available at: <<http://www.gao.gov/assets/670/666998.pdf>>
- <sup>14</sup> U.S. Department of Justice, “*Characteristics of Suspected Human Trafficking Incidents, 2008-2010*,” April 2011, available at: <<https://www.bjs.gov/content/pub/pdf/cshti0810.pdf>>
- <sup>15</sup> Based on calculations in: U.S. Department of Justice Civil Rights Division, FY 2016 Performance Budget Congressional Submission, at 5, available at <[http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/01/14\\_civil\\_rights\\_division crt.pdf](http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/01/14_civil_rights_division crt.pdf)>
- <sup>16</sup> See “*Trade Facilitation and Trade Enforcement Act of 2015*,” available at: <<https://www.congress.gov/bill/114th-congress/house-bill/644/text>>



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