

United States Senate

WASHINGTON, DC 20510

July 15, 2015

The Honorable John Kerry
Secretary of State
U.S. State Department
2201 C Street, NW
Washington, DC 20520

Dear Secretary Kerry:

Fighting human trafficking is one of the great moral challenges of our time. It is therefore with grave concern that we now hear Malaysia may be upgraded in this year's Trafficking in Persons (TIP) report based on developments that occurred after the end of the review period. A premature upgrade of Malaysia would undermine the integrity of the TIP report process and compromise our international efforts to fight human trafficking.

The 114th Congress has undertaken a vigorous bipartisan agenda to address human trafficking. In February of this year, the Senate Foreign Relations Committee held two hearings on the subject of modern slavery and reported to the Senate the End Modern Slavery and Trafficking Initiative Act of 2015. On April 22, the House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations held a hearing examining the State Department's TIP Report and the need to maintain the integrity of the tier ranking system. Also on April 22, the Senate voted 99-0 to pass the Justice for Victims Trafficking Act. Later that day, the Senate Finance Committee passed an amendment to the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 to prohibit expedited consideration of trade agreements with countries ranked Tier 3 on the TIP Report. That amendment was ultimately included in H.R. 2146, which was subsequently passed by both houses of Congress and signed into law by President Obama on June 29. An additional provision, originally introduced by Senators Menendez and Wyden, to establish an exception process for countries that have taken concrete actions to implement the principal recommendations in the TIP report was passed by the House during its consideration of H.R. 644, the Trade Facilitation and Trade Enforcement Act of 2015.

The 2014 TIP report described the human trafficking crisis in Malaysia, noting that many migrant workers are exploited and subjected to practices indicative of forced labor, that the government made limited effort to improve its flawed victim protection regime, and that there were significant shortcomings in the Government's anti-trafficking law enforcement efforts.

In light of those findings, it is difficult to fathom how the State Department could justify upgrading Malaysia given that the country failed to address the problem in the year leading up to the June 1, 2015 statutory deadline for the TIP report's publication. Passage of legislation to amend Malaysia's anti-trafficking laws, while a step forward, occurred outside the 2015 review period and additional work remains to ensure that this legislation is implemented in a manner consistent with the recommendations in the 2014 report. Such action should therefore not be included in the Department's evaluation of Malaysia's 2015 ranking.

State Department officials have already stated that Malaysia must do more to warrant removal from Tier 3 and suggested that recent efforts to address the problem lie outside of the 2015 reporting period. As recently as April 17, the U.S. Ambassador to Malaysia, Joseph Yun, said that the Malaysian government needs to show greater political will in prosecuting human traffickers and protecting their victims if the country hopes to improve its Tier 3 ranking. On June 1, Assistant Secretary of State for Population, Migration and Refugees Anne C. Richard reaffirmed that, “the 2015 [TIP] report covers until March 2015, which mean Malaysia's handling of [the Rohingya refugee] crisis will only be reflected in the 2016 report.” While we applaud the State Department’s work to improve the human trafficking situation in Southeast Asia and welcome the Malaysian government’s newfound interest in addressing the problem, an upgrade in the 2015 TIP report would only be justified if Malaysia had made significant efforts to bring itself into compliance with the minimum standards for eliminating trafficking within the relevant reporting timeframe.

Sadly, the report is already more than five weeks overdue; it is on pace to be the latest report ever released. As the U.S. government’s principal tool to engage foreign governments on human trafficking, the integrity of the TIP report ranking process is a reflection of our country’s principles and must be upheld. An unwarranted upgrade for Malaysia in the 2015 report, especially if based on actions undertaken after the closing of the 2015 reporting period, would weaken the credibility of our TIP ranking system. Ultimately, it would undermine the value of the TIP review process to obtaining meaningful international progress on human rights.

We urge you not to prematurely upgrade Malaysia’s 2015 TIP ranking based on evidence outside of the review period.

Sincerely,



Robert Menendez
United States Senator



Sherrod Brown
United States Senator



Debbie Stabenow
United States Senator



Richard Blumenthal
United States Senator

Edward J. Markey

Edward Markey
United States Senator

Elizabeth Warren

Elizabeth Warren
United States Senator

Bernard Sanders

Bernard Sanders
United States Senator

Gary Peters

Gary Peters
United States Senator

Jeff Merkley

Jeff Merkley
United States Senator

Bob Casey, Jr.

Robert P. Casey, Jr.
United States Senator

Martin Heinrich

Martin Heinrich
United States Senator

Kirsten Gillibrand

Kirsten Gillibrand
United States Senator

Patrick Leahy

Patrick Leahy
United States Senator

Ron Wyden

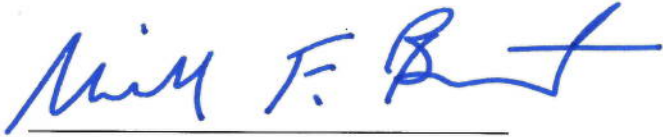
Ron Wyden
United States Senator

Rob Portman

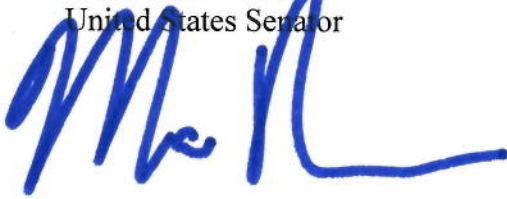
Rob Portman
United States Senator

Amy Klobuchar

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United States Senator



Michael Bennet
United States Senator



Marco Rubio
United States Senator



Al Franken
United States Senator